

**CRISPINA H. CUESTAS, PETITIONER-APPELLEE, -VERSUS –
THE BOARD OF DIRECTORS, BOARD OF LIQUIDATORS,
RESPONDENT, BUREAU OF PLANT INDUSTRY, APPELLANT.**

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a motion of petitioner-appellee seeking reconsideration[1] of this Court's Decision,[2] promulgated on March 13, 2013, which granted the petition and set aside the January 31, 2008 Decision[3] and May 27, 2008 Order[4] of the Regional Trial Court, 11[th] Judicial Region, Branch 17, Davao City, in Civil Case No. 28, 964-2002.

Facts of the Case

The antecedents of the case before the Court were summarized in the Decision [5] assailed in the present motion, viz –

On February 11, 2002, Crispina Cuestas filed a Petition for Mandamus, Damages and Attorney's Fee against the Board of Director, Board of Liquidators (BOL) before the Regional Trial Court, 11[th] Judicial Region, Branch 17, Davao City, which was docketed as Civil Case 28, 964-2002.

In her petition, Cuestas alleged that: Since 1940, she has been the claimant and possessor of Lot 129-M-26-A, Psd-11-050863 of the former Otha Development Corporation located in Mintal Davao City containing an area of 32,273 sq. m., more or less; She applied for title of the said parcel of land with the BOL; She declared the said parcel of land for tax purposes on December 17, 1996 and since then, she has been paying the Real Property Tax; The BOL, through its Davao Officer-In-Charge, Narcisa Dalipe, declared that the total appraised value/selling price of the said parcel of land was P33,492.00, which amount she fully paid on December 1, 1998 per receipts; She complied with all the documentary requirements and qualified as an awardee under the provisions of Republic Act 477, as amended; Consequently, the BOL OIC-Counselling & Trial Division, Rita De Leon, issued a 2nd Indorsement recommending that her application be given due course and/or a deed of absolute sale be issued in her favor since she has already paid for the lot; In spite of several letters of follow up, the BOL failed to fulfill its duty to act on her application till the present, thus, she filed the petition for mandamus for the execution of the deed of absolute sale in her favor plus moral & exemplary damages, and attorney's fees.

In its answer, respondent BOL admitted the allegation that Cuestas had been the claimant and possessor of the subject lot, but it denied that she possessed and claimed the same since 1940. BOL further averred that the execution of the deed of absolute sale in favor of petitioner was held in abeyance because of the protest filed by Alejandro Fulguerinas on February 26, 2001. BOL, as the exclusive agency tasked to dispose of alienable properties had to verify, investigate, and resolve the protest filed by Alejandro Fulguerinas prior to its execution of a deed conveying any lot under its disposition. Pending the result of the investigation, BOL asserted that it cannot be mandated via mandamus to issue a deed to convey the land covered by an application, thus, it prayed that the instant case be dismissed for lack of merit.

Despite several opportunities for mediation, the parties failed to settle amicably.

Pre-trial ensued.

On August 21, 2003, before trial, BOL filed a Manifestation and Motion praying that the case be dismissed for lack of jurisdiction over the subject matter of the claim:

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- Recent events however disclosed that not only is the petition without merit and baseless[,] but also[,] that this Honorable Court has no jurisdiction over the subject matter of the claim;

- This is so because on January 29, 1952 the Board of Liquidators[,] as sole agency vested to administer and dispose of the Bago-Oshiro Plantation which embraces the Otha Development Corporation that covers Lot No. 129-M-26-A, Psd-11-050863 being applied for by herein petitioner, passed Resolution No. 1115 transferring in favor of Bure[au] of Plant Industry the entire Bago Oshiro Plantation and Mambulan Citrus Plantation, copy of which is hereto attached as Annex "A" and made an integral part hereof;

- Said Board Resolution No. 1115 was duly approved by the President of the Philippines per letter hereto attached as Annex "B" and made an integral part hereof;

- Needless to state[,] the respondents (sic) [,] pursuant to said board resolution, lost jurisdiction over the entire Bago-Oshiro Plantation, thus it cannot anymore award the parcel of land being applied for by petitioner as jurisdiction thereof is now lodged before another agency;

