

**CECILE SAN JUAN DITCHING AND MA. CORAZON I. SAN JUAN,
PETITIONERS, VS. COURT OF APPEALS AND ADRIANO MOTAS,
RESPONDENTS.**

G.R. No. 109834. October 18, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

If a motion for extension of time -- to file a petition for review with respondent Court of Appeals -- was filed more than fifteen days from receipt of the order assailed, should the petition itself, when subsequently filed, be rejected outright for being filed late? On the other hand, should the merits of the case be looked into the first to ascertain whether to allow relaxation of the strict application of the rules?

Assailed in this petition[1] for review on certiorari under Rule 45 of the Rules of Court are the Decision[2] of respondent Court of Appeals[3] promulgated August 25, 1992, and its Resolution[4] of April 16, 1993 denying the motion for reconsideration of petitioners. In the assailed Decision, respondent Court dismissed their petition for review for being filed late, considering that their motion for extension was filed twenty (20) days from their receipt of the order of the trial court.

The Antecedent Facts

The antecedent of the present was an ejectment case[5] filed in July 1989 with the Municipal Trial Court in Calamba, Laguna by herein petitioner Ditching and Zonette San Juan Bacani, seeking to eject herein private respondent Motas and another occupant named Vidal Batalla from the lot owned by the petitioner and her co-owners. Said case was tried under the old Rules on Summary Procedure.

The Municipal Trial Court found that the plaintiffs in said ejectment case were co-owners of parcels of land situated at Barangay Pansol, Calamba, Laguna covered by various transfer certificates of title. However in 1975, a contract of tenancy entitled "Kasunduan Buwisan sa Sakahan" was entered into by private respondent Motas and Dr. Eduardo San Juan, the predecessors-in-interest of petitioners. Then, in 1978, respondent Motas constructed his house on the lot covered by TCT No. 57823 without the consent of petitioners, who, upon learning of such fact, demanded that he vacate the property. The last demand to vacate having been made in September 1988, and respondent Motas having refused to vacate, petitioners lodged a complaint at the barangay level, but no amicable settlement was arrived at, hence the suit for ejectment.

For his part, respondent Motas alleged that he could not be ejected from his tenanted landholdings (including the lot where his house was located) because of the existing tenancy agreement, and that he had been giving rentals/shares to petitioners' overseer who without justifiable reason stopped receiving said rentals or shares of the harvests, forcing respondent Motas to deposit the same with a bank.[6]

After due consideration of the pleadings and evidence presented, the Municipal Trial Court found that there existed a tenancy relationship between petitioners and respondent Motas. Then, based on Section 24 of Republic Act No. 3844, the Agricultural Reform Code, as amended, which provides that "(t)he agricultural lessee shall

have the right to continue in the exclusive possession and enjoyment of any home lot he may have occupied upon the effectivity of (RA 3844), which shall be considered as included in the leasehold", the MTC held[7] that the portion of the land where respondent Motas' house was erected was considered included in the leasehold, hence the "ejectment" case was actually a tenancy case over which it had no jurisdiction. The court thus dismissed the case.

Petitioners appealed to the Regional Trial Court of Calamba, Laguna,[8] which rendered a decision[9] dated June 28, 1991, in Civil Case No. 1607-90-C affirming in toto the decision of the Municipal Trial Court. The Regional Trial Court made the following findings supporting the existence of an tenancy relationship:[10]

"In the case at bar, the fact appears to be uncontroverted that plaintiffs (petitioners herein) became the registered owners of the property mentioned in the complaint only on May 8, 1978. This is quite evident from a reading of a copy of Transfer Certificate of Title No. 57823 (Annex 'D' of complaint). Moreover, the land sought to be recovered by them clearly appears to be a part of a larger tract of land identified as Lot 1416 of the subdivision plan (LRC) Psd-266142, the latter being also a portion of Lot 1416-X-2, Psd 58615, LRC Rec. No. 8418. Furthermore, this Court's analysis of the other Transfer Certificate of Title attached to the complaint as Annexes 'A' to 'C' and 'E' to 'I', inclusive, will clearly show that the parcels of land mentioned and described in the same certificates of title issued in the names of plaintiffs and their co-owners are the result of a previous subdivision of Lot 1416-X. Since Annexes 'A' to 'C' and 'E' to 'I' appear to have been issued to the plaintiffs and their co-owners also on May 8, 1978, there is no doubt at all that the parcel of land covered by such titles, including the land in question, came from one (1) tract of land.

