

RENATO L. LIBORO, PETITIONER, VS. COURT OF APPEALS, COMMISSIONER OF INTERNAL REVENUE AND COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. 101132. January 29, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

These two cases have drawn the Office of the Solicitor General to take opposing sides of a common issue. While it zealously defends respondents in G.R. No. 101132, it vigorously argues for petitioner in G. R. No. 105368. The petitions herein were consolidated because they involve common questions of law arising from a similar set of facts.

Statement of Facts

In G.R. No. 101132: Petitioner Renato L. Liboro is a practicing lawyer who on 15 April 1981 filed his income tax return for the year 1980. However, an examiner of the Bureau of Internal Revenue found his return deficient of P14,009.84.[1] On 30 September and 30 November 1985, petitioner was notified of his tax deficiency. He responded with a protest letter dated 19 December 1985.

On 11 May 1988, respondent Commissioner of Internal Revenue denied petitioner's protest for lack of legal basis. Petitioner then filed a petition for review before respondent Court of Tax Appeals. On 29 March 1991, respondent Court of Tax Appeals rendered a decision[2] in CTA Case No. 4270 dismissing the petition for lack of merit. Petitioner received copy of the decision on 29 May 1991 and had until 13 June 1991 to file a petition for review before respondent Court of Appeals.

However, on 11 June 1991, instead of filing a petition for review with the Court of Appeals, petitioner filed a Notice of Appeal with the Court of Tax Appeals, and on 13 June 1991, a motion for an extension of thirty (30) days to file petition for review before respondent Court of Appeals, docketed therein as CA-G.R. SP No. 25152. On 20 June 1991, the Special Tenth Division of respondent Court of Appeals ruling that "[t]here is nothing in the said Supreme Court Circular in point which authorizes an extension of the period for the filing of a petition for review before this Court," denied the petition and regarded the proceedings closed and terminated.[3] On 18 July 1991, the Tenth Division[4] denied petitioner's motion for reconsideration as well as the admission of its Petition for Review.[5] Hence, the instant, petition in G.R. No. 101132.

In G.R. No. 105368: Petitioner Commissioner of Internal Revenue rejected the argument, of private respondents Manuel G. Abello, Jose C. Concepcion, Teodoro D. Regala and Avelino V. Cruz that they were not liable for donor's tax of P263,032.66 each for their contributions to the campaign chest of Sen. Edgardo J. Angara when the latter ran for the Senate in the 1987 elections, on the ground that a political or electoral contribution is not a gift within the contemplation of the National Internal Revenue Code.

On 12 September 1988, private respondents filed a petition for review before respondent Court of Tax Appeals,

docketed as CTA Case No. 4296. On 21 November 1991, respondent Court of Tax Appeals held that "transfer of property in the form of contributions or expenditures in elections are not gifts within the meaning of the gift tax law," and ordered respondent Commissioner to withdraw his assessments and desist from collecting donor's taxes.[6] Petitioner Commissioner of Internal Revenue received copy of the decision of respondent Court of Tax Appeals on 9 January 1992 and had until 24 January 1992 within which to file petition for review before respondent Court of Appeals. However, on 24 January 1992, instead of filing his petition for review in CA G.R. No. 27134, petitioner filed a motion for extension of thirty (30) days or until 23 February 1992 to file his petition for review.

On 30 January 1992, the Fifteenth Division of respondent Court of Appeals[7] granted the motion for extension of time but only for a non-extendible period of fifteen (15) days, or until 8 February 1992. On 20 February 1991, unmindful of the resolution of respondent Court of Appeals, petitioner filed a second motion for extension of thirty (30) days from 23 February 1992, or until 24 March 1992, to file a petition for review. On 24 March 1992 petitioner filed a third motion for extension of another ten (10) days.

