

J. AMADO ARANETA, PETITIONER, VS. ALFONSO DORONILA, A. DORONILA RESOURCES DEVELOPMENT, INC., AND COURT OF APPEALS, RESPONDENTS.*G.R. No. L-34882. August 24, 1976*

Ponente: BARREDO, J.

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Two separate but related petitions, that in G. R. No. L-34882 being for certiorari and prohibition against the Court of Appeals alleging grave abuse of discretion on the part of said court in refusing to dismiss the appeal of private respondents from a decision of the Court of First Instance of Rizal in a civil action between the private parties herein, notwithstanding allegedly that the record on appeal of said private respondents, Alfonso Doronila et al. does not show on its face, in violation of Section 6 of Rule 41 and Section 1 of Rule 50, that their appeal was made on time, and that in G. R. No. L-35643 being also one for certiorari and prohibition against the same Court of First Instance of Rizal for having issued a writ of execution of the decision, the finality of which is in issue in G. R. No. L-34882, said Court of First Instance having assumed that because of the restraining order of this Court in said G. R. No. L-34882 enjoining the appellate court from enforcing its resolutions refusing to dismiss the appeal of the Doronilas and from further acting on said appeal until further orders, the result was that the judgment of said trial court could already be executed.

In connection with the second petition (G. R. No. L-35643), on November 23, 1974, counsel for therein private respondent J. Amado Araneta filed a motion for dismissal of the petition upon the ground basically that said private respondent "would prefer to wait for the finality of the decision before availing of the execution thereof." The Doronilas opposed such dismissal, unless it is coupled with a final injunction of this Court against the questioned execution orders of the trial court. Accordingly, said petition may be disposed of without elaborate discussion.

As regards the first petition (G. R. No. L-34882), it appears that in Civil Case No. 9856 of the Court of First Instance of Rizal, an action filed by J. Amado Araneta for specific performance of an exclusive option to buy granted by him to Alfonso Doronila, for himself and for A. Doronila Resources Development Corporation, over two big parcels of land situated in the Municipality of San Mateo, Province of Rizal, at a total price of P13,071,215.00, and for damages, the said court, after due trial, rendered on April 28, 1971 a decision the dispositive part of which reads thus:

"WHEREFORE, judgment is hereby rendered:

1. Ordering the defendant Alfonso Doronila to clear Lot 23 of the cadastral survey of Montalban, Rizal, covered by Original Certificate of Title No. 7924 of the Register of Deeds of Rizal, of all liens and encumbrances, including the mining claims of Republic Cement Corporation and Silangan Mining Association, and the claim of Cesario C. Bandong over the 13.6420 hectares thereof;
2. Ordering defendant A. Doronila Resources Development, Inc. to clear the San Mateo, Rizal property,

covered by Transfer Certificate of Title No. 42999, Register of Deeds of Rizal, of squatters within thirty (30) days from receipt of this decision, and thereafter, within thirty (30) days, to execute in favor of plaintiff, a deed of sale of said properties, free from all liens and encumbrances upon the payment of P4,071,215.10, minus the P40,000.00 option money, in accordance with the option contract dated February 10, 1966;

3. Ordering defendants to pay plaintiff the sum of P63,448.00 as actual damages and P7,242,250.00 for damages arising from unrealized profits, with legal interest, from the filing of the complaint;

4. Dismissing the counterclaim, with costs against the defendants.

SO ORDERED." (Pp. 168-169, Rec. on Appeal.)

From this judgment, the Doronilas took steps to appeal to the Court of Appeals, but in the said appellate court, J. Amado Araneta moved to dismiss said appeal. Acting on that motion, the Court of Appeals resolved as follows:

"Plaintiff-Appellee, J. Amado Araneta, filed before us a motion to dismiss appeal of defendants-appellants on the ground that the record on appeal does not show on its face that the appeal was perfected on time. Acting upon said motion to dismiss, this Court in its resolution dated January 27, 1972, required the defendants-appellants to comment thereon within 10 days from notice. On January 26, 1972, defendants-appellants thru counsel filed a manifestation asking for a 20 day period within which to file an answer, which manifestation was favorably granted by this Court in its resolution dated January 28, 1972.

"On February 10, 1972, defendants-appellants filed their answer alleging among others that they filed their appeal on time. In support thereof, they submit a copy of notice of the trial court (Annex A, Answer) giving them an additional ten day period within which to file their amended record on appeal.

"An examination of the record shows that on April 28, 1971, the Court of First Instance of Rizal rendered a decision in favor of J. Amado Araneta, copy of which was received by the defendants-appellants on May 14, 1971. As a consequence, defendants-appellants immediately filed on May 31, 1971, a notice of appeal and an appeal bond in the amount of P120.00. However, due to some deficiencies, the original record on appeal was ordered amended. So that it was only on June 22, 1971, that the amended record on appeal was filed by the defendants-appellants. On July 19, 1971, the trial judge approved the amended record on appeal, thus -

It appearing that the defendants have already included the motion to dismiss, opposition filed thereto and the resolution of the court thereon, in the amended Record on Appeal filed by the defendants, and for want of any further objection on the part of the plaintiff, AS PRAYED FOR, the amended record on appeal filed by the defendants is hereby approved. (R.A. p. 172).