The foregoing circumstances appear to be significant because plaintiffs never denied, much less controverted the fact that defendants, more particularly Adriano Motas (private respondent herein), have occupied a much bigger parcel of land belonging to Dr. Eduardo San Juan as tenants of the latter. Neither did plaintiffs dispute the defendants' claim that the land in question was a part and parcel of Dr. Eduardo San Juan's land being tenanted by defendants.

On the other hand, there is sufficient and uncontroverted proof offered by defendants that they have been tenants of Dr. San Juan's land since 1972; and that on October 7, 1975, defendant Motas even executed Annex '1' with Dr. San Juan, plaintiffs predecessor-in-interest.

Plaintiffs' contention that defendants are not tenants of the property in question has no leg to stand on. Having succeeded Dr. Eduardo San Juan on the same property, they are bound to observe and respect the rights of defendants as tenant. Their claim that they never intended defendants to be their tenants cannot be given merit."

As expected, petitioners filed a motion for reconsideration of the aforequoted decision. In order to resolve the same, Judge Eleuterio Guerrero set the case for clarificatory hearing on August 30, 1991, on which date a representative from the Register of Deeds of Laguna (Calamba Branch) appeared and testified on the records and/or other papers and documents relative to the ownership and/or disposition of the land subject of the controversy.[11]

Afterwards, Judge Eleuterio Guerrero issued an order dated January 8, 1992 granting reconsideration and setting aside his earlier order, thus:[12]

"WHEREFORE, this Court finds merit to plaintiffs-appellants' Motion for Reconsideration and accordingly the decision of this Court dated June 28, 1991, is hereby reversed and set aside and another judgment is rendered as follows:

1. Ordering defendants-appellees and/or any persons claiming rights under them to vacate immediately the premises of the land owned by plaintiffs-appellants located at Barangay Pansol, Calamba, Laguna, and to

surrender possession thereof to the latter; and

2. Defendants-appellees are further ordered to pay the costs."

On March 5, 1992, Judge Francisco Ma. Guerrero who took over as presiding judge of Branch 34, issued another order (this time upon motion for reconsideration of respondent Motas) reversing the earlier order of Judge Eleuterio Guerrero, as follows:[13]

"The rule on the exercise of the Appellate Jurisdiction by Regional Trial Court mandates that cases appealed from the Metropolitan Trial Court 'be decided on the basis of the entire record of the proceeding had in the Court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Court' (vide. Sec. 22, Batas Pambansa Bilang 129). The fact that the Court then presided by Hon Eleuterio Guerrero conducted hearings and admitted testimonial evidence to clarify points on the decision of the Court a quo, is beyond the purview of the rule. This being the case, the motion for reconsideration must perforce be GRANTED.

x x x x x x x x

WHEREFORE, the Order of this Court dated January 8, 1992 is hereby ordered RECONSIDERED and SET ASIDE and the Order of the Municipal Trial Court dated June 14, 1990 is AFFIRMED en toto."

On April 13, 1992, petitioners filed with the respondents Court of Appeals a motion for extension of fifteen (15) days from April 18, 1992, or up to May 3, 1992, within which to file a petition for review, alleging the following material dates:[14]

"2. On March 5, 1992, the said court issued an Order adverse to herein petitioners, a copy of which was received by petitioners thru counsel on March 17, 1992, please see Annex 'A'.

3. From the adverse order, petitioners filed a Motion for Reconsideration on March 27, 1992 which was denied by the court per Order of even date.

4. The Order denying petitioners' Motion for Reconsideration was received by petitioners thru counsel on April 3, 1992, please see Annex 'B', thus, petitioners have until April 18, 1992 within which to file a Petition for Review on Certiorari.

