

RODOLFO B. SOQUE, PETITIONER, VS. COURT OF APPEALS AND SULPICIO LIBUTON, RESPONDENTS.

G.R. No. L-56989. September 04, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

The decision of the Court of Appeals in Libuton vs. Soque, CA-G.R. No. SP-11252-CAR, January 13, 1981, an agrarian case, was served on January 22, 1981 upon the counsel for the landowner, Rodolfo B. Soque.

Eighteen days thereafter or on February 9, Soque filed a motion for reconsideration. That motion was not acted upon because, as stated by the Court of Appeals in its resolution of February 12, 1981, section 18 of Presidential Decree No. 946 does not allow a motion for rehearing or reconsideration of the decision of the Court of Appeals in agrarian cases.

On March 17, 1981, the Clerk of Court of the Court of Appeals entered judgment in the said case on the assumption that the decision became final and executory on February 7, 1981, sixteen days after the service thereof on Soque, the defeated party. The record was remanded on March 20, 1981 to the Agrarian Court in Bacolod City.

The entry of judgment is erroneous because the judgment did not become final on February 7. It became final on February 22 or after thirty days from notice to Soque's counsel. Section 18 gives Soque a "non-extendible period of thirty (30) days" from notice of the decision within which to file an appeal to this Court by means of a petition for review on certiorari.

In ordinary cases or non-agrarian cases, the reglementary period for appealing to this Court from the decision of the Court of Appeals is fifteen days. So, if there is no appeal within that period, the judgment becomes final on the sixteenth day. In agrarian cases, the Court of Appeals should enter judgment on the thirty-first day or thereafter, that is, after the expiration of the thirty-day period within which to appeal to this Court and no appeal is interposed.

In the instant case, Soque mailed to this Court on March 19, 1981 an urgent motion for extension of time within which to file a petition for review. He inaccurately alleged that his counsel received on March 10 a copy of the Appellate Court's resolution of February 12, "denying" his motion for reconsideration.

His motion was not denied. It was simply "noted" because that motion was out of order. It was not authorized by section 18.

This Court in its resolution of June 5, 1981 erroneously granted Soque an extension of thirty days from March 15 within which to file his petition for review on certiorari. The petition was mailed on April 14, 1981.

We hold that the petition should be dismissed because it was filed out of time. It should have been filed within the non-extendible period of thirty days from January 22, when Soque was served with a copy of the decision, or on

or before February 21.

The thirty-day extension was granted to Soque through oversight. The resolution granting it is hereby set aside. He was not entitled to that extension.

As held in *Caparas vs. Court of Appeals*, G.R. Nos. 56772-84, July 9, 1981 (thirteen cases), the provision of section 18 that the thirty-day period is non-extendible is peremptory or mandatory in character. The obvious intent of the lawmaker is to avoid delays in the disposition of agrarian cases. *Dura lex, sed lex*.

That intention is evident in another provision of section 18, directing that the complete records of the Agrarian Court should be forwarded to the Court of Appeals "within a non-extendible period of fifteen (15) days from receipt of a notice of appeal".

WHEREFORE, the petition in this case is dismissed. No costs.

SO ORDERED.

Barredo, Concepcion, Jr., Fernandez, and De Castro, JJ., concur.

Abad Santos, J., on leave.

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