

REPUBLIC OF THE PHILIPPINES (CIVIL AERONAUTICS ADMINISTRATION), PETITIONER, VS. HON. AGAPITO HONTANOSAS, THE FORMER PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, BRANC...

G.R. No. L-45215. June 19, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In this special civil action for certiorari and mandamus petitioner Republic of the Philippines (Civil Aeronautics Administration) seeks: (1) to annul and set aside the Order, dated March 19, 1976, of the Court of First Instance of Cebu in Civil Case No. R-13705 entitled "Ramon Yu, et al. vs. Republic of the Philippines (CAA)" which reconsidered its previous Order dated January 15, 1976, granting petitioner's fifth motion for extension of time to file a record on appeal and ordered the dismissal of petitioner's appeal; (2) to annul and set aside the Order dated May 25, 1976, in the same case, denying petitioner's motion for reconsideration of the Order dated March 19, 1976, and granting private respondents' motion for execution; (3) to issue a writ of mandamus commanding respondent Judge Regino Hermosisima to approve the record on appeal and to give due course to the appeal; and (4) to issue a writ of preliminary mandatory injunction directing private respondents and all persons claiming under them to restore possession of the lot involved to petitioner. Petitioner further prays, in the alternative, that the Decision dated July 29, 1975, rendered by respondent Judge Agapito Hontanosas in said case be set aside.

The factual and procedural antecedents of this petition are as follows:

On September 5, 1938, the Republic of the Philippines instituted in the Court of First Instance of Cebu expropriation proceedings involving lands in Lahug, Cebu City, for a military reservation to be used by the Philippine Army. Among those lands is Lot No. 939 - the subject matter of this case - which, along with Lot No. 932, were acquired by Eulalia Denzon and Gervasia Denzon from the Banilad Friar Land Estate for P152 and P237, respectively. Transfer Certificate of Title No. 12560 in the name of Eulalia Denzon covered Lot No. 939, with an area of 13,164 square meters; Transfer Certificate of Title No. 14921 in the name of Gervasia Denzon covered Lot No. 932, which has 25,137 square meters.

The Government took possession of the lands after depositing with the Philippine National Bank, in the name of the Provincial Treasurer, the amount of P9 ,500 pursuant to an order of the court dated October 19, 1938.

On May 14, 1940, the Court of First Instance of Cebu rendered its decision in the expropriation proceedings, ordering the Republic to pay Gervacia and Eulalia Denzon the sum of P4 ,062.10 for Lot Nos. 932 and 939. This decision was appealed to the Court of Appeals by the Denzons.

On October 7, 1947, Gervasia Denzon died, survived by two grand daughters, Josefina and Francisca Galeos. Said grand daughters are children of Bibiana, a daughter of Gervasia, who predeceased her, and Bibiana's husband, Jose Galeos. Eulalia Denzon died even earlier, on October 25, 1931, without issue.

In 1947, the subject lands were turned over to the National Airports Corporation (now Civil Aeronautics Administration) when, pursuant to a presidential proclamation, the military airport of the Philippine Army in Lahug became a national one.

On March 11, 1948, the Court of Appeals dismissed the appeal and on April 5, 1948, final judgment was entered therein. However, said judgment of expropriation was never recorded in the office of the register of deeds. Furthermore, the records do not show that the Government paid the owners or their successors-in interest the fair market value of said lots.

On November 9, 1961, Jose Galeos secured the issuance of Transfer Certificates of Title Nos. 23934 and 23935 covering Lot Nos. 932 and 939, respectively, both in the names of Francisca Galeos-Valdehueza and Josefina Galeos-Paneria. Said titles contained the following annotation: "Subject to the priority of the National Airports Corporation to acquire said parcels of land, Lot Nos. 932 and 939 upon previous payment of a reasonable market value." On that same day the registered owners filed a complaint with the Court of First Instance of Cebu, docketed as Civil Case No. 7208-R, entitled Francisca Galeos-Valdehueza, et al. vs. Republic of the Philippines, et al., for the recovery of possession of said lots and for damages by way of rentals.

On July 31, 1962, the Court of First Instance of Cebu rendered a decision the dispositive portion of which reads as follows:

"In view of all the foregoing considerations, the Court hereby renders judgment:

"(1) Sentencing the herein defendants to pay to the herein plaintiffs as the reasonable market value of the two lots in question the sum of P16,248.40, with interest, at legal rate from April 5, 1948, until full payment shall have been made, plus THREE THOUSAND PESOS (P3,000. 00) as reasonable attorney's fees, and to pay the costs; and

"(2) Ordering the plaintiffs, upon receipt of the payment hereinabove ordered, to execute the requisite deed of sale of the two parcels of land in question in favor of the defendants."

