

FAUSTINO LUCAS; EULALIO ROSENDO, ACCOMPANIED BY HIS WIFE, MERCEDES DE GUZMAN; MAMERTA DIZON, ACCOMPANIED BY HER HUSBAND ESTEBAN FULGENCIO; PACITA DIZON, ACCOMPANIED BY HER HUSBA...

G.R. No. L-29157. April 27, 1972

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari, mandamus and prohibition, with preliminary injunction, in relation to the following order dated May 30, 1968 of the Court of First Instance of Rizal in its Civil Case No. 8094, wherein petitioners were plaintiffs and private respondents defendants:

"O R D E R

"Defendants Rafael Iboleon, Jr., Nilda Iboleon, Chua Beng Seh and Pacifico C. Garcia, through counsel, filed a Motion for Reconsideration of this Court's Order dated September 22, 1967 which denied the Motion for Execution filed by the defendants and giving due course to the appeal taken by the plaintiffs. The Court, in issuing the Order sought to be reconsidered, ruled that the period for appeal should be counted from this Court's Order dated December 1, 1966 which reconsidered its Order dated September 6, 1966 setting aside the previous Order of dismissal dated September 16, 1965.

"According to the records, the plaintiffs received a copy of this Court's order dated December 1, 1966 on December 13, 1966 and they filed their Motion for Reconsideration on December 24, 1966 or after eleven (11) days from the time they, received said order. The Motion for Reconsideration was denied by this Court on April 17, 1967 which order was received by the plaintiffs on May 2, 1967. They filed their Notice of Appeal on May 18, 1967 or sixteen (16) days from the time that they received the Order of this Court denying their Motion for Reconsideration. All in all, twenty-seven (27) days had elapsed from the time the plaintiffs received this Court's order dated December 1, 1966 before they filed their Notice of Appeal. Therefore, if this Court should stick with its ruling that the period of appeal should be counted from its Order dated December 1, 1966, the plaintiffs filed their Notice of Appeal within the 30-day reglementary period and, therefore, the Court was right in giving due course to the appeal. The present movants-defendants, however, brought up the issue of whether or not the motions for reconsideration filed by the plaintiffs were pro-forma alleging that since the appeal is merely pro-forma and dilatory, then the period for appeal should be counted from the time the plaintiffs received the first order of dismissal of this Court dated September 16, 1965, and therefore, the Notice of Appeal was filed beyond the reglementary period provided by the rules.

"From the Order of this Court dated September 16, 1965 dismissing this case, the plaintiffs filed their Motion for Reconsideration on November 10, 1965. It is alleged by the plaintiffs in their Motion for Reconsideration that they received a copy of this Court's order dated September 16, 1965 on October 20, 1965 but that counsel for the plaintiffs received the same actually on October 26, 1965. Said motion was denied by the Court in its Order dated November 23, 1965. The plaintiffs filed a Second Motion for Reconsideration of this Court's Order dated September 16, 1965 on February 1, 1966. The plaintiffs in said Second Motion for

Reconsideration alleged that they received a copy of the Order of Denial of their first Motion for Reconsideration on January 7, 1966. Plaintiffs' Second Motion for Reconsideration was granted in this Court's Order dated September 6, 1966 and its Order dated September 16, 1965 was set aside. From this later Order, the defendants filed a Motion for Reconsideration which, after due hearing, led to the issuance of his Court's Order dated December 1, 1966 again dismissing this case.

