

THE DIRECTOR OF LANDS AND THE DIRECTOR OF FOREST DEVELOPMENT, PETITIONERS, VS. THE HON. JUDGE DELIA P. MEDINA AND DOMINGO REYES, RESPONDENTS.

G.R. No. L-41968. February 15, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

In 1968 Domingo Reyes sought the registration of eight (8) parcels of land in the barrios of Vigo, Catidang, and Tala in San Narciso (now San Andres), Quezon before the then Court of First Instance of Quezon, Branch I, as a land registration court. The Director of Lands, through the Office of the Solicitor General, opposed the application, as did several private individuals.

In due course, the court issued a general order of default except for the Director of Lands and the private oppositors.

During the hearings of the case, the Provincial Fiscal of Quezon appeared as counsel for both the Director of Lands and the then Director of Forestry. Although the latter did not formally enter his appearance in the case, the court allowed him, through the Provincial Fiscal, to introduce evidence in support of the fact that 176 hectares of the area sought to be registered fell within the forest classification and, therefore, were inalienable and unregistrable.

On July 31, 1974, Judge Delia P. Medina rendered a decision adjudicating to Domingo Reyes the four (4) parcels of land sought to be registered and ordering their registration in his name. The Provincial Fiscal received a copy of the Decision on August 8, 1974, but the Solicitor General received his copy only on November 13, 1974.

On December 12, 1974, within the 30-day period then required for interposing an appeal, the Solicitor General filed for the Directors of Land and Forest Development, a notice of appeal and an urgent motion for extension of time to file a record on appeal, which the Provincial Fiscal eventually filed on January 2, 1975.

On December 26, 1974, however, counsel for Domingo Reyes filed an opposition to the notice of appeal and motion for extension of time to file record on appeal. He contended that since it was principally the Provincial Fiscal who represented both the Directors of Land and Forest Development and who received the copy of the Decision on August 8, 1974, the notice of appeal and motion for extension of time filed by the Solicitor General had been filed out of time, the Decision, having become final and executory.

The Solicitor General replied that since he was the counsel of record and principal counsel with the Provincial Fiscal appearing merely as his representative in the case, he should have been served all pleadings and processes in the case and that receipt by the fiscal of the decision was not equivalent to his receipt thereof inasmuch as such representation did not divest him of control over the case as its principal counsel.

Domingo Reyes reacted to these averments by arguing that although the Office of the Solicitor General filed for the Bureau of Lands an opposition to his application for registration, there was no justification for the Solicitor

General's claim that he was the principal counsel for the oppositors as other lawyers had appeared for and in behalf of both the private and public oppositors. Moreover, it was the Provincial Fiscal who "carried the brunt for the oppositor Bureau of Forestry" and not the Solicitor General who did not appear and participate during the hearings of the case.

In his rejoinder, the Solicitor General asserted that by virtue of Presidential Decree No. 478, he was the government's representative in land registration cases; that his authority to depute the Provincial Fiscal in the performance of his duties did not divest him of control over the case; and that in the land registration case at hand, he did not empower the Provincial Fiscal to receive pleadings and court processes.

On March 31, 1975, Judge Medina issued an order ruling that, as far as the Director of Lands was concerned, the period to file an appeal should be counted from receipt of the Decision by the Solicitor General considering that the Provincial Fiscal who had appeared as counsel of record "with personality separate and distinct from that of the Solicitor General(s)," had expressly informed the court and the adverse party that he was a mere representative of the Solicitor General. Citing Circular No. 41, [1] which was issued on November 28, 1973 by the Secretary of Justice, Judge Medina opined that in cases where fiscals had been authorized to appear by the Solicitor General, they appeared as special attorneys of the Office of the Solicitor General. Judge Medina also stated:

"The Fiscal, being thus a mere representative and extension of the personality of the Solicitor General cannot be considered as a separate counsel of record for the oppositor, Director of Lands, notice to whom is also notice to the Solicitor General, as contemplated in the case of *Palteng vs. Court of Appeals* (26 SCRA 736). The Solicitor General, being the principal counsel, is entitled to service of the orders, pleadings and the decision in this case and pursuant to Circular No. 41 of the Department of Justice, the service to him of the decision rendered in this case shall be the basis of the finality thereof.

