

HEIRS OF PEDRO CABALAG, ETC., ET AL., PETITIONERS, VS. ROXAS Y CIA., ET AL., RESPONDENTS.

G.R. No. L-20011. December 17, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

This is a petition for review on certiorari of a decision and order dated May 3, 1962 and June 4, 1962, respectively, of the Court of Agrarian Relations (Fifth Regional District—San Pablo City) in CAR Case No. 399.

The facts pertinent to the resolution of this case are as follows:

On December 2, 1958, petitioners herein—in their capacity as heirs of Pedro Cabalag, former tenant of Lot 105-A of Hacienda Palico, situated in barrio Palico, Nasugbu, Batangas—brought this action against Roxas y Cia, Antonio Chuidian, Teodulo Caisip (owners, administrator and overseer, respectively, of the hacienda) and Bonifacio Martinez, incumbent tenant, in order to press their claim for recognition as farm tenants of Lot 105-A.

Respondent court on May 3, 1962 rendered a decision dismissing the claim of petitioners, copy of which decision was received by the latter on May 9, 1962. On May 21, 1962 petitioners moved for a reconsideration of said decision, but their motion was denied by respondent court in its order dated June 4, 1962, copy of which was received by petitioners on June 7, 1962.

On June 8, 1962, petitioners filed with the Supreme Court a petition for leave to appeal as pauper, and for extension of 30 days from June 10, 1962 within which to file their petition for review of the respondent court's questioned decision and order, copy of which petition was furnished respondents Roxas y Cia., et al. but not to respondent court. In Our resolutions dated June 20 and July 16, 1962, respectively, We granted the petitions above-stated.

On July 10, 1962, petitioners filed this petition for certiorari, including as one of the respondents the Court of Agrarian Relations, without however filing a notice of appeal with the latter.

Respondents Roxas y Cia., et al. and respondent court filed their answers on August 20 and 25, 1962, respectively.

Meanwhile Roxas y Cia., et al. made inquiries from this Court and respondent Court of Agrarian Relations whether petitioners filed a notice of appeal in the latter court. Informed that no such notice of appeal was filed, respondents Roxas y Cia, et al., on September 19, 1962, moved for the dismissal of the petition on this ground. An opposition to the motion to dismiss was interposed by petitioners on October 16, 1962. This Court in the resolution of November 2, 1962, deferred action on the motion and opposition until the case is taken up on the merits.

No brief was filed by the petitioners-appellants within the reglementary period. Respondents-appellees' brief was filed on November 7, 1962.

We set the case for hearing on December 12, 1962 at 9:30 A.M., but only Atty. Silvestre C. Loveria, Jr., petitioners-appellants' counsel, appeared and he was given 20 days within which to file a memorandum in lieu of oral argument. Respondents-appellees moved for a reconsideration of the resolution granting petitioners-appellants leave to file a memorandum in lieu of oral argument, but said motion was denied on January 4, 1963.

On January 2, 1962 petitioners-appellants filed their memorandum in lieu of oral argument.

Several issues have been raised by the parties, foremost of which is the question of whether or not petitioners-appellants perfected their appeal, considering their failure to file a notice of appeal with the respondent Court of Agrarian Relations.

Petitioners did not perfect their appeal.

In *A.L. Ammen Transportation Co., Inc. v. The Workmen's Compensation Commission, et al.*, L-20219, September 28, 1964, this Court first reversed the award of compensation, funeral expenses, etc., made by the Workmen's Compensation Commission to the widow and children of the late Agripino Jacob, employee of the transportation company. The widow and her children and the Workmen's Compensation Commission, through counsels, moved for the setting aside of the decision and for the dismissal of the petition for certiorari on the ground that petitioner transportation company failed to perfect its appeal in the manner provided for by law. Sustaining their contention, this Court in a resolution in the same case dated November 28, 1964 set aside the aforementioned decision and dismissed the petition—anchoring its action on the decision handed down earlier in *Heirs of Patricio Pabores v. The Commissioner, Workmen's Compensation Commission*, L-12034, August 30, 1958, where We held:

"There is, however, one point raised by respondents that merit prior consideration. They called the attention of the Court to the fact that although petitioners received a copy of the decision of the Workmen's Compensation Commissioner upholding the ruling of the referee on February 4, 1957 and while it is true that the petition for review of said decision was filed with the Supreme Court on February 14, 1957, the notice of appeal was filed with the Commission only on February 19, 1957. Rule 44 of the Rules of Court, which equally governs appeals from decisions of the Workmen's Compensation Commission, provides:

"SECTION 1. HOW TO PERFECT AN APPEAL.—An appeal by certiorari from an award, order or decision of the Court of Industrial Relations (or Workmen's Compensation Commission), shall be perfected by filing with SAID COURT, (or Commission) a notice of appeal and with the Supreme Court a petition within ten (10) days from notice of the award, order or decision appealed from (As Amended by C.A. No. 559.)"

"Under the aforequoted provisions, the petition for review must be filed with the Supreme Court AND a notice of appeal with the Commission within 10 days" from receipt of the decision, prefer or award sought to be reviewed. And while to the petitioners goes Our sympathy, We cannot obviate the fact that although the petition for review was filed with this Court within the reglementary period, petitioners filed their notice of appeal with the Commission 5 days late or 15 days after they were notified of the decision. This is certainly an error fatal to the present action. (See *Martha Lumber Mill, Inc. vs. Romana Lagrante, et al.*, G.R. No. L-7599, June 27, 1956)."

The above-quoted rule for appeals from the Court of Industrial Relations was also made applicable to appeals from the Court of Agrarian Relations per Supreme Court resolution of January 5, 1956, so that failure to file the notice of appeal with the Agrarian Court perforce results in no appeal being taken.[*]

It is noteworthy that although in the *A.L. Ammen Transportation Co., Inc.* case, *supra*, the petitioners therein had already obtained a favorable decision, still, the Supreme Court set aside the same because of the petitioners'

failure to file a notice of appeal with the Workmen's Compensation Commission. In the Heirs of Patricio Pabores case, petitioners indeed filed their notice of appeal, but in vain because it was filed too late.

The petitioners-appellants' case under consideration is no better than the two above-cited cases. They have not even taken the trouble of filing a notice of appeal with the Court of Agrarian Relations. As a result, the decision sought to be reviewed became final and executory, precluding the Supreme Court from acquiring jurisdiction over the case.

This case underscores the need for lawyers who are well grounded not only in the law but in the realm of procedural technique as well, the better to protect their client's interest. What is involved here is not a doubtful nor difficult question of procedure, but one which a lawyer with ordinary intelligence and a minimum of training is and should be expected to know. Had counsel perfected the appeal by the filing of the requisite notice of appeal with the respondent court, in addition to the petition for review herein, petitioners-appellants would have been accorded a fighting chance and perhaps that of obtaining a favorable judgment. But while we desire to do them justice, we can not disregard the mandatory and jurisdictional requirement of law regarding notice of appeal, omission of which is fatal to their case. It is sometimes unfortunate but our system of advocacy is such that a client is bound by the action of his counsel, including the latter's mistakes in the conduct of a case, and cannot be heard to complain that the result might have been different had he proceeded differently (*Vivero v. Santos*, 52 O.G. 1424; 98 Phil. 500, 503).

WHEREFORE, the petition for review is hereby dismissed for failure to perfect the appeal as required. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[*] *Montejo v. Cabangon*, L-17977, May 30, 1962. N.B.: Period to appeal from CAR is now 15 days per Rule 43, Revised Rules of Court effective 1964.

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