Said decision was appealed by the plaintiffs to this Court and docketed as G.R. No. L-21032.

On October 26, 1962, the Court of First Instance of Cebu issued an order cancelling the annotation at the back of T.C.T. Nos. 23934 and 23935 of the priority rights of the National Airport Corporation (Civil Aeronautics Administration). Said order was recorded in the Memorandum of Encumbrance as Entry No. 28887-V-7-D.B. Consequently, the registered owners, Francisca Galeos-Valdehueza and Josefina Galeos-Panerio, requested the Register of Deeds of Cebu City, in writing, to issue new titles covering the subject lots. Accordingly, Transfer Certificate of Title No. 26010 – which no longer contained the annotation of priority rights of the National Airport Corporation (now CAA) – was issued for Lot No. 939.

Subsequently, the Court of First Instance of Cebu issued an order dated March 16, 1963, revoking the order of cancellation of annotation dated October 26, 1962. But this order was not registered in the registry of deeds nor annotated in the titles of the subject property. Thus, T.C.T. No. 26010 remained clean and free from any encumbrance.

On May 19, 1966, this Court rendered a decision in G.R. No. L-21032 affirming the judgment of the Court of First Instance of Cebu dated July 31, 1962. (17 SCRA 107.) This Court ruled that by virtue of the judgment of expropriation as well as the annotations upon their title certificates, plaintiffs Francisca Galeos-Valdehueza, et al., were not entitled to recover possession of Lot Nos. 932 and 939 but only to demand the fair market value of the same.

On January 29, 1969, Lot No. 939 was sold by Francisca Galeos-Valdehueza, et al. to Ramon Yu, et al., after the latter were assured by the Register of Deeds of Cebu City that the vendors' title to said lot which was then covered by T.C.T. No. 26010 was free from all liens and encumbrances. T.C.T. No. 26010 was cancelled and T.C.T. No. 43177 was issued in the names of Ramon Yu, et al. Subsequently, the Civil Aeronautics Administration filed with the Court of First Instance of Cebu City in Civil Case No. 7208-R a motion for execution dated March 13, 1969. Despite the opposition filed by Ramon Yu, et al., the motion for execution was granted. However, the decision of the Court of First Instance of Cebu City, which, among others, ordered the plaintiffs – Francisca Galeos-Valdehueza, et al. – to sell Lot No. 939 to the Civil Aeronautics Administration, could not be executed since the title to said lot was no longer in the names of Francisca Galeos-Valdehueza, et al., but was already registered in the name of Ramon Yu, et al.

Asserting their rights of ownership and possession on Lot No. 939, Ramon Yu, et al., requested the Civil Aeronautics Administration in writing to deliver the possession of the lot to them. However, the Civil Aeronautics Administration refused to comply with the request – prompting Ramon Yu, et al., to file an action with the Court of First Instance of Cebu for recovery of ownership and possession of Lot No. 939 and for annulment of the judgment of expropriation.

The Court of First Instance of Cebu docketed the case as Civil Case No. R-13705 and, on July 29, 1975, rendered a decision the dispositive portion of which reads as follows:

"PREMISES CONSIDERED, JUDGMENT is hereby rendered in favor of the plaintiffs and against the defendant Republic of the Philippines (Civil Aeronautics Administration), declaring said plaintiffs as purchasers in good faith and for value over Lot 939 and consequently plaintiffs have superior right to the ownership and possession over the same lot. Defendant is therefore ordered to surrender possession of Lot No. 939 to the herein plaintiffs.

"Defendant's COUNTERCLAIM is hereby dismissed for lack of merit."

Not satisfied with the decision, the Civil Aeronautics Administration seasonably filed a notice of appeal but requested for a 30-day extension of the period within which to file the record on appeal. Subsequently four other motions for extension of time (of 30 days each) were filed by the Solicitor General and were granted by the court. But as the fifth motion for extension was filed after the expiration of the fourth extension, plaintiffs Ramon Yu, et al., sought reconsideration of the order granting said motion. On March 19, 1976, the Court of First Instance of Cebu issued an order which reconsidered its previous order granting the fifth motion for extension of time to file record on appeal and which, accordingly, dismissed the appeal of the Civil Aeronautics Administration. The Civil Aeronautics Administration filed a motion for reconsideration on April 30, 1976. On that same day, the plaintiffs filed a motion for execution of the decision. On May 25, 1976, the Court of First Instance of Cebu issued an order denying defendant's motion for reconsideration and granted the plaintiff's motion for execution.