However, the above is true only with respect to the opposition of the Director of Lands, since it was only the Director of Lands for whom the Solicitor General entered a formal opposition and specifically authorized the Fiscal to appear in his behalf, in the light of Circular No. 41 of the Department of Justice. The record shows that the Director of Forestry was represented only by the Fiscal who did not interpose for him a timely appeal despite receipt of the Decision on August 8, 1974, hence, said Decision has become final and executory as to the Director of Forestry." [2]

Accordingly, the court dismissed the appeal of the Director of Forestry, gave due course to the appeal of the Director of Lands, and directed the Solicitor General to amend the notice of appeal and record on appeal within ten (10) days from notice.

In behalf of the Director of Forest Development, the Solicitor General filed a motion for partial reconsideration of the Order of March 31, 1975, on the ground that since Sec. 1 of P.D. No. 478 vests upon the Solicitor General the exclusive authority to represent the government and its officers, service of the Decision upon the Provincial Fiscal who had "no legal personality by himself to appear for the Director of Forestry" produced "no legal effect whatever and his inaction" could not bind the Director of Forestry. The Solicitor General also contended that although he had not filed a formal opposition to the application for land registration in behalf of the Director of Forestry, he should be "deemed for all legal intents and purposes" said Director's counsel and receipt by him of copy of the Decision should be determinative of its finality.

Said motion was denied by the lower court on June 17, 1975 for lack of merit. On July 22, 1975, the Solicitor General filed a motion for a 30-day extension within which to submit an amended record on appeal. Domingo Reyes opposed the motion, and on July 31, 1975, the lower court dismissed the Solicitor General's appeal for his

failure to amend the notice of appeal and record on appeal as required in the order of March 31, 1975, after a lapse of more than three months.

It turned out, however, that a motion for extension of time dated July 23, 1975, had in fact been filed by the Solicitor General because on August 1, 1975, the lower court issued an Order holding that such motion had been "rendered moot and academic" by its Order of July 31, 1975, dismissing the appeal interposed by the Solicitor General.

Nevertheless, on August 14, 1975, the Director of Lands, through the Solicitor General, filed an amended notice of appeal to the Court of Appeals. On August 22, 1975, a special counsel filed a motion and manifestation stating that upon the instruction of the Provincial Fiscal, he was submitting a motion for reconsideration signed by the Assistant Solicitor General and an amended record on appeal incorporating relevant pleadings and orders. He manifested that "the Office of the Provincial Fiscal was not able to immediately comply with the wire-request dated July 22, 1975 for the reason that said wire-request was received by this Office only on July 30, 1975, aside from the fact that the record of this Office regarding this case has all been forwarded to the Office of the Solicitor General." [3]

The said motion for reconsideration of the Order of July 31, 1975, was filed by the Solicitor General for the Director of Lands. It alleged:

"x x x x x x x x x x"

2. That previously, on April 29, 1975 a partial motion for reconsideration of the Order of March 31, 1975 was presented by undersigned counsel which was denied in an Order dated June 17, 1975, which second order although received by the Office of the Solicitor General on June 23, 1975 was actually delivered to the undersigned Solicitor in charge of the case only on July 16, 1975;

3. That, thereupon, on July 22, 1975 the Solicitor General wired the Provincial Fiscal directing him to file immediately the amended record on appeal pursuant to the order of March 31, 1971, at the same time filing a motion for extension of time to file the amended record on appeal but which was erroneously filed with the Court of Appeals on July 22, 1975. Sad to state, said Provincial Fiscal did not comply with aforesaid instruction to file the amended record on appeal. Had he immediately done so upon receipt of the wire dated July 22, 1975, there would have been no occasion for this Court to issue the Order dated July 31, 1975 since the desired amendment, as we see it, merely involves the simple expedient of deleting or striking out from the notice of appeal dated December 12, 1974, the Director of Forest Development as party appellant thereby leaving the Director of Lands as the sole appellant herein, which act the Clerk of Court may well do by himself upon the direction of the Court;

4. That there being no showing that the amendment directed by the Court is necessary for the proper understanding and resolution of the issues, as provided in Sec. 7 of Rule 41, Rev. Rules of Court, the omission of the Fiscal in making such amendment should not prejudice the Director of Lands who has seasonably perfected his appeal; x x x."

To this motion, the Solicitor General attached the amended record on appeal.

In an order dated November 12, 1975, the lower court denied the said two motions.