"The Court, in its Order of September 22, 1967, gave due course to the plaintiffs' Motion for Reconsideration of this Court's Order dated September 16, 1965, relying on plaintiffs' Reply to Opposition dated January 6, 1967 that they filed their Second Motion for Reconsideration within the 30-day period presenting a graphical illustration of the dates they filed the corresponding Motions for Reconsideration. However, a thorough check of the dates the plaintiffs filed their first Motion for Reconsideration of this Court's Order dated September 16, 1965 and the Second Motion for Reconsideration thereof show that they filed the latter motion forty (40) days and not thirty (30) days reckoned from the time they received a copy of said Order of September 16, 1965. The Court was, therefore, misled in giving due course to the Second Motion for Reconsideration of this Court's Order dated September 16, 1965 which led to its Order of December 1, 1966. Even granting that the plaintiffs filed their Second Motion for Reconsideration of this Court's Order dated September 16, 1965 exactly on the thirtieth day, then the plaintiffs should have filed their Motion for Reconsideration of the Order dated December 1, 1966 immediately upon receipt of a copy of said Order on December 13, 1966, but they allowed eleven (11) days to elapse before they filed their Motion for Reconsideration on December 24, 1966.

"In this jurisdiction, the mere fact that a judgment or order has been modified or altered by the Court in an immaterial matter does not transfer the counting of the reglementary period to the date of the new order of judgment. It is only when an order or judgment has been substantially changed that the period within which to appeal must begin to run anew. This Court's Order dated September 16, 1965 was not materially changed by this Court's Order dated December 1, 1966 which latter order only reinstated without any substantial change the former order and, therefore, the period within which to appeal does not run anew from the latter order and, as pointed out by the Court, since the plaintiffs filed their Second Motion for Reconsideration exactly on the thirtieth day, if their allegation in their Manifestation dated June 30, 1966 is to be believed, then they should have filed their Notice of Appeal or their Motion for Reconsideration on the day immediately following their receipt of the Order of December 1, 1966. But the plaintiffs did not do this. They allowed eleven (11) days to elapse before they filed their Motion for Reconsideration and when their motion was denied, they again waited for sixteen (16) days before they filed their Notice of Appeal. The rules provide and the Supreme Court has consistently held that the notice of appeal, appeal bond and record on appeal should be filed in court within the 30-day period and failure to do so would render the judgment final and give rise to the dismissal of the appeal. Said requirement is not only compulsory but jurisdictional in nature.

"In view of all the foregoing, the Court finds the Motion for Reconsideration filed by the defendants to be well taken and the same is granted and this Court, in the exercise of its inherent power to correct itself, hereby reconsiders and set aside its Order dated September 22, 1967 denying defendants' Motion for Execution and giving due course to plaintiffs' appeal. The decision rendered in this case having become final and executory, let the corresponding writ of execution issue.

" Consequently, the cross-claim filed by defendants Pablo Bairan and Laureana Bairan against Fidela Manotok-Muñoz, Antonio Muñoz, Pacifico C. Garcia and the Commercial Bank and Trust Company is hereby dismissed since with the dismissal of the complaint and the finality of the order of dismissal, title of the defendants over the property in question have been reaffirmed and the situation of the parties in this case had likewise reverted to the situation they were in before the filing of the present action. The cross-claimants Pablo Bairan and Laureana Bairan are hereby ordered to pay the cross-defendants Fidela Manotok-Muñoz, Antonio Muñoz, Pacifico C. Garcia and the Commercial Bank and Trust Company what was due the latter by virtue of a deed of sale involving a parcel of land object of this case wherein said cross-claimants sold the said property to the cross-defendants.

"SO ORDERED."

Petitioners would have this court (1) set aside this order upon the ground that the same was issued in excess of jurisdiction or with grave abuse of discretion, (2) compel the respondent judge to give due course to their appeal and (3) prohibit, in the meanwhile, any other action on the part of the trial court related to the implementation of the said order.