- To show that indeed respondents (sic) is bereft of any authority over the said parcel of land, then President Carlos P. Garcia issued Proclamation No. 482 releasing from the jurisdiction of the Bureau of Plant Industry a portion of Lot 824 and opening the same for disposition in accordance with law, copy of which is hereto attached as Annex "C" and made an integral part hereof;

- This Proclamation No. 482 evidently shows that indeed[,] the Board of Liquidators has lost jurisdiction over the subject parcel of land;

- Furthermore, in stating that the disposition shall be in accordance with law[,] the President is saying that it is now the Department of Environment and Natural Resources as this is now the agency tasked with awarding disposable lands of the public domain (sic);

- It would indeed be a waste of time for this Honorable Court to further entertain this case as the respondent

cannot anymore satisfy what this Honorable Court may order, as the land being applied for by herein petitioner has already been disposed of by respondent as early as 1952.

In Cuestas' Comment to the manifestation and motion, she pointed out that on July 24, 1976, then President Ferdinand E. Marcos issued Presidential Decree 967 amending certain provision of Republic Act 477 which in effect, did not divest the BOL of its authority to administer and dispose alienable properties like the subject lot in this case.

The lower court treated the BOL's August 21, 2003 manifestation as a motion and denied the same in its September 29, 2003 Order.

During trial, the Bureau of Plant Industry (BPI) filed a Motion to Intervene and to Admit the Attached Answer-In-Intervention which alleged as follows:

- BPI is a government agency in the Department of Agriculture tasked to promote the development of the plant industry through research, crop production, protection, and effective technology promotion and transfer.
- For the accomplishment of this statutory mandate, BPI administers several properties belonging to the State.
- One of these lots is the Bago Oshiro Plantation located in Davao City previously administered by BOL and subsequently transferred to BPI on January 30, 1952 per BOL Resolution No. 1115.
- Lot No 129-M-26-A Pss-11-050863 which is the subject matter of the instant case is part of the Bago Oshiro Plantation.
- Being the government agency in actual and continuous occupation and cultivation of the subject property, BPI will be directly affected by the instant case.
- Hence, BPI's intervention in this case is imperative to protect the rights and interests of the Republic of the Philippines over the subject property.

In its August 3, 2005 Order, the lower court granted BPI's motion to intervene and admitted the attached answer-in-intervention.

In its December 12, 2005 Order, the lower court ordered Engr. Roderick Calapardo of DENR to conduct a survey of the lot declared alienable and disposable by Proclamation No. 482 to determine whether the subject lot is covered in the said proclamation. Atty. Tongo, counsel of Cuestas, stated in open court that should the subject lot be outside the said proclamation, the petition will be immediately dismissed.

On February 10, 2006, Engr. Calapardo filed a Commissioner's Report showing that only 22% of the subject lot or an area of 7,074.79 sq.m. falls inside Proclamation No. 482. A bigger portion covering 25,198.21 sq.m. or 78% of the subject lot falls outside the proclamation.

In its May 11, 2006 Order, the lower court denied the intervenor's March 20, 2006 Motion to Dismiss which reiterated Atty. Tongo's representation that should the survey show that the subject lot is outside Proclamation No. 482, the case will be immediately dismissed. The lower court reasoned that Cuestas should not be bound

by her counsel's gross negligence and even if the said representation is binding, the result of the agreed survey is not a ground of a motion to dismiss, but at most, a contributing factor in the decision of the case on the merits.

On February 20, 2007, the Privatization and Management Office (PMO), by way of special appearance, thru counsel, filed a Manifestation stating that BOL and its Board of Directors ceased as parties-in-interest to this case since on November 17, 2005, President Gloria Macapagal Arroyo issued Executive Order (E.O.) 471 directing the merger of respondent BOL and PMO. Section 1 of E.O. 471 provides:

Section 1. Merger- The functions, rights, personnel, properties, assets, resources, technologies, materials, and records, as well as the obligations and liabilities of the BOL are hereby merged with the PMO. The assets and/or rights, which the BOL is mandated to dispose under EO 372, shall be transferred to the National Government, which shall entrust said assets and/or rights to the PMO.