Defendant sought reconsideration of the order granting the motion for execution and later on filed a motion to quash the writ of execution. The Court of First Instance of Cebu however denied both motions. Thus, the writ of execution was enforced and on August 16, 1976, Deputy Sheriff Emeterio Hortelano effected a return of the same showing that the judgment had been executed and fully satisfied.

On December 13, 1976, the Civil Aeronautics Administration filed with this Court the instant petition seeking the reliefs mentioned in paragraph 1 of this decision. Meanwhile, We issued a writ of preliminary mandatory injunction on December 20, 1976.

The only question in this case is whether or not the trial court committed a grave abuse of discretion when it reconsidered its order granting to the Government a fifth extension within which to file a record on appeal.

The facts are undisputed that the fourth extended period to file a record on appeal expired on January 1, 1976 – New Year's Day and a holiday – so that the record on appeal or a fifth extension to file the same should have been filed on January 2, 1976, which was the next business day. However, the motion for a fifth extension to file the record on appeal was posted on January 5, 1976.

The Government claims that its failure to timely file its motion for a fifth extension of the period to file the record on appeal constitutes excusable negligence. It justifies this claim thus:

"Petitioner's notice of appeal as well as its four motions for extension to file record on appeal were all seasonably filed and granted by respondent Judge Hontanosas. The fourth extension was to expire on January 1, 1976, a legal holiday. January 2, 1976 was a Friday. January 3 and 4 were Saturday and Sunday, respectively. The fifth motion for extension was filed on January 5, 1976 which was a Monday. Although the filing of the fifth motion for extension was delayed by one day only, such delay may be considered as excusable negligence under the circumstances. January 2, 1976, a Friday, and the first working day of the year was preceded by the long Christmas and New Year holidays and December 31, 1975 was unexpectedly declared a holiday notwithstanding the earlier public announcement that the same will not be declared a holiday. A lapse of one day may therefore be considered as excusable under the circumstances considering the volume of work and cases being performed and handled by the Office of the Solicitor General." (Petition, par. 22, Rollo, p. 9.)

The petition is highly impressed with merit.

It is obvious that even the trial court believed that the Government was entitled to a fifth extension of the period for filing the record on appeal for it granted a fifth extension. And indeed it was so entitled under the special and peculiar circumstances stated by the Solicitor General above quoted. Additionally, the Government appears to have reasonable grounds to appeal in the light of the decision of this Court in *Valdehueza, et al. vs. Republic*, supra, and it should not be deprived of this right because of the negligence, excusable or not, of its officials and employees. (*Republic v. Marcos*, G.R. No. L-32941, July 31, 1973, 52 SCRA 238; *Cornejo v. Secretary of Justice*, G.R. No. L-32818, June 28, 1974, 57 SCRA 663; *Manila Lodge No. 761 v. Court of Appeals*, G.R. No. L-41001, Sept. 30, 1976, 73 SCRA 162.)

The Government has seen fit to appeal the decision of the trial court dated July 29, 1975, thru the ordinary mode by means of a record on appeal. Under the circumstances, it would not be prudent for Us at this stage to act on the Government's prayer that We review and set aside the aforementioned decision. Such a task is better undertaken in a full dress appeal rather than in this special civil action for certiorari and mandamus.

WHEREFORE, the petition is granted; the orders of the trial court dated March 19, 1976 and May 25, 1976, are hereby set aside; the respondent court shall act on the record on appeal within fifteen (15) days from the receipt of the record from this Court; and the mandatory injunction shall remain in force until Civil Case No. R-13705 is finally terminated.

SO ORDERED.

Aquino, Guerrero, De Castro, and Escolin, JJ., concur.

Barredo, J., (Chairman), concurs that the proprietary right of the Republic over the properties in question being a settled matter by final judgment, it would be highly prejudicial to the public interest was to view the one-day delay of the Solicitor General's Office to file its record on appeal as inexcusable negligence, considering the peculiar circumstances alleged in justification thereof. Under any other circumstances, he would have voted that the trial courts' order is technically correct.

Concepcion, Jr., J., on leave.

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