5. That petitioners will file a petition for review on certiorari of the said adverse order.

6. Due however, to volume and pressure of work from equally important cases, undersigned cannot file the petition within the time allowed by law, thus, needs a period of fifteen (15) days from April 18, 1992 within which to file said petition."

In response thereto, the Court of Appeals issued a resolution granting extension and stating:[15]

"Petitioners' motion for an extension of fifteen (15) days from April 18, 1992 or up to May 3, 1992 within which to file a petition for review is GRANTED, conditioned upon the timeliness of said motion." (Italics ours)

The petition was filed on April 29, 1992.

Finding the petition to have been filed late as can be readily ascertained from the recitation of material dates, the respondent Court of appeals dismissed the petition with the following discussion:

"It is crystal clear from the foregoing undisputed facts that from March 17, 1992 the date petitioners received the order of March 22 (should be '05'), 1992 (Annex A, petition), to March 27, 1992 when they filed their motion for reconsideration of said order, ten (10) days were consumed. From April 3, 1992 the date petitioners received the order denying their motion for reconsideration up to April 13, 1992 when they filed their motion

for extension of time to file a petition for review, another ten (10) days had elapsed. A total of twenty (20) days had already run from the time petitioners received a copy of the questioned order up to the time they actually filed on April 13, 1992 their motion for extension of time to file the petition. Clearly, the order of March 22 (should be '05'), 1992 had already become final and executory when petitioners filed on April 13, 1992 their motion for extension of time to file a petition for review. For this reason, this Court had no jurisdiction to entertain the petition for review except to dismiss it. (*Sumbilo vs. IAC*, 165 SCRA 232)."

Their motion for reconsideration of the aforementioned Decision having been denied by the Court of Appeals hastened to this Court.

The Issues

The issues initially presented by petitioners in the petition before us were subsequently simplified and re-stated in their memorandum thus:[16]

"x x x (1) whether or not the respondent Adriano Motas is a tenant of that parcel of land covered by TCT No. 57923 (and) (2) whether or not the dismissal of the case on sheer technicality by the Court of Appeals notwithstanding is merit, is valid."

Disregarding for the nonce the factual nature of the issue raised, and the rule of long standing that only question of law may properly be raised in petitions for review on certiorari such as this, we shall first determine whether the respondent Court of Appeals correctly dismissed the petition before it, seemingly on "sheer technicality". If the answer is in the affirmative, then regardless of the merits of the petitioners' cause, assuming it to be meritorious, the judgment of the RTC having become final and executory, then this appeal may no longer be entertained.

Petitioners allege that the late filing of the motion for extension and the petition was due to their counsel's "honest mistake in computing the period to appeal." Citing cases[17] decided by this Court, petitioners allege that respondent Court committed serious error and grave abuse of discretion" in dismissing the petition on a mere technical ground.[18]

On the other hand, private respondent alleges that petitioners' failure to file their petition on time due to mistake of counsel was "not excusable." Likewise citing numerous cases,[19] private respondent alleges that this Court has consistently held that "perfection of an appeal within the statutory period is a jurisdictional requirement and failure to do so renders the questioned decision or decree final and executory and no longer subject to review." [20]

The Court's Ruling

The petition before us is plainly without merit.

In *Lacsamana vs. Second Special Cases Division of the Intermediate Appellate Court*[21] this Court had set the allowable extension to file petitioner for review with the Court of Appeals at fifteen (15) days, to wit:

"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. (Underscoring supplied).

And in the same case, the Court explicitly ruled that a motion for extension must be filed within the reglementary period of appeal:

"6) PERIOD OF EXETENSION OF TIME TO FILE PETITION FOR REVIEW.

Beginning one month after the promulgation of this Decision (August 26, 1986), 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.

The motion for extension of time must be filed and the corresponding docket fee paid within the reglementary period of appeal.

Copies of the motion for extension of time and of the subsequent petition for review must be served on the regional trial court and on the adverse party." (Underscoring supplied).