The PMO shall be [the] surviving entity in the merger. As such, the administrative policies and operational guidelines of the PMO shall govern all transactions and disposition of the assets of the BOL.

In its January 31, 2007 Order, the lower court ordered PMO to substitute for respondent BOL.

On January 31, 2008, the lower court rendered the assailed Decision herein, the fallo of which reads—

WHEREFORE, finding the cause of actions of Petitioner, Crispina Cuestas, duly proved and supported with preponderance of evidence against the government agencies, Board of Liquidators, Davao City and Manila, taken over by the intervenor Bureau of Plant Industry and lately the entry of Privatization Management Office for and in behalf of Board of Liquidators in the Department of Finance, individually or collectively by way of mandamus, immediately within the period of thirty (30) days after receipt of this decision is ordered, to issue a Deed of Absolute Sale in favor of Petitioner of Lot No. 129-M-26-A Psd-11-050863 of the former Otha Development Corporation, containing an area of Thirty Two Thousand Two Hundred Seventy Three (32,273) square meters more or less, after full and complete payment of petitioner of the value of said lot in the amount of P32,992.00, under official receipt no. 5362071, received by the Board of Liquidators, Davao City through its officer-in-charge, Narcisa Dalipe (sic).

Thereafter[,] corresponding title in accordance to law, will likewise issue in favor of petitioner.

The prayer, however, of petitioner for award of damages and attorneys fees are denied for lack of merit.

SO ORDERED.

The intervenor's January 31, 2008 motion for partial reconsideration was denied in the lower court's herein assailed May 27, 2008 Order.[6]

On July 15, 2008, the trial court issued an Order stating as follows-

The Comment to the Motion for Partial Reconsideration of petitioner through counsel is rendered moot and academic in the Order denying intervenor BPI partial Motion for Reconsideration.

SO ORDERED.[7]

On August 20, 2008, the trail court received from the BPI, a notice of appeal dated August 11, 2008 -

NOTICE OF APPEAL

Intervenor BUREAU OF PLANT INDUSTRY (BPI), by counsel, this Honorable Court respectfully serves notice of appeal to the Court of Appeals from the Order dated July 15, 2008 (received on July 28, 2008), on both questions of fact and law.[sic][8]

On January 7, 2010, the petitioner through counsel OSG filed a Motion for the Issuance of a Writ of Execution alleging, among others, that the assailed decision was issued on January 31, 2008 and no appeal was perfected therefrom, thus, the decision has become final and executory and the issuance of writ of execution becomes a matter of right.[9]

On April 7, 2011, the BPI, through counsel, filed an Opposition (to the Motion for Execution) alleging at first that it did not receive the trial court's May 27, 2008 Order denying its motion for reconsideration of the January 31, 2008 Decision. Thus, it filed a notice of appeal reckoning from July 28, 2008, the alleged date of receipt of the July 15, 2008 Order of the trial court.[10] Later, however, books showing the receipt of the May 27, 2008 Order were uncovered by the OSG's receiving section. From there, however, the OSG lawyer who handles the case, has no personal knowledge on where it went or how it got lost.[11] The OSG explained that a different procedure was being followed last 2008 regarding the receiving, handling and distributing of legal processes, papers and documents. Thus, the OSG, asked for the trial court's indulgence for the negligence of its receiving section in the interest of substantial justice.[12]

On October 10, 2011, the trial court issued an Order resolving petitioner's Motion for Execution, thus-

This Court takes judicial notice that the Notice of Appeal was approved in its Order dated August 29, 2008 and the records of the case were transmitted to the Court of Appeals on January 8, 2010 xxx.

Records also disclosed that Petitioner's counsel received the Order of the Court dated August 29, 2008 xxx on September 25, 2008 xxx.

