

**THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES,
DIRECTOR OF MINES AND MINLAWI MINING ASSOCIATION,
REPRESENTED BY ITS ATTORNEY-IN-FACT, ANITA M. ABAYA,
PETITIONERS, VS. THE H...**

G.R. No. L-7752. May 27, 1955

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is a petition for certiorari and prohibition with preliminary injunction to enjoin the Court of First Instance of Manila from continuing with the hearing of civil case No. 20449, entitled Louis W. Hora, Plaintiff, vs. the Honorable, the Secretary of Agriculture and Natural Resources, et al, Defendants. It is alleged that the said court has no jurisdiction to take cognizance of the case for the reason that it was presented after the expiration of the period prescribed by law for prosecuting an appeal from the decision of the Secretary of Agriculture and Natural Resources.

The record discloses that on May 29, 1952 the Director of Mines accepted the lease application of the Minlawi Mining Association in Mines Reconstitution Case No- V-40, and the Secretary of Agriculture and Natural Resources dismissed the appeal therefrom of Louis W. Hora, Oppositor, and of Apolinario de los Santos, Intervenor. A copy of this decision (of the Secretary of Agriculture and Natural Resources) was received by respondent Louis W. Hora on May 18, 1953. On June 10, 1953 Hora presented a motion for reconsideration, but this motion was denied by the Secretary of Agriculture and Natural Resources on July 14, 1953. Copy of the order of denial was received by the respondent on August 4, 1953. On August 4, 1953 Hora presented a petition in this Court for certiorari and injunction, praying that the decision and order of the Director of Mines and the Secretary of Agriculture and Natural Resources be set aside and be declared null and void. But the petition was dismissed by this Court on August 6, 1953 for lack of merit and on the ground that the proper remedy is an ordinary action. Hora moved to reconsider the said dismissal, but the motion was denied by the Court on August 26, 1953. Copy of the resolution of denial was received by Hora on August 27, 1953.

On the same day (August 27, 1953), he filed a complaint in the Court of First Instance of Manila (Civil Case No. 20449, Hora vs. the Hon., the Secretary of Agriculture and Natural Resources), praying that the above mentioned orders of the Director of Mines and the Secretary of Agriculture and Natural Resources be set aside. On September 2, 1953 the defendants presented a motion to dismiss the action on the ground that the court has not jurisdiction to entertain the same because the decision of the Department Secretary in D.A.N.R. Case No. 665 had become final. Hora presented an opposition to this motion on September 11, 1953. Thereafter, the parties were required to present memoranda to support their motion and opposition, and the court on March 1, 1953 denied the motion to dismiss because "the grounds thereof are not so undubitable and which may be taken up and fully determined during the trial of this case." The defendant Minlawi Mining Association filed a motion for reconsideration of the above order, but the same was denied on April 3, 1954. In the same order of denial, the court ordered the defendants to file their answer.

The petition in this case was filed on April 30, 1954, and it alleges therein as ground for the petition that the decision of the Secretary of Agriculture and Natural Resources had become final because the complaint filed with the court of first instance to annul the said decision which was presented on August 27, 1953, was filed beyond the 30-day period provided in Section 4 of Republic Act No. 739 within which an appeal from the decision of the said Secretary may be made to a court of competent jurisdiction. In their answer, respondents claim that the action instituted by them in the court of first instance constituted an appeal from an administrative tribunal to a court of justice, and under the principle that administrative remedies should be exhausted before resort to the courts of justice may be made, the 30-day appeal period provided in Section 4 of Republic Act 739 should be counted from the day of the notice of the order denying the motion for reconsideration not from the decision, this principle being the one sustained by a majority of the courts in the United States.

It will be noted that from May 18, 1953, when the respondent received a copy of the Secretary's decision, to June 10, 1953,- when he presented a motion for reconsideration of said decision, a period of 23 days elapsed, and from August 4, 1953, the date of the receipt of the order denying his motion for reconsideration, to August 27, 1953, the date of the presentation of the complaint, 23 days also elapsed. It is the claim of the petitioner that the 30-day period of appeal provided in Section 4, Republic Act No. 739, should begin from the receipt of the decision of the Secretary of Agriculture and Natural Resources by the interested party, and that the presentation of the motion for reconsideration with said Secretary had the effect of merely suspending the running of the period of appeal, and the same continued to run again from the receipt of the order denying the motion for reconsideration so that when the complaint in the court of first instance was filed by the. respondent on August 27, 1953, a full period of 46 days had elapsed, which is beyond the period allowed by the above-mentioned law.

