

HEIRS OF INOCENCIO DELA CRUZ, REPRESENTED BY ADELINO DELA CRUZ, PLAINTIFF-APPELLANT, VS. THE CENRO OF DIFFUN, QUIRINO, IN HIS CAPACITY AS THE REPRESENTATIVE OF THE DENR AND THE ...

Ponente: BATO, JR., J.

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BATO, JR., J.:

This Resolves the Motion For Leave to File Appellant's Brief (with Appellant's Brief attached) dated September 24, 2014 filed by plaintiff-appellant. In the Resolution dated August 15, 2014, the Court denied plaintiff-appellant's Motion for Extension of Time to File Appellant's Brief dated July 17, 2014 which prayed for a period of ninety (90) days, or until October 17, 2014, within which to file the Appellant's Brief. Instead, the Court granted plaintiff-appellant only an extension of forty-five (45) days or until August 31, 2014 to file the Appellant's Brief, with a warning that "[n]o further extension will be entertained."

Plaintiff-appellant's Motion for Leave to File Appellant's Brief should be, as it is hereby, denied.

Under Section 7, Rule 44 of the Rules of Court, it shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee. Section 12 of the same Rule provides that extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended.

In his Motion for Extension of Time to File Appellant's Brief, plaintiff-appellant admits that he received the Notice to File the Appellant's Brief issued by the Clerk of Court on June 2, 2014. Counting 45 days from that date, plaintiff-appellant had until July 17, 2014 within which to file the Appellant's Brief. He should have filed his Appellant's Brief within that period as required by Section 7, Rule 44 of the Rules of Court. True, this Court granted him an extension of 45 days within which to file the Appellant's Brief, consistent with Section 12 of the same Rule. While this is less than the ninety (90) days that he originally requested, plaintiff-appellant should not have assumed that his request would be granted in the first place. As ruled in *Daisug vs. Court of Appeals*,^[1] no party should assume that his motion for extension will be granted, for, to start with, the granting of any extension of time to parties for compliance with any rule or order is not a matter of right but of sound judicial discretion. To repeat, under the Rules, the appellant's brief should be filed within the 45-day period. An extension of time to file it is the exception rather than the general rule.

Considering, therefore, that the plaintiff-appellant failed to file his Appellant's Brief on or before August 31, 2014, the last day of the extension of time granted him, the present appeal should be dismissed. Section 1(e), Rule 50 of the Rules of Court states that one of the grounds for dismissal of appeal is failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by the Rules.

At any rate, consistent with *Heirs of Vda. de Haberer vs. Court of Appeals*,^[2] the Court examined the substance

of the allegations and arguments of the plaintiff-appellant to avoid a rigid application of the rules, and the Court found that the appeal, even if given due course, would still fail on the merits.

According to the assailed Decision, the court a quo dismissed plaintiff-appellant's complaint on the ground of lack of jurisdiction and due to his failure to comply with the procedure, including a statement as to the assessed value of the subject property. Plaintiff-appellant, however, claims that his complaint was for declaratory relief, the jurisdiction of which is vested with the Regional Trial Court.

The Court is not persuaded.

While the complaint[3] appears on its face to assail Administrative Order No. 04-92 issued by then PENRO Jovito Layugan which established a municipal forest or tree park in Diffun, Quirino, it is only one of the causes of action; the other is to be judicially declared as the owner of Lot No. 9766, Bsd-20274, consisting of 44,830 square meters, and located at Nagbukel, Cajel, Diffun, Quirino. The allegations pertaining to the alleged nullity of Administrative Order No. 04-92 are merely incidental and supportive of the main objective of the plaintiff-appellant, that is, to be declared the owner of the subject property. Clearly, the complaint involves title to, or possession of, real property.

As such, the court a quo was correct in ruling that the assessed value of the property should have been alleged to vest the court a quo with jurisdiction over the case. Section 19(2) of Batas Pambansa Blg. 129, as amended, states that the Regional Trial Court has exclusive jurisdiction, among others:

(2)

In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property exceeds Twenty thousand pesos (P20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

The allegation as to the assessed value of the property is jurisdictional. As held in *Barangay Piapi vs. Talip*,[4] where the ultimate objective of the plaintiff is to obtain title to real property, it should be filed in the proper court having jurisdiction over the assessed value of the property subject thereof. Hence, it was ruled that if the action involves the title to or interest in real property, the plaintiff should allege therein its assessed value.

Another reason why the assessed value of the property should be alleged in the complaint is the fact that the plaintiff-appellant sought the confirmation of imperfect title to land in accordance with the Public Land Act. Actions for original registration to land may be filed with the Regional Trial Courts and Municipal Trial Courts in the exercise of delegated jurisdiction. Section 34 of Batas Pambansa Blg. 129, as amended, states:

SECTION 34. Delegated Jurisdiction in Cadastral and Land Registration Cases.—Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts may be assigned by the Supreme Court to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots the value of which does not exceed One hundred thousand pesos (P100,000.00), such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants if there are more than one, or from the corresponding tax declaration of the real property. Their decisions in these cases shall be appealable in the same manner as decisions of the Regional Trial Courts.

Clearly, by omitting to allege the value of the subject property, it cannot be said that plaintiff-appellant's complaint was filed in the proper court. For all we know, it should have been filed with the Municipal Trial Court.

Well-settled is the rule that jurisdiction of a court over the subject matter is determined by the allegations of the

complaint.[5] The complaint being patently deficient, the court a quo, therefore, correctly dismissed it for lack of jurisdiction.

WHEREFORE, on the basis of Section 1(e), Rule 50 of the Rules of Court and on the ground that it is patently without merit, the present appeal is DISMISSED.

SO ORDERED.

Zalameda, and Diy, JJ., concur.

[1] L-31400, August 31, 1971.

[2] L-42699 to L-42709, May 26, 1981.

[3] The complaint was later amended to implead the Provincial Environment and Natural Resources Officer (PENRO) as additional defendant.

[4] G.R. No. 138248, September 7, 2005.

[5] Roxas vs. Court of Appeals, G.R. No. 138955, October 29, 2002.

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