Meanwhile, on 19 March 1992, the Tenth Division of respondent Court of Appeals issued a resolution denying petitioner's second motion for extension thus

"The period of fifteen (15) days granted to petitioner within which to file a petition for review being non-extendible, petitioner's motion for an additional extension of thirty (30) days, filed on February 21, 1992 is DENIED, pursuant to the ruling in the case of *Lacsamana, et al. v. The Honorable Second Special Cases Division of the Intermediate Appellate Court, et al.*, (L-73146-53, August 26, 1986)."[8]

On 30 April 1992, respondent Court of Appeals denied petitioner's motion for reconsideration as well as the admission of its Petition for Review[9] Hence, the instant petition in G.R. No. 105368.

Common Issue

The issue before us is whether Circular No. 1-91[10] of this Court allows the Court of Appeals to grant motions for extension of time to file petitions for review from final orders or decisions of the Court of Tax Appeals and other quasi-judicial agencies.

A r g u m e n t s

In G.R. No. 101132, the Office of the Solicitor General arguing for respondent Commissioner of Internal Revenue[11] submits that Circular No. 1-91 "clearly prescribes that the appeal be taken within fifteen (15) days from notice of the questioned ruling, award, or judgment by filing with the Court of Appeals a verified petition for review in six (6) legible copies, serving copy thereof on the adverse party and the court or agency of origin." [12] Hence appeal from the Court of Tax Appeals is taken by filing a petition for review with the Court of Appeals within the period provided in Circular No. 1-91. Consequently, petitioner Atty. Renato L. Liboro then had only fifteen (15) days within which to file a petition for review of the decision of the Court of Tax Appeals before the Court of Appeals, and is not allowed to file a motion for extension of time therefor.

However, in G.R. No. 105368, the Office of the Solicitor General maintains that "respondent Court of Appeals can grant a longer period of time within which to file a petition for review on certiorari (sic) if there are meritorious reasons therefor,"[13] and that its discretion in giving due course to an appeal should be guided and tempered by the interest of justice.[14] Moreover, to justify the successive motions for extension of time, the Office of the Solicitor General claims that it has been burdened with a continuing heavy pressure of work handling as it does no less than 89,000 cases before quasi-judicial bodies. Regional Trial Courts, the Sandiganbayan, the Court of Appeals and the Supreme Court, around 7,000 of which cases are assigned to an Assistant Solicitor General, and at least 700 of which are delegated to each Solicitor.[15] Consequently, the

motion for extension of time to file petition for review should have been granted, and the petition given due course.

Conclusion

The Solicitor General is persuasive in G.R. No. 105368. However, his reference to *Habaluyas Enterprises, Inc. v. Judge Japson*[16] in G.R. No. 101132 is misplaced. While *Habaluyas* prohibits any motion for extension of time to file a motion for new trial or reconsideration, thus-

"Hence, for the guidance of Bench and Bar, the Court restates and clarifies the rules on this point, as follows:

1.) Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court. Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in its sound discretion either grant or deny the extension requested x x x"

the cases at bar concern not a motion for extension of time to file a motion for new trial or reconsideration, but to file a petition for review.

Indeed, the case of *Lacsamana v. Second Special Cases Division of the Intermediate Appellate Court*[17] invoked by the Solicitor General in G.R. No. 105368 is more authoritative and applicable. Although the case involves an appeal from a decision of the Regional Trial Court, it deals directly with a motion for an extension of time to file a petition for review with the Court of Appeals. In *Lacsamana* case, We restated and clarified the modes and periods of appeal set forth in *Habaluyas* thus -

"1) Ordinary Appeals by mere Notice of Appeal. - In an ordinary appeal from the final judgment or order of a metropolitan or municipal trial court to the regional trial court, and from the regional trial court to the Court of Appeals in actions or proceedings originally filed in the regional trial court, the fifteen-day period for appeal provided by Section 39 of BP No. 129 and Section 19 (a) of the Interim Rules is interrupted or suspended by a motion for new trial or reconsideration, unless such motion fails to satisfy the requirements of Rule 37 (Section 3 of Rule 41). If the motion for new trial or reconsideration is denied, the moving party has only the remaining period from notice of denial within which to file a notice of appeal, which is the only requirement for taking an appeal under the present rules. Obviously, no extension of time to file such a notice of appeal is needed, much less allowed.