Thereupon, the Solicitor General instituted the instant petition for certiorari and mandamus in behalf of the Directors of Land and Forest Development. He averred that the lower court acted with grave abuse of discretion, "or at least, in violation of law," in dismissing the appeal of the Director of Forestry, because while said official did not file a written opposition to the application for land registration, the lower court allowed him to adduce evidence which fact "could not legally foreclose the said petitioner's right to appeal through his principal counsel -

the Solicitor General - who x x x interposed for him a timely appeal."

The Solicitor General also charged the lower court with having acted with grave abuse of discretion, "or at least in violation of law," in dismissing the appeal of the Director of Lands for his failure to file an amended record on appeal within the ten-day period granted him. He argued that while Sec. 7, Rule 41 of the Revised Rules of Court mandates the inclusion in an amended record on appeal of any matter essential to the determination of a case, the lower court directed the exclusion of the Director of Forestry as a party litigant as well as all pleadings bearing on his opposition.

In his manifestation and motion, private respondent alleged, among others, that certain portions of the tract of land subject of his application for registration are within the alienable and disposable areas of the public forest lands. The Solicitor General disputed said allegation, stating that according to the National Mapping and Resource Information Authority (NAMRIA), the areas referred to by private respondent are not entirely alienable and disposable.

Although the averments of the parties are factual matters which are not within the ambit of this Court's jurisdiction, the contradictory allegations on such factual issues necessitate a review of the merits of the application for land registration. Such a review may only be done upon a favorable action on the instant petition which we find to be impressed with merit.

The instant petition actually requires an examination of the extent of the authority of the Solicitor General to represent the government and to delegate his authority to the Provincial Fiscal, although principally assailing the ruling of the lower court as regards the timeliness of the appeal interposed by the petitioners.

As regards the authority of the Solicitor General to appear as counsel for the government when he entered an opposition to the private respondent's application for land registration, the law then governing was the Revised Administrative Code, as amended, which states:

"SEC. 1661. Duties of the Solicitor General. - As principal law officer of the Government, the Solicitor-General shall have authority to act and represent the Government of the Philippines, its offices and agents, in any official investigation, proceeding, or matter requiring the services of a lawyer. Upon the request of the President or Speaker of any of the Houses of the Congress of the Philippines, the Solicitor-General or his authorized representative shall assist and attend any legislative committee that may be practicing any investigation ordered by the Congress, or by any of the Houses thereof.

It shall, among other things, be his duty, in person or by proper subordinate:

x x x x x x x x.

(b) To represent (the United States in the Supreme Court in all criminal cases, and to represent the United States and) the Government of the Philippines in the Supreme Court in all civil actions and special proceedings in which (either of) said Government, or any officer thereof in his official capacity, is a party.

x x x x x x x x.

When the decision in the land registration case was promulgated on July 31, 1974, the law in force was Presidential Decree No. 478, the Magna Carta of the Office of the Solicitor General, [4] which took effect immediately after its issuance on June 4, 1974. [5] This law provides that:

"SECTION 1. Functions and Organization. (1) The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government owned or controlled corporations. The Office

of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of a lawyer. It shall have the following specific powers and functions:

x x x x x x x x.

(e) Represent the Government in all land registration and related proceedings. Institute actions for the reversion to the Government of lands of the public domain and improvements thereon as well as lands held in violation of the Constitution.

x x x x x x x x.

(g) Deputize, whenever in the opinion of the Solicitor General the public interest requires, any provincial or city fiscal to assist him in the performance of any function or discharge of any duty incumbent upon him, within the jurisdiction of the aforesaid provincial or city fiscal. When so deputized, the fiscal shall be under the control and supervision of the Solicitor General with regard to the conduct of the proceedings assigned to the fiscal, and he may be required to render reports or furnish information regarding the assignment."

The Solicitor General, therefore, has "control and supervision" over the fiscal who has been deputized to appear for him. As such deputy, the fiscal is no more than the "surrogate" of the Solicitor General in any particular proceeding. [6] The Solicitor General's request for his representation does not make the fiscal the counsel of the Republic. [7] As the principal counsel, the Solicitor General is entitled to be furnished copies of all court orders, notices, and decisions. [8] Since court orders and decisions sent to the fiscal, acting as an agent of the Solicitor General in land registration cases, are not binding until they are actually received by the Solicitor General, [9] "service of decisions on the Solicitor General is the proper basis for computing the reglementary period for filing appeals and for determining whether a decision had attained finality. " [10]

All these jurisprudential pronouncements inexorably point to no other conclusion than that the appeal herein involved was timely filed by the Solicitor General. Considering, however, that the Solicitor General entered his appearance only for the Director of Lands, was the appeal interposed by the Director of Forestry (later Forest Development) likewise deemed timely filed?