If petitioner feels that the Notice of Appeal should not be granted, he should have filed a motion for reconsideration on the order of the court giving due course on the notice of appeal of intervenor BPI before the court has elevated the records of the case to the Appellate Court.

This Court is of the honest belief that the stand of the movant that the Notice of Appeal was filed out of time is now best addressed to the Appellate Court considering that this Court already approved the Notice of Appeal and that the entire records of the case is now with the Court of Appeals.

There being no resolution from the Court of Appeals on the appeal that was taken by the Intervenor BPI, the "Motion For Execution" filed by the petitioner is in the meantime DENIED.

SO ORDERED.[13]

On appeal, this Court, on March 13, 2013 rendered a Decision the fallo of which read-

WHEREFORE, the appeal is GRANTED. The January 31, 2008 Decision and May 27, 2008 Order of the Regional Trial Court, 11[th] Judicial Region, Branch 17, Davao City, in Civil Case No. 28, 964-2002 are SET ASIDE and a new one rendered:

- 1) Dismissing the petition for mandamus filed by Crispina Cuestas; and
- 2) Ordering the Privatization and Management Office to reimburse Crispina Cuestas in the amount of P33,492.00 with 6% interest per annum from the finality of the Decision.[14]

Hence, this motion for reconsideration wherein petitioner-appellee advances the following grounds:

- THE APPEAL WAS OBVIOUSLY FILED OUT OF TIME BY THE APPELLANT; THEREFORE, THE HON. COURT OF APPEALS SHOULD HAVE DISMISSED IT;

- THE NOTICE OF APPEAL PERTAINED TO THE JULY 15, 2008 INTERLOCUTORY ORDER WHICH IS

NOT APPEALABLE;

- NO APPEAL WAS TAKEN OF THE JANUARY 31, 2008 DECISION AND THE MAY 27, 2008 ORDER OF THE LOWER COURT DENYING APPELLANT'S PARTIAL MOTION FOR RECONSIDERATION; HENCE, THESE HAVE BECOME FINAL AND EXECUTORY;

- THE LOWER COURT DID NOT ERR IN GRANTING THE PETITION FOR MANDAMUS AGAINST THE APPELLANT AND THE BOARD OF LIQUIDATORS.[15]

The Ruling of the Court on the Present Motion

The pivotal issue in this case is whether the assailed January 31, 2008 Decision became final and executory due to the BPI's delayed filing of a notice of appeal from the said decision.

Section 3, Rule 41 of the Revised Rules of Court provides that appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. To standardize the appeal periods and afford litigants fair opportunity to appeal their cases, the High Court ruled in *Neypes v. Court of Appeals*[16] that litigants must be given a fresh period of 15 days within which to appeal, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration under Rules 40, 41, 42, 43 and 45 of the Rules of Court. Time and again, the High Court has emphasized that the perfection of appeals in the manner and within the period permitted by law is not only mandatory but jurisdictional, and that the failure to perfect an appeal renders the decision of the trial court final and executory. [17] This rule is founded upon the principle that the right to appeal is not part of due process of law but is a mere statutory privilege to be exercised only in the manner and in accordance with the provisions of the law.[18]

The Certification dated March 24, 2010 issued by the Philippine Postal Corporation showed that the May 27, 2008 Order denying BPI's partial motion for reconsideration of the assailed January 31, 2008 Decision was received by the authorized representative of the OSG, BPI's counsel, on June 11, 2008.[19] Thus, it had until June 26, 2008 to file a notice of appeal. The BPI, through OSG, however, only filed its notice of appeal on August 20, 2008[20] 70 days, more or less, from its receipt of the May 27, 2008 Order. The OSG admitted its belated filing of the notice of appeal and explained that a different procedure was being followed last 2008 regarding the receiving, handling and distributing of its legal processes, papers and documents, thus, it asked for the trial court's indulgence for the negligence of its receiving section in the interest of substantial justice.[21]