As may be noted, the main premise of the above order declaring the court's previous order of dismissal, dated September 16, 1965, of petitioners' complaint final and executory is His Honor's finding that petitioners' appeal has not been taken within the reglementary period, not so much in relation to the original order of dismissal of September 16, 1965 but to the order of December 1, 1966, which reconsidered, upon motion of respondents, an earlier order of His Honor, dated September 6, 1966, setting aside the September 16, 1965 order of dismissal and setting the case for pre-trial, preparatory to a trial on the merits. The theory of His Honor is that petitioners should have appealed from the order of December 1, 1966, which they received on December 13, 1966, on December 14, 1966, at the latest, since said order merely reinstated that of September 16, 1965, and inasmuch as petitioners had already consumed the thirty (30) days for the purposes of a reconsideration of or an appeal from the last-mentioned order, they could not have anymore additional period for the same period in relation to the order of December 1, 1966, notwithstanding that the order of September 16, 1965 had been actually set aside, the case had been set for pre-trial and only subsequently dismissed again per said order of December 1, 1966.

Such a view is, of course, plainly incorrect. The observation of respondent judge that the order of September 16, 1965 "was not materially changed by this Court's Order dated December 1, 1966 which later order only reinstated without any substantial change the former order" overlooks the consideration that the September 16, 1965 order of dismissal was actually set aside by his own order of September 6, 1966 and the case was even set by him anew for pre-trial. In other words, the order of September 6, 1966 had the effect of wiping away completely the previously ordered dismissal of the case. Incidentally, such was the reasoning previously followed by His Honor in the order of September 22, 1967 denying respondents' motion for the dismissal of petitioners' appeal and for the issuance of a writ of execution. It is obvious, therefore, that the reconsideration of the order of September 6, 1966 could not have resulted automatically in the reinstatement of the status of dismissal in consequence of the order of September 16, 1965, and if after a restudy, the judge deemed it proper to order again a dismissal, this later dismissal must be considered as a newly appealable order and the period for its appeal must be correspondingly computed from the date of its service as prescribed by the rules. And specially must it be so, since petitioners' notice of appeal dated May 15, 1967 makes no mention at all of the order of September 16, 1965 and refers only to the dismissal order of December 1, 1966 and to that of April 17, 1967 denying petitioners' motion for reconsideration thereof.

In connection with the same point about the alleged automatic reinstatement of the first order of dismissal of September 16, 1965, it must be recalled that said order was issued by the predecessor of respondent judge, then Judge Samuel F. Reyes, who held therein thus:

"The object of plaintiffs complaint is a parcel of land designated as Lot No. 6-B-2, Psd-794, situated in the barrio of Tinajeros, municipality of Malabon, province of Rizal. Plaintiffs claim that they are the true, real and absolute owners and possessors of said parcel of land which was either inadvertently, mistakenly, erroneously and/or fraudulently included in the original survey of Lot No. 6, Psu-2345, of Hacienda de Maysilo sometime in the year 1911, and as a consequence of which the same was adjudicated, under either of the circumstances of facts aforesaid, and covered by Original Certificate of Title No. 994 of the land records of the province of Rizal, issued on May 3, 1917, by virtue of decree No. 364, dated December 3, 1912, issued in Land Registration Case No. 4429, plaintiffs therefore, prayed, among other, that they be declared the rightful, true, real, absolute and lawful owners and possessors of the said parcel of land; and that defendants be ordered to

reconvey the said parcel of land; and that Transfer Certificates of Title Nos. 104130, 104886, 104887, 107613, 116589, 117036, 120301 of the land records of Rizal, be annulled and cancelled.

"At the pre-trial conference of August 12, 1965, plaintiffs admitted that the property in question was registered under Original Certificate of Title No. 994, in 1912; that the herein plaintiffs are neither registered owners as appearing in the Original Certificate of Title No. 994, nor are they successors in interest, heirs, assigns, administrators or claimants under color of title emanating from the said heirs. Plaintiffs, however, claim that this piece of land in question had always been in their continuous possession, in the concept of owner by themselves and their predecessors in interest.

