

EUGENIO AQUINO, PETITIONER, VS. EULOGIO F. DE GUZMAN, JUDGE OF THE COURT OF FIRST INSTANCE, DAGUPAN CITY, AND EMILIANA MENDOZA, RESPONDENTS.*G.R. No. L-5763. September 28, 1953*

Ponente: LABRADOR, J.

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This is an original petition instituted in this court to compel the Court of First Instance of Pangasinan, Judge Eulogio F. de Guzman, presiding, to allow the petitioner's appeal against its judgment in Land Registration Case No. 302, G.L.R.O. Record No. 1173 to the Court of Appeals. The record discloses that this case was tried by said judge jointly with civil case No. 10965, because the parties in the latter are the same as those of the registration case, and both parties in both cases were represented by the same attorneys. One single decision was entered in both cases. Judgment having been rendered, against the petitioner in both cases, his attorney presented on June 19, 1951, a notice of appeal for both and a joint record on appeal for both cases also (bearing titles of both cases), and deposited an appeal bond of P60. This appeal bond was receipted for in the civil case No. 10965 on June 30, 1951 (Annex 4 of answer.) No bond was deposited for the appeal in the land registration case until August 1, 1951 (Annex 5 of answer.) The record on appeal was approved, but the court gave course only to the appeal in the civil case. Objection to the appeal in the registration case was presented and this was sustained by the court, whereupon the present action was filed in this court.

The petitioner contends that since the notice of appeal and the record on appeal were embodied together in single documents in both cases, the certification of the record on appeal in the civil case necessarily included that of the registration case, because the record on appeal in one case is inseparable from that in the other. The contention is entirely without merit. The physical embodiment of both records on appeal into one single document does not make the two cases one, or relieve the petitioner of the obligation to file a bond in the other. The identities of both cases are preserved; the oneness of the record on appeal does not modify the nature of one or the other, or merge the registration case into the civil case.

But while we hold that there is no error of law committed by the court a quo in dismissing the appeal in the registration case, there are potent reasons why, in the exercise of its discretion, it should have decreed otherwise. One is the fact that the civil case is entirely dependent upon the registration case; no recovery of possession can be decreed in favor of, and no damages can accrue to, the plaintiff unless he is declared the owner of the property subject of both cases. When defendant, therefore, questioned plaintiff's right to the possession and to damages, he must have meant to question plaintiff's title to the property. The other reason is the fact that as the two cases were so inextricably related to each other, and they were tried jointly, and only one joint record on appeal presented, appellant's attorney or his client or both may have overlooked the need of filing two bonds, or thought that one was sufficient without the other. This constitutes an excusable oversight. Under these circumstances, the filing of the bond in 60 days should have been excused and the appeal in the civil case given due course and relief granted as authorized under the provisions of Rule 38. The petition is hereby granted, but petitioner should pay the costs.

Paras, C.J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

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