"From the foregoing data submitted by the defendants-appellants, we could reasonably infer that the appeal was perfected on time, not to mention in this connection that plaintiff did not object to the approval of the record on appeal. The statement of the trial court that 'for want of any further objection on the part of the plaintiff', is of vital significance which cannot just be ignored, especially, since, as in this case, the supreme interest of justice is at stake, considering that the subject matter of the appeal consists of big parcels of land, with an aggregate area of 21,549,183 square meters, excluding 8 mineral rights and claims of limestones, shale, etc.

"WHEREFORE, considering that the paramount interest of justice would be best served if we allow the parties to litigate the facts in issue, the instant motion to dismiss appeal is hereby denied." (Pp. 33-35, Record.)

And when Araneta moved to reconsider the foregoing resolution, the motion was denied thus:

"Acting upon plaintiff-appellee's 'Motion For Reconsideration' filed on March 9, 1972 of this Court's resolution dated February 24, 1972 denying the motion to dismiss appeal; the Court RESOLVED to DENY the motion for reconsideration. The instant case can well be an exemption to the rule laid down by the Supreme

Court in the cases cited by the appellee because of the nature of the issues involved in this litigation." (P. 46, Record.)

In the present petition with Us, Araneta maintains that under this Court's rulings in *Valera vs. Court of Appeals*, 37 SCRA 80, *Reyes vs. Carrascoso*, 38 SCRA 311, *Dominguez vs. Court of Appeals*, 38 SCRA 316, *The Director, Bureau of Building and Real Property Management vs. Court of Appeals*, 38 SCRA 317, *De Guia vs. Court of Appeals*, 40 SCRA 333, *Imperial Insurance Inc. vs. Court of Appeals*, 42 SCRA 97, *Luzon Stevedoring vs. Court of Appeals*, and other cases of similar vein, the respondent Court of Appeals should have dismissed the appeal of the *Doronilas*, there being no showing on the face of their amended record on appeal as to when their original record on appeal was filed, hence said amended record "fails to show on its face that their appeal was perfected within the period fixed by the rules", pursuant to Section 1 of Rule 50.

Under date of July 29, 1976, however, with commendable candidness, Atty. Ramon A. Gonzales, counsel for Araneta, filed a manifestation taking note not only of the later more liberal rulings of this Court in *Berkenkotter vs. Court of Appeals*, 53 SCRA 228, *Pimentel vs. Court of Appeals*, 64 SCRA 475 and *Rodriguez vs. Court of Appeals*, 68 SCRA 262, cited by the *Doronilas* in their motion in this Court of May 3, 1976, but also of Our decisions in *Heirs of Serafin Morales vs. Court of Appeals*, 67 SCRA 309, *Republic vs. Court of Appeals*, 67 SCRA 322 and *Krueger vs. Court of Appeals*, 69 SCRA 50, which abandoned the strict line pursued in the earlier cases cited by him, albeit insisting just the same that the impugned resolution of the Court of Appeals is erroneous in the light of the following observations:

"As may be seen, *Berkenkotter* and *Pimentel* and subsequent cases have overruled *Valera vs. Court of Appeals*, *Reyes vs. Carrascoso*, and other cases adhering to the strict construction of the material data rule.

But *Berkenkotter* and *Pimentel* were promulgated only on September 28, 1973 and June 25, 1975 respectively, hence, it can only operate prospectively and will not affect previous cases appealed before that date, relying on the old doctrine.

'Article 8 of the Civil Code of the Philippines decrees that judicial decisions applying or interpreting the laws or the Constitution form part of this jurisdiction's legal system. These decisions, although in themselves not laws, constitute evidence of what the laws mean. The application or interpretation placed by the Court upon a law is part of the law as of the date of the enactment of the said law since the Court's application or interpretation merely establishes the contemporaneous legislative intent that construed law purports to carry into effect.

At the time of *Licera's* designation as secret agent in 1961 and at the time of his apprehension for possession of the Winchester rifle without the requisite license or permit therefor in 1965, the *Macarandang* rule – the Court's interpretation of section 879 of the Revised Administrative Code – formed part of our jurisprudence and, hence, of this jurisdiction's legal system. Mapa revoked the *Macarandang* precedent only in 1967. Certainly, where a new doctrine abrogates an old rule, the new doctrine should operate prospectively only and should not adversely affect those favored by the old rule, especially those who relied thereon and acted on the faith thereof.' (*People vs. Licera*, L-39990, July 22, 1975, 65 SCRA 270, 272-273)

Therefore, *Berkenkotter* and *Pimentel* cannot retroactively affect the present case, whose appeal was perfected on June 21, 1971."