"With their admissions, the doubt of the Court which impelled it to hold in abeyance action on aforesaid motions to dismiss of defendants-movants is removed. It is now clear that the only basis of plaintiffs' claim is their adverse, continuous 'possession, in the concept of owner over the land in question. Assuming, therefore, for the sake of argument only that this is true, plaintiffs' claim could not prevail over the rights of the defendants-movants, who are the registered owners of the land in question, for the settled rule is that adverse, notorious and continuous possession under claim of ownership for the period fixed by law is ineffective against a Torrens Title. (Valiente vs. Judge of the Court of First Instance of Tarlac, etc. 45 O.G. Supp. 9, p. 43) And even assuming further that the possession of the plaintiffs over the parcel of land in question dates as far back to a time prior to its registration under the Torrens system, yet this circumstance assuming it is true, could not alter the conclusion of the Court, for the title to the land in question was registered by virtue of a decree issued way back in 1912 and as such the decree of registration could no longer be impugned on the ground of fraud error or lack of notice, as more than one year has already elapsed from the issuance of such decree (see Tuazon vs. Bolanos, 95 Phil. 106-113)"

A lengthy motion for reconsideration of this order was denied by Judge Reyes on November 23, 1965 and petitioners filed a second motion for reconsideration on January 26, 1966.

Maintaining the same position, in his order of September 6, 1966, which specifically set aside the order of September 16, 1965,[1] the respondent judge ruled as follows:

"The order sought to be set aside was issued by the Court based on a pre-trial the court gathers that the plaintiffs in fact did not admit that the land in question is validly covered by original certificate of title under 994 of the Registry of Deeds of Rizal. On the contrary, the transcript of stenographic notes of the aforesaid pre-trial shows that the plaintiffs insist on their allegation that the land object of this action has never been possessed by the defendants but rather has been in the possession of the plaintiffs since time immemorial but was later fraudulently included in the said OCT No. 994; and that having discovered said fraudulent inclusion, they filed the present action which is mainly for reconveyance, as may be gleaned from the allegation in the complaint and other pleadings filed by the plaintiffs."

Later, however, in his order of December 1, 1966, His Honor reasoned out:

"In issuing its Order of September 6, 1966, this Court was impelled by the plaintiffs' insistence that they have been in possession of the land object of the action since time immemorial but that the same was fraudulently included in O.C.T. No. 994 of the Register of Deeds of Rizal.

"The defendants in their present motion press upon the contention, among others, that, even assuming the plaintiffs' allegation of fraud to be true, their action, which is principally for a reconveyance of that portion of the parcel of land covered by O.C.T. No. 994 allegedly belonging to them, is already barred by the statute of limitations. On the other hand, the plaintiffs, in their opposition, maintain that their action is still within the prescriptive period, because they discovered the alleged procurement of O.C.T. No. 994 only in January, 1964 and their complaint was filed on March 25, 1964, or two months thereafter.

"Admittedly, an action for reconveyance based on fraud prescribes in four (4) years from the discovery of the

fraud. From a reading of the complaint at bar, it appears that the alleged fraud on which the plaintiffs anchor their present claims was 'that lot No. 6-B-2, was either inadvertently, mistakenly, erroneously and/or fraudulently included in the original survey of Lot No. 6-Psu-2345, of Hacienda Maysilo sometime in the year 1911, and as a consequence of which the same was adjudicated, under either of the circumstances or facts aforesaid, and covered by Original Certificate of Title No. 994 of the land records of the province of Rizal, issued on May 3, 1917, by virtue of Decree No. 36455, dated December 3, 1912, issued in Land Registration Case No. 4429.' The question is, when does the prescriptive period of an action for reconveyance premised on this kind of fraud commence to run? Obviously, the complaint, particularly paragraph 7 of the third cause of action, substantially state the segregation of Lot 6-B-2 sometime in 1930 for the reason the plaintiffs' predecessors in interest discovered its fraudulent inclusion in Original Certificate of Title No. 994, thus giving the impression that the alleged fraud was earlier discovered and not only in 1964.