It should be observed that in this case, it was not only the petition which was filed late, but also the motion for extension of time. This distinguishes the instant case from those cited by petitioners. It is obvious and unarguable (and it was not only in Lacsamana that this Court held) that a motion for extension of time to file a petition should be filed prior to the expiration or lapse of the period fixed by law, and beyond dispute, if the motion for extension is filed after the expiration of the period sought to be extended (i.e., the reglementary period to appeal), then there is no longer any period to extend, and the judgment or order to be appealed from will have become final and executory. The error of herein petitioners and their counsel goes into the very validity of the appeal, and cannot simply be brushed off as an honest mistake in computing the period to appeal. It should be stressed that a lawyer has the responsibility of monitoring and keeping track of the period of time left to file an appeal. He cannot escape from the rigid observance of this rule which is jurisdictional and cannot be trifled with as "mere technicality" to suit the interest of a party. The rules as to periods for filing appeal are to be observed religiously, for it is well-settled in our jurisdiction that the right to appeal is a statutory right and a party who seeks to avail of the right must comply with the rules. "These rules, particularly the statutory requirement for perfecting an appeal within the reglementary period laid down by law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business." [22] Perfection of an appeal within the statutory period is a jurisdictional requirement. [23] If an appeal be not taken within the reglementary period, the judgment becomes final and the court loses all jurisdiction over the case, and it has no alternative but to order the execution of the final judgment. [24]

Although this Court had in a number of instances relaxed this rule in order to serve substantial justice, there is no reason to do so in this case. Quite beyond cavil, the delay incurred by petitioner's counsel was simply inexcusable. As correctly cited by private respondent, this Court has already held that "(a)n erroneous application of the law or rules is not excusable error." [25]

At this juncture, we deem it useful to reiterate this Court's ruling in Galima, for the guidance of members of the bar and bench alike, that "the miscalculation by counsel of the appeal period will not arrest the course of the same nor prevent the finality of the judgment. Otherwise, the definitive and executory character of the judgment would be left to the whim of the losing party, when it is to the interest of everyone that the date when judgments become final should remain fixed and ascertainable." [26]

The respondent Court cannot also be faulted for stating in its resolution [27] dated June 23, 1992 that the petition filed with it was prima facie meritorious, only to dismiss it thereafter for being filed out of time. [28] Where no timely appeal was taken, the judgment becomes final, and the legality of the allowance of the appeal may be

raised at any stage of the proceedings in the appellate court.[29] Further, the respondent Court was not precluded from dismissing the petition on the ground that it was filed late, inasmuch as the recognition of the merit of the petition did not carry with it any assumption or conclusion that it was timely filed.

Under Section 1 (a) Rule 50 of the Revised Rules of Court, the Court of Appeals *motu proprio* or on motion of the appellee may dismiss the appeal for *inter alia*:

"(a) Failure of the record on appeal to show on its face that the appeal was perfected within the period fixed by these rules."

Having disposed of the foregoing issue, we shall not pass upon and consider the other issue raised by petitioners, challenging the factual findings of the trial court as to the existence of the tenancy relationship. Otherwise, we would be violating that time-honored and oft-reiterated rule that the findings of fact of the trial court are entitled to great weight and are not disturbed except for cogent reasons, such as when the findings of fact are not supported by evidence.[30] Indeed, we recently held in *Sintos vs. Court of Appeals*,[31] that:

"The determination that a person is a tenant is a factual finding made by the trial court on the basis of evidence directly available to it and such finding will not be reversed on appeal except for the most compelling reasons (*Macaraeg v. Court of Appeals*, 169 SCRA 259 [1989])."

Petitioners have utterly failed to show any such compelling reason. And equally as significant, they are asking us to review a judgment which had long since become final and executory -- something we cannot and ought not do.

WHEREFORE, in view of the foregoing, the petition is hereby DENIED, petitioners having failed to show that respondent Court committed any reversible error in its assailed Decision. Costs against petitioners.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide Jr., Melo, and Francisco, JJ., concur.