We hold that under the law and the peculiar circumstances of this case, such appeal was also timely filed. After he had entered his appearance as counsel for the Director of Lands and deputized the provincial fiscal to appear during the hearings, the latter appeared, not only as counsel for the Director of Lands, but also for the Director of Forestry. In fact, the court allowed the Provincial Fiscal to adduce evidence for the latter official and his government agency without the private respondent registering any opposition. That fact estopped the court and the private respondent from later questioning the personality of the Director of Forestry. Moreover, pursuant to the aforementioned provisions of the Revised Administrative Code and P.D. No. 478, the Solicitor General acts as counsel for the government in land registration cases and not for any particular government official and agency. His appearance therein is premised on his authority to protect the interest of the government and not that of any particular government official or agency.

Considering the foregoing, the lower court gravely abused its discretion in dismissing the appeal of the government on the basis of what it perceived as a procedural lapse. The lower court should be reminded that the ends of substantial justice should be the paramount consideration in any litigation or proceeding. As this Court ruled in *Republic v. Asociacion Benevola de Cebu*, [11] "to dismiss the Republic's appeal merely on the alleged ground of late filing is not proper considering the merits of the case" and to ignore the evidence presented by the provincial fiscal in behalf of the Director of Forestry which constituted the crux of the government's case "would defeat the time-honored Constitutional precepts and the Regalian doctrine that all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the

conservation of such patrimony." This notwithstanding, we need not discuss the issue raised as regards the filing of the record on appeal, as such procedural requirement has been dropped under Sec. 18 of the Interim Rules and Guidelines dated January 11, 1983.

Now, a word about the working relationship between the Solicitor General and his deputy, the Provincial Fiscal. The problems ventilated in this petition would not have arisen had there been close coordination between the two officials and their respective offices to the end that all problems, whether substantive or procedural, could have been ironed out before they worsened. They should have remembered that they were representing the interests of the Republic which should, in no case, be compromised through neglect, inefficiency, or even ignorance, but accorded utmost attention.

WHEREFORE, the instant petition for certiorari and mandamus is hereby GRANTED and the questioned orders of the lower court dismissing the appeal interposed by the Solicitor General in behalf of the government are SET ASIDE. The Solicitor General is directed to file the proper petition for review before the Court of Appeals which shall resolve with dispatch the instant land registration case which has been pending for some twenty years.

SO ORDERED.

Feliciano, (Chairman), Melo, Vitug, and Francisco, JJ., concur.

[1] "TO ALL PROVINCIAL AND CITY FISCALS AND THEIR ASSISTANTS:

In the interest of the service, you are hereby designated as special attorneys of the Office of the Solicitor General and are authorized to handle such specific cases that may be referred to you by the Solicitor General under the following conditions:

You will enter appearance as requested seeing to it that the case is handled with the same concern and zeal as the office represented would show if it were entering its own appearance. Upon entering your appearance, you shall ask the Court that copies of orders and resolutions, especially the decision, be furnished the Solicitor General, informing that for the purpose of finality of the decision, service on the Solicitor General shall be the basis; x x x." (Underscoring supplied)

[2] Rollo , pp. 111-112.

[3] Ibid., p. 126.

[4] Gonzales v. Chavez, G.R. No. 97351, February 4, 1992, 205 SCRA 816, 834.

[5] Sec. 5, P.D. No. 478.

[6] Republic v. Abaya, G.R. No. 55854, February 23, 1990, 182 SCRA 524.

[7] Republic v. Asociacion Benevola de Cebu, G.R. No. 77243, October 26, 1989, 178 SCRA 692, 701.

[8] Republic v. Court of Appeals, L-48327, August 21, 1991, 201 SCRA 1, 6.

[9] Republic v. Sayo, G.R. No. 60413, October 31, 1990, 191 SCRA 71 citing Republic v. Court of Appeals, L-40402, March 16, 1987, 148 SCRA 480; Republic v. Court of Appeals, G.R. No. 56077, February 28, 1985, 135 SCRA 156 and Republic v. Mendoza, L-49891, October 31, 1983, 125 SCRA 539.

[10] Republic v. Court of Appeals, supra, footnote 23.

[11] Supra, at pp. 701-702 citing Republic v. IAC, G.R. No. 71285, November 5, 1987, 155 SCRA 412.

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