"This Court is of the opinion, and so holds, that inasmuch as the action involves a registered property, the four-year period of prescription from the date of the alleged discovery of the alleged fraud which in this case was sometime in 1930 when the alleged segregation from O.C.T. No. 994 was made. Considering that the plaintiffs' complaint was instituted only on March 23, 1964, or after more than thirty-three (33) years from the time their cause of action accrued, it is clear that the same is already barred by the statute of limitations."

As may be seen, aside from the fact that His Honor expressly set aside the dismissal order of Judge Reyes, he specifically found that there were sufficient allegations that the title relied upon by private respondents had been secured through fraud of petitioners who have been allegedly in actual, adverse and public possession of the land in question since time immemorial or even before the issuance of such title, hence the need for a trial, only to virtually admit in the later order of December 1, 1966 that he was misled by petitioners' insistence. But the more relevant point now is that in this later order, His Honor did not, contrary to his assumption later in his order under review, merely reiterate in substance the grounds in the order of Judge Reyes. While Judge Reyes premised his order of dismissal exclusively on the invulnerability of a Torrens title after the lapse of one year from the issuance of the decree of registration. His Honor predicated his own order of dismissal of December 1, 1966 on the ground of prescription of petitioners' action based on fraud. It cannot be said, therefore, that the order of December 1, 1966 was an automatic reinstatement only of the order of September 16, 1965. But even if the later order of December 1, 1966 had simply reinstated expressly the dismissal order of September 16, 1965, still petitioners would have had thirty (30) days from the service of said second dismissal order within which to appeal. It would have been different if the order of September 16, 1965 had not been set aside. As already stated, because of the order of September 6, 1966, the order of December 1, 1966 became virtually a new dismissal, hence the emergence of a new period for appeal, and since it is not disputed that petitioners' appeal was made on May 18, 1967, or within a total of only 27 days from December 13, 1967, when the second dismissal order was served, after deducting, of course, the period from December 24, 1967 and May 2, 1967, when petitioners' motion for reconsideration was pending.

Incidentally, it may be mentioned that His Honor's reckoning of the period for appeal of the first order of dismissal of September 16, 1965 is more technical than factual, which also the flaw of private respondents' position in respect to the same point. Upon reviewing the record on appeal, somehow We could not determine on the basis barely of the allegations of the parties and the findings of the trial court, what exactly is the truth as regards the disputed dates of receipt and filing, respectively, of the orders of September 16, 1965 and January 7, 1966 and of petitioners' first motion for reconsideration of November 5, 1965 and this second motion for reconsideration of January 25, 1966, and so the writer of this opinion had to examine the original records in the presence of respondent judge in order to set things aright beyond per-adventure of doubt. Indeed, when there are serious conflicts between material dates appearing in the record on appeal, on the one hand, and those found in the order or orders of the trial court, on the other, and the parties cannot agree as to which are the correct ones, it is

but practical and consistent with the best interests of justice that the original records be examined to settle the matter on the basis of the indubitable evidence; even if the same rule cannot, of course, apply where the record on appeal is silent as to the specific data which would show that the appeal has been taken within the reglementary period, since the latter matter is governed by particular provisions designed precisely to preclude the examination of the original records and any discussion in relation thereto which might occupy the time of the court unnecessarily, considering that the cause for the confusion should not be, if the lawyers only observed the unequivocal requirements of Section 6 of Rule 41 that the record on appeal "shall include * * * such data as will show that the appeal was perfected[2] on time," otherwise, the appeal "may be dismissed" on the ground of "failure of the record on appeal to show on its face that the appeal was perfected[3] within the period fixed by these rules." (Section 1, Rule 50)