x x x x

"3) Appeals by Petition for Review to the Court of Appeals. - The final judgment or order of a regional trial court in an appeal from the final judgment or order of a metropolitan trial court, municipal trial court and municipal circuit trial court, may be appealed to the Court of Appeals through a petition for review in accordance with Section 22 of BP No. 129 and Section 22 (b) of the Interim Rules, or to this Court through a petition for review on certiorari in accordance with Rule 45 of the Rules of Court and Section 25 of the Interim Rules. The reason for extending the period for the filing of a record on appeal is also applicable to the filing of a petition for review with the Court of Appeals. The period for filing a petition for review is fifteen days. If a motion for reconsideration is filed with and denied by a regional trial court, the movant has only the remaining period within which to file a petition for review. Hence, it may be necessary to file a motion with the Court of Appeals for extension of time to file such petition for review.

x x x x

"6) Period of Extension of Time to File Petition for Review - Beginning one month after the promulgation of this

Decision, an extension of only fifteen days for filing a petition for review may be granted by the Court of Appeals, save in exceptionally meritorious cases x x x x"

From these rules, it is clear that the prohibition against granting an extension of time applies only in a case where ordinary appeal is perfected by a mere notice of appeal. The reason is that only the filing of the notice of appeal is required to perfect an appeal and nothing more. However, it is different in a petition for review where the pleading is required to be verified. A petition for review, unlike an ordinary appeal, requires careful preparation and operose research in order to put up a persuasive and formidable position. In other words, the drafting of a petition for review entails more time and effort than merely filing a notice of appeal. Hence, in *Lacsamana*, a motion for extension of time was granted to enable a party to file a petition for review from a final decision of the Regional Trial Court to the Court of Appeals in accordance with Sec. 22 of B.P. 129 and par. 22 (b) of the Interim Rules.

Since Circular No. 1-91[18] now provides that an appeal from the Court of Tax Appeals or other quasi-judicial agencies to the Court of Appeals is by a petition for review, and no longer by mere notice of appeal, thus -

"4. Period of Appeal. - The appeal shall be taken within fifteen (15) days from notice of the ruling, award, order, decision, or judgment or from the date of its last publication, if publication is required by law for its effectivity. One (1) motion for reconsideration of said ruling, award, order, decision, or judgment may be allowed. If the motion is denied, the movant may appeal during the remaining period for appeal reckoned from notice of the resolution of denial.

"5. How Appeal Taken. - Appeal shall be taken by filing a verified petition for review x x x x with the Court of Appeals, a copy of which shall be served on the adverse party and on the court or agency a quo x x x x"

a corresponding motion for extension of time to file a petition for review should likewise be granted. There is indeed no reason why a motion for extension of time to file a petition for review pursuant to Circular No. 1-91 may not be filed, if a motion for extension of time to file a petition for review pursuant to Sec. 22 of B.P. 129, and par. 22 (b) of the Interim Rules, may be granted.

But the extension nonetheless should be limited only to fifteen (15) days, save in exceptionally meritorious cases where the Court of Appeals may grant a longer period, as similarly provided in *Lacsamana*. Generally then, a non-extendible period of fifteen (15) days may be granted unless there are compelling reasons which may warrant the allowance of a longer period. Thus, *ubi eadem ratio, ibi eadem legis dispositio*. [19]

Considering however that the procedure enunciated herein may work injustice to petitioners or those similarly situated if given retroactive application, as procedural statutes are accorded, in view of the absence in Circular No. 1-91 of an express provision regulating motions for extension of time to file a petition for review with the Court of Appeals from decisions of the Court of Tax Appeals and other quasi judicial agencies, this Court resolves to give prospective application to the rule herein adopted.

Henceforth, for the guidance of the Bench and Bar, the Court further clarifies Circular No. 1-91 in relation with *Lacsamana*, as follows -

"Motions for extension of time to file petition for review. - As a matter of general policy, motions for extension of time to file petition for review of final decisions of the Court of Tax Appeals or any quasi-judicial agency pursuant to Circular No. 1-91 may be granted by the Court of Appeals for a period of not more than fifteen (15) days, save in exceptionally meritorious cases where the Court of Appeals may grant a longer period.