Leaving aside for the moment, the well-thought-of issue thus rather ingeniously raised by distinguished counsel, it is Our considered opinion that in the particular case on hand, the omission in the *Doronila* amended record on appeal of any reference to the date of the filing of their original record on appeal is not fatal, even from the point of view of the former rule of strict "literal adherence to the 'material data rule'", to borrow Justice Muñoz Palma's

expression in *Krueger*, supra. For here, there is no dispute that within seventeen days, from May 14, 1971, when Doronila's co-counsel was served with the decision to May 31, 1971, the date the notice of appeal and appeal bond were filed, the Doronilas already clearly manifested their determination to appeal from the evidently onerous decision which ordered them not only to comply with the option given them by Araneta but to additionally pay over P7.8 M to their adversary, for actual damages and unrealized profits, so much so that when an objection was filed to their original record on appeal, they lost no time in amending the same by inclusion of the papers referred to in the objection without waiting for any corresponding order of the court.[1]

Now, under the rules (Sec. 7 of Rule 41), unless the court fixes a period for the filing of the amended record on appeal, the same may be filed within ten (10) days from receipt of the order for amendment. We take judicial notice of the fact that ordinarily, appellants are given not less than said period of ten days within which to comply with an order to amend the record on appeal and that it would take at least one week before the court can consider and rule on the objection of appellee plus another one week to issue and serve the corresponding order. So, assuming that the Doronilas filed their original record on appeal as early as May 31, 1971, which is already rather extraordinary, since generally, the record on appeal is filed some days later, they still had a total of 24 days from May 31 to make a timely appeal by filing their amended record on appeal. In other words, their reglementary period would have expired on June 24, 1971. And since the Doronila amended record on appeal was filed on June 22, 1971, it is almost beyond question that their appeal was perfected on time. Surely, matters of judicial notice constitute part of whatever data is required under Section 1 of Rule 50 and Section 6 of Rule 41. And taking the circum-stances of judicial notice already referred to together with the absence of any further objection on the part of Araneta to the amended record on appeal in question as well as the failure of Araneta to allege categorically that the original record on appeal of the Doronilas was filed out of time or to deny that it was filed within the reglementary period, We are persuaded that the amended record on appeal here in dispute sufficiently complies with the requirements of the rules.

It may be added here that when Araneta objected to the original record on appeal, it was only on the ground of omission of certain papers therein, not for its being out of time. Under the omnibus motion rule, the objection of untimeliness was waived by Araneta, and it is reasonable to assume that he would not have raised such a clearly jurisdictional fatality, if in fact the original Doronila record on appeal had been filed out of time. Since the purpose of the strict rule of literal compliance with the "material data rule" is to avoid debate on the timeliness of the appeal, and there is here no occasion for such debate, such timeliness being a matter no longer disputable by Araneta, it should follow that the amended record on appeal may be read in the sense that the order of the court approving the same includes the finding that the original thereof had been filed on time. We hold that thus read, said amended record on appeal sufficiently complies with the rules. (*Berkenkotter*, supra, and subsequent rulings analogous thereto.)

Anent the ruling in *Liceria* relied upon by Araneta, We hold that the same is not applicable to matters involving controversies regarding the application of the Rules of Court, if only for the reason that it is within the power of this Court to excuse failure to literally observe any rule to avoid possible injustice, particularly in cases where, as here, the subject matter is of considerable value and the judgment being appealed from, at least the portion thereof sentencing the Doronilas to pay over P7.2 M of supposedly unrealized profits, is by its very nature, reasonably open to possible modification, if not reversal. *Liceria* was predicated on the principle that changes in substantive law may not be applied retroactively, specially when prejudice will result to the party that has followed the earlier law. That principle does not obtain in remedial law.[2]

WHEREFORE, the petitions in the above two cases are hereby dismissed, without any pronouncement as to costs, and the appeal of the Doronilas in CA-G.R. No. 49139-R, subject of the petition in G. R. No. L-34882, may

now proceed in its regular course, and the orders of execution issued by the trial court in Civil Case No. 9856 is hereby set aside and its enforcement is in consequence enjoined permanently.

Fernando, Acting C.J., (Chairman), Antonio, Aquino, and Martin[*], JJ., concur.

Concepcion, Jr., J., took no part.

[1] Under Araneta's theory, We cannot consider what does not appear on the face of the amended record on appeal. The said record does not show any such order having been issued, albeit the Doronilas have manifested that the objection of Araneta was filed two days after the reglementary period for appeal had expired.

[2] *Aguillon vs. Director of Lands*, 17 Phil. 507, 508; *Hosana vs. Diomano and Diomano*, 56 Phil. 741, 745-746; *Guevara vs. Laico*, 64 Phil. 144, 150; *Laurel vs. Misa*, 76 Phil. 372, 378; *People vs. Sumilang*, 77 Phil. 764, 765-766.

[*] Mr. Justice Ruperto G. Martin was designated to sit in the Second Division.

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