The examination of the original records revealed that whereas private respondents are relying on dates mentioned in the motions and manifestations filed by counsel for petitioners, the plaintiffs below, which could be mere typographical errors, and His Honor, on the other hand, fixed the date of the filing of petitioners' first motion for reconsideration of the dismissal order of September 16, 1965 as November 10, 1965 and that of the filing of their second motion for reconsideration (which should better be referred to as a motion for the reconsideration of the denial of the first motion for reconsideration) dated January 25, 1966 as February 1, 1966, the truth is that the said motions were both filed by registered mail, and their respective actual dates of mailing were November 6, 1965 and January 26, 1966, as shown by the corresponding post office stamps thereon, the dates mentioned by His Honor, on the other hand, being the dates when they were respectively received by the office of the Clerk of Court. It is this latter circumstance which accounts for the erroneous finding of His Honor that the second motion for reconsideration was filed ten (10) days late, exactly the number of days which, if His Honor had applied Section 1 of Rule 13, he would not have counted against petitioners, for according to this provision, the date of mailing, as shown by the post office stamps on the respective envelopes which contained their said motions, should be considered as the date of their filing, regardless of the dates they were actually received by the Clerk of Court's office.

Accordingly, We rule that from the point of view of the time of the taking of their appeal, petitioners are right in contending that the same was well within the reglementary period. And if it is true, as alleged by respondents, that the record on appeal is incomplete, this could be attributed to the fact that the trial court was itself seemingly uncertain as to what to do in the premises, and We can hardly blame the parties for being a little confused in taking the needed procedural steps, hence, it is but fair that petitioners be allowed, if necessary, to complete their record on appeal.

Looking at this case from other angles, however, the Court is inclined to agree with private respondents that the order of dismissal of September 16, 1965 has already become final and executory. Taking all relevant matters into consideration, We are loathe to let this litigation to protract further. Involving as it does the ownership and possession of a rather large piece of residential land, it is in the public interest and consistent with the public policy that controversial rights in property be settled as soon as possible in order to promote stability in all matters affected thereby that this case is terminated right here in this proceeding, it being within the authority of this Court to do so in the premises.

Not only have petitioners had enough occasions and opportunities to present their main contentions and to be heard amply on them, but, more than that, We see no possibility that their pretensions, whether factual or legal, can prosper. In their complaint in the court below, as well as in their various motions for reconsideration in relation to as many of its orders and their oppositions to the motion for reconsideration also on their part of private respondents, petitioners have as often lengthily discussed and explained repeatedly their position as to all aspects

of their claim of title. We have gone over all these representations and We find them to be mere iterations and reiterations of the same points and arguments over and over again. Thus both the first and second motions for reconsideration of petitioners respectively dated November 5, 1965 and January 25, 1966 raised exactly the same issues as their opposition to the motions to dismiss separately filed by private respondents. When the opportunity to appeal to a higher court is open to a party aggrieved by an order of an inferior court, tribunal, commission or body, our procedural rules allow there filing of only one motion for reconsideration of its final order and judgment and a second motion may be filed only when there is need to raise new points or matters not touched upon in the first motion, since otherwise, litigations will unnecessarily drag in the trial courts to the obvious detriment of the interests of justice not only in the particular case on hand but more so in the other cases pending in the court which cannot be attended to. As earlier noted, a second motion for reconsideration is actually a motion for reconsideration only of the order of denial of the first motion, and if it does not raise any new issue relative to the first order, naturally, it cannot affect the legality and validity thereof, and becomes, in effect, a mere dilatory strategy and consequently, nothing more than pro-forma. An attempt to have a reconsideration of the denial of a previous plea for reconsideration is not conducive to a speedy administration of justice. After all, the party aggrieved has a more effective recourse by appealing immediately to the appropriate appellate tribunal.