"The motion for extension of time, which must contain a proof of service on the lower court, tribunal, office, or quasi-judicial agency concerned, as well as on the adverse parties, must be filed, and the corresponding docket fee paid within the reglementary period of appeal."

This shall take effect one month after the promulgation of this Decision.

WHEREFORE, the resolutions of respondent Court of Appeals in CA G.R. SP No. 25152 dated 20 June 1991 and 18 July 1991, and in CA-G.R. SP No. 27134 dated 19 March 1992 and 30 April 1992 are SET ASIDE. The Tenth Division of the Court of Appeals, and the Court of Appeals for that matter, are hereby ordered to ADMIT the petitions for review in CA-G.R. SP No. 25152 and CA-G.R. SP. No. 27134 and to continue with the proceedings, if warranted, until terminated.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Melo, and Campos, Jr., JJ., concur.

[1] P12,284.11 as deficiency income tax assessment for taxable year 1980, and P1,725.73 as deficiency expanded withholding tax.

[2] Penned by Presiding Judge Alex Z. Reyes, concurred in by Associate Judge Constante C. Roaquin and Acting Associate Judge Stella Dadvivas-Farrales; Rollo, pp. 45-51.

[3] Penned by Justice Fidel P. Purisima, Chairman, concurred in by Justices Filemon H. Mendoza (in lieu of Associate Justice Eduardo R. Bengzon who was on leave) and Salome A. Montoya, pp. 1-2; Rollo pp. 27-28.

[4] Composed of Justice Fidel P. Purisima, Chairman, and Justices Eduardo R. Bengzon and Salome A. Montoya, Members.

[5] Rollo, p. 30.

[6] Penned by Associate Judge Ernesto D. Acosta, concurred in by Associate Judge Constante C. Roaquin, with Presiding Judge Alex Z. Reyes dissenting in a separate opinion, p. 14; Rollo, p. 114.

[7] Composed of Justice Ricardo L. Pronove, Jr., Chairman, and Justices Nicolas P. Lapeña, Jr., and Consuelo Ynares-Santiago, Members.

[8] Penned by Justice Consuelo Ynares-Santiago, concurred in by Justice Fidel P. Purisima, Chairman, and Justice Minerva P. Gonzaga-Reyes; Rollo, pp. 53-54.

[9] Rollo, p. 134.

[10] Circular No. 1-91, dated 27 February 1991, governs appeals to the Court of Appeals from final orders or decisions of the Court of Tax Appeals and other quasi-judicial agencies (see 196 SCRA xi).

[11] Represented by Solicitor General Francisco I. Chavez, Asst. Solicitor General Romeo C. de la Cruz and Solicitor Leah D. Regala.

[12] Memorandum of respondent Commissioner of Internal Revenue, p. 7; Rollo, G.R. No. 101132, p. 106.

[13] See Petition for Review filed by Solicitor General Ramon S. Desuasido, Asst. Solicitor General Romeo C. de la Cruz, Solicitor Leah D. Regala and Solicitor Nestor J. Ballacillo, p. 8.

[14] Ibid, p. 11.

[15] Ibid, p. 12.

[16] G.R. No. 70895, 30 May 1986; 142 SCRA 208.

[17] G.R. Nos. 73146-53, 26 August 1986; 143 SCRA 643.

[18] R.A. 5434, insofar as it refers to appeals from quasi-judicial bodies to the Intermediate Appellate Court, par. 22 (c) of the Resolution of the Court En Banc dated 11 January 1983 providing for the Interim or Transitional Rules and Guidelines relative to the Implementation of the Judiciary Reorganization Act of 1981, and par. 4 of the Rules set forth in Lacsamana, have in effect been repealed by Circular No. 1-91.

[19] "Where there is the same reason, there is the same legal disposition;" see *Edroso v. Sablan*, 25 Phil. 295, 315 (1913).

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