There is much merit in the argument of counsel for respondent that as the action filed in the court of first instance to annul a decision of the Secretary of Agriculture and Natural Resources seeks the review of an administrative decision, the period within which the review must be sought must be counted from the denial of the motion for reconsideration because of the principle that all administrative remedies must be exhausted before recourse to the courts can be had against orders or decision of administrative bodies. Hence, it has been said:

"Where the statute provides in general terms that the appeal or proceedings in error shall be instituted, within a certain time for the rendition or entry of the judgment or decree, it is the general rule that where a motion for new trial is seasonably made the time is to be computed from the date of the denial of the motion, and not from the date of the rendition of the judgment or decree, where the motion was necessary to the consideration in the appellate court of the question involved. The reason for this rule is that the character of finality does not attach to the judgment or decree until the motion has been decided. * * *." (3 Am. Jur. 149).

The above-enunciated principle appeals to reason and were we to decide the question on that principle alone, we would agree with respondent's contention. In this jurisdiction, however, the Legislature has provided the method or procedure by which a review of the decision of the Secretary of Agriculture and Natural Resources may be had in the courts of justice. The procedure outlined in Section 4, Republic Act No. 739, is as follows:

"Sec. 4. * * *. The decision of the Secretary of Agriculture and Natural Resources may be taken to the court of competent jurisdiction as in ordinary civil cases within thirty (30) days from receipt of such decision: Provided, that if no such action is taken within the period of 30 days from receipt of such decision, the decision of the Secretary of Agriculture and Natural Resources shall likewise be final and binding upon the parties concerned."

It is evident from the above provision that the Legislature intended that an appeal may be had against the decision of the Secretary of Agriculture and Natural Resources to a court of justice. That an appeal is meant may be inferred from the use of the words "decision" and of the clause "may be taken to the court." When a decision is to

be taken to a court, it means that it will be taken thereto by way of an appeal or for review. The law also significantly provides that the decision shall be taken to the court as in ordinary civil cases; in other words, the appeal may be taken in the same manner as appeals are made in the courts of justice in ordinary civil actions. The procedure for appeal in ordinary civil actions is defined in Section 3 of Rule 41 of the Rules of Court, as follows:

"Appeal may be taken by serving upon the adverse party and filing with the trial court within thirty days from notice of order or judgment a notice of appeal, an appeal bond, and a record on appeal. The time during which a motion to set aside has been pending shall be deducted."

Interpreting the said provision, Chief Justice Moran says:

"As stated in this provision 'the time during which a motion to set aside has been pending shall be deducted.' In other words, from the date a motion to set aside is duly filed to the date when the movant is duly notified of the denial of his motion, the period to appeal is deemed suspended. * * * (I Moran, Comments on the Rules of Court, p. 907.)

In view of the express provision of the statute, we must decline to follow the principle set forth in American courts (3 Am. Jur. 149, supra), however reasonable it may seem to be. The right to appeal from a decision of the Secretary of Agriculture and Natural Resources is a statutory right; it can be invoked only in accordance with the manner which the Legislature has provided for the purpose. The considered opinion of the members of the Court is that the Legislature has adopted the principle contained in the Rules as to the manner of perfecting appeals in ordinary civil actions for the purpose of uniformity and to prevent the confusion that may be caused to litigants and lawyers by an appeal different from that applicable in courts of justice. Our conclusion as above set forth is supported by jurisprudence in Federal courts in the United States, thus:

"In the Federal Courts the rule is well established that in judicial proceedings the filing of a petition for rehearing, or a motion for New Trial, will suspend the running of the period within which an appeal will be taken, and that this period begins to run then anew from the date on which final action is taken on the petition or motion, whether it be denied or granted. The rule as above stated applies even though a statute fixes the time within which appeal may be taken as a definite period from the entry of judgment. *Wayne United Gas Co. vs. Owens-Illinois Glass*, 1937, 300 US 131, 81 L. Ed; 557 *Morse vs. U. S.*, 270 U. S. 151, 70 L. Ed. 518 *Citizens Bank vs. Opperman*, 1919, 249 US 448, 63 L. ed. 701." (*Saginaw Broadcasting Co. vs. Federal Communications Commission*, 96 F. 2d 554).

For the foregoing consideration, the petition should be granted. The order denying the dismissal of the action in the court of first instance is hereby reversed and the complaint in said court filed by the respondents herein ordered dismissed. With costs against the respondent Louis W. Hora.

Pablo, Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Reyes, J. B, L., JJ., concur.

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