Accordingly, We agree with private respondents that, at least, petitioners' second motion for reconsideration of January 25, 1966 is pro-forma and, consequently, it could not have suspended their period to appeal from the order of dismissal of September 16, 1965 as well as the order of November 23, 1965 denying their first motion for reconsideration. In arriving at this conclusion, We took into account particularly the following considerations:

1. As already indicated, in ordering the dismissal of petitioners complaint, Judge Reyes noted that the purpose of the action is to secure the reconveyance of the land in question which is already registered in the name of the respondents, either directly or by transfer from the originally registered owners thereof, hence the action must fail, if only for the reasons stated by Judge Reyes in the order of September 16, 1965 and the herein respondent judge in this order of December 1, 1966, in the light of the following facts stipulated by the parties:

"a) That the property in question (Lot 6-B-2 is a portion of various parcels of land covered by OCT 994 of the Malabon, Rizal Cadastre;

"b) That the said properties were registered under the provisions of Act 496 and the decree of registration was issued on December 3, 1912 while Original Certificate of Title 994 was issued on May 3, 1917;

"c) That the herein plaintiffs are neither registered owners as appearing in OCT 994 and nor are they successors-in-interest, heirs, assigns, administrators, or claimants under color of title emanating from the said heirs;

"d) That in 1957, the plaintiffs acting through and in the person of Faustino Lucas filed an application covering same Lot 6-B-2 now in litigation for a free patent with the Bureau of Lands;

"e) That the Bureau of Lands issued an order dated October 31, 1963 denying the application for free patent on the ground that the property sought or applied for was already registered private land and not disposable public lands and that the registered owners were Bartolome Rivera et al., and their lawyer was Atty. Pacifico C. Garcia;

"f) That a complaint for ejectment was filed against the plaintiffs on March 5, 1964 and the same was docketed as Civil Case No. 8072 entitled Bartolome Rivera et al., vs. Faustino Lucas while the case at bar was filed on March 23, 1964."

2. That the order of respondent judge of September 6, 1966 made no mention of the order of Judge Reyes of November 23, 1965 which denied petitioners' first motion for reconsideration of November 5, 1965, hence, the

order of November 23, 1965, being unaffected by the motion, stands;

3. That the notice of appeal of petitioners is only against the order of respondent judge of December 1, 1966 and there is no reference therein to the order of Judge Reyes of September 16, 1965;

4. That petitioners have already had full opportunity to adduce their arguments in the court below as well as in this Court in support of their legal position, in their various motions for reconsideration, oppositions, the herein petition and subsequent comments, and since, anyway, the material and decisive facts are hardly disputable, it will not serve any useful purpose to hold any trial for the presentation of evidence; nor can it be expected that the legal conclusions of the trial court, which are apparently in accordance with law, will be modified substantially to warrant a different result; and

5. That after a review of the whole record and giving due consideration to all the points and issues raised by the petitioners, We are sufficiently convinced that their claim of title has no chance of being sustained even if other and further proceedings were to be held in the court below.

Needless to say, this case would have not taken so much time and appeared somewhat complicated were it not for the failure of attending counsel and the trial court to devote enough attention in going over the records and perceiving the significance of what appears therein, before taking any other procedural step. Likewise, while it is natural and necessary at times for parties to bring possible errors in the actuations of the court to its attention before elevating their cases to the appellate courts, doing it more than once causes unnecessary delay, to the detriment of the interests of justice not only in the particular case concerned but in all other cases pending before the court which could otherwise be attended to. The Court will never-tolerate such practice.

IN VIEW OF ALL THE FOREGOING, and disregarding stated premises in the order under review, because of their flaws discussed above, but considering only its dispositive portion, the petition herein is denied. No costs.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Fernando, Teehankee, and Antonio, JJ., concur.

Makasiar, J., concurs in the result.

Castro, J., took no part.

Concepcion, C.J., on official leave.

[1] The order of November 23, 1965 is not mentioned in this order of September 6, 1966.

[2 & 3] Considering that perfection of appeal includes the approval of the record on appeal and appeal bond, for which no period is fixed in the rules, what is actually meant by "perfected" here is "taken", as this word is used in Section 3 of Rule 41.

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