[1] The instant petition is erroneously captioned "Petition for Certiorari," and described as "an appeal by way of certiorari" (rollo, p. 7).

[2] In Ca-G.R. SP No. 27743; rollo, pp. 40-41-A.

[3] Second Division, composed of Associate Justice Santiago M. Kapunan , ponente, and Associate Justice Oscar M. Herrera and Serafin V.C. Guingona, concurring.

[4] Rollo, p. 42-A.

[5] Civil case No. 2697, entitled "Cecile San Juan Ditching and Zonette San Juan Bacani vs. Adriano Motas and Vidal Batalla."

[6] Rollo, pp. 57-58.

[7] MTC Decision, p. 4; rollo, p. 59.

[8] Branch 34, Judge Eleuterio F. Guerrero presiding.

[9] Rollo, pp. 61-63.

[10] Rollo, pp. 62-63.

[11] Rollo, p. 64.

[12] Rollo, pp. 69-70.

[13] Rollo, pp. 78-79.

[14] Rollo, p. 40-B.

[15] Rollo, p. 40-B.

[16] Rollo, p. 175.

[17] Including *Orata vs. Intermediate Appellate Court*, 185 SCRA 153, May 8, 1990; *Cortes vs. Court of Appeals*, 161 SCRA 444, May 23, 1988; *People vs. Tamani*, 55 SCRA 153, January 21, 1974; *Galdo vs. Rosete*, 84 SCRA 239, 242-243, July 25, 1978; *Somoso vs. Court of Appeals*, 178 SCRA 655, October 23, 1989; *Ramos vs. Bagasao*, 96 SCRA 395, 397, February 28, 1980; *A-One Feeds, Inc. vs. Court of Appeals*, 100 SCRA 590, October 20, 1980; *Siguenza vs. Court of Appeals*, 137 SCRA 570, 576, July 16, 1985; *Serrano vs. Court of Appeals*, 139 SCRA 179, 186, October 9, 1985; *Laginlin vs. Workmen's Compensation Commission*, 159 SCRA 91, 96, March 21, 1988; *Habaluyas Enterprises, Inc. vs. Japson*, 142 SCRA 209, May 30, 1986; *St. Peter Memorial Park, Inc. vs. Cleofas* 121 SCRA 287, March 28, 1983.

[18] Rollo, pp. 191-193.

[19] *Viz, Garcia vs. Echiverri*, 132 SCRA 631, October 23, 1984, citing *Acda vs. Minister of Labor*, 119 SCRA 309, December 15, 1982; *Agricultural & Industrial Marketing, Inc. vs. Court of Appeals*, 118 SCRA 49, November 2, 1982; *Legaspi-Santos vs. Court of Appeals*, 125 SCRA 22, October 11, 1983; *Armigos vs. Court of Appeals*, 179 SCRA 1, November 6, 1989; *Macabingkil vs. People's Homesite and Housing Corporation*, 72 SCRA 326, August 17, 1976; and numerous other cases on pp. 222-223 of the rollo.

[20] Rollo, pp. 221-223

[21] 143 SCRA 643, 649-651, August 26, 1986.

[22] *Sta. Rita vs. Court of Appeals*, 247 SCRA 484, 489, August 21, 1995.

[23] *Jocson vs. Baguio*, 179 SCRA 550, 555, November 22, 1989.

[24] *Galima, et al., vs. Court of Appeals, et al.*, 16 SCRA 140, 143-144, January 31, 1966. See also *Jocson vs. Baguio*, *supra*.

[25] *Jocson vs. Baguio*, *supra*, at p. 556.

[26] *Galima et al., vs. Court of Appeals, et al.*, *supra*.

[27] Rollo, p. 118.

[28] Rollo, p. 22.

[29] *Galima, et al, vs. Court of Appeals, et al.*, citing *Garganta vs. Court of Appeals*, 56 O.G. 4323, 4327.

[30] *Sulpicio Lines, Inc. vs. Court of Appeals*, 246 SCRA 658, July 14, 1995.

[31] 246 SCRA 223, 227, July 14, 1995.

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