True, in few highly exceptional instances, the High Court has allowed the relaxing of the rules on the application of the reglementary periods of appeal. To cite a few typical examples: In *Ramos vs. Bagasao*, 96 SCRA 395, the delay of four days in the filing of a notice of appeal was excused because the questioned decision of the trial court was served upon appellant Ramos at a time when her counsel of record was already dead. Her new counsel could only file the appeal four days after the prescribed reglementary period was over. In *Republic vs. Court of Appeals*, 83 SCRA 453, the perfection of an appeal by the Republic was allowed despite the delay of six days to prevent a gross miscarriage of justice since the Republic stands to lose hundreds of hectares of land already titled in its name and had since then been devoted for educational purposes. In *Olacao vs. National Labor Relations Commission*, 177 SCRA 38, 41, a tardy appeal was accepted considering that the subject matter in issue had theretofore been judicially settled, with finality, in another case. The dismissal of the appeal would have had the effect of the appellant being ordered twice to make the same reparation to the appellee.[22]

This Court finds that the circumstances of this case do not warrant the relaxation of the rules. The more or less 70

days delay cannot just be ignored. Settled is the rule that a party is bound by the negligence and mistakes in procedural matters of its counsel, [23] and that includes the negligence of the counsel's receiving section. Again, let it not be overlooked that the timeliness of an appeal is not just a mere technicality, but rather, a jurisdictional caveat that not even the High Court can trifle with. [24] In the absence of any satisfactory explanation, the OSG's failure to file a timely notice of appeal simply cannot be excused without defeating petitioner-appellee's right, as a party-litigant, to benefit from a decision that has become final and executory.[25]

Thus, even if BPI has a meritorious case, the finality of the trial court's order as a consequence of petitioner's failure to appeal on time, unfortunately, bars further consideration of its case. Under the principle of immutability of final judgment, upon finality of the judgment, the Court loses its jurisdiction to amend, modify or alter the same.[26]

Furthermore, the OSG's allegation[27] that this issue was previously raised in appellee's omnibus motion which has been considered and denied by this Court in its March 7, 2012 Resolution is misleading. This Court, in the said resolution,[28] did not deny, but rather, noted without action the appellee's omnibus motion because the arguments laid down therein were substantially similar to her pleading entitled "Reasons Why the Motion for Execution be Granted" which was treated as her Memorandum in this Court's Resolution dated March 31, 2010. [29]

In fine, the Court finds sufficient grounds to reconsider its earlier Decision and therefore amends the same.

WHEREFORE, the motion for reconsideration is GRANTED. This Court's March 13, 2013 Decision is SET ASIDE and a new one is rendered DISMISSING the appeal of the Bureau of Plant Industry. The trial court's Decision dated January 31, 2008 is REINSTATED and DECLARED final and executory. The trial court's Order dated May 27, 2008 is likewise REINSTATED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Camello, J., Chairperson and Badelles, JJ., concur.

[1] Rollo, p. 158.

[2] Rollo, p. 147.

[3] Rollo, pp. 55-88

[4] Rollo, pp. 89-93.

[5] Rollo, pp. 147-157.

[6] Rollo, pp. 147-154.

[7] Rollo, p. 128.

[8] Rollo, p. 119.

[9] Rollo, p. 117.

- [10] Rollo, p. 128.
- [11] Rollo, pp. 130-131.
- [12] Rollo, p. 133.
- [13] Rollo, pp. 137-138.
- [14] Rollo, p. 157.
- [15] Rollo, p. 160.
- [16] G.R. No. 141524, September 14, 2005.
- [17] Republic v. Court of Appeals, et al., G.R. No. 129846, January 18, 2000.
- [18] Ibid.
- [19] Rollo, p. 125.
- [20] Rollo, p. 119.
- [21] Rollo, pp. 128-133.
- [22] Supra at note 17.
- [23] Spouses Ilasco, et al. V. Court of Appeals, et al., G.R. No. 88983, December 14, 1993.
- [24] Supra at note 17.
- [25] Ibid.
- [26] Bongcac v. Sandiganbayan, et al, G.R. 156687-88, May 21, 2009.
- [27] Rollo, p. 191.
- [28] Rollo, pp. 140-141.
- [29] Rollo, p. 100.

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