

SGMC REALTY CORPORATION, PETITIONER, VS. OFFICE OF THE PRESIDENT (OP), RIDGEVIEW REALTY CORPORATION, SM INVESTMENTS CORPORATION, MULTI-REALTY DEVELOPMENT CORP., HENRY SY SR., HE...

G.R. No. 126999. August 30, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In this special civil action for certiorari, petitioner seeks to set aside the decision[1] of public respondent rendered on June 18, 1996, in OP Case No. 95-L-6333, and its order[2] dated October 1, 1996, denying the motion for reconsideration.

The records disclose that on March 29, 1994, petitioner filed before the Housing and Land Use Regulatory Board (HLURB) a complaint for breach of contract, violation of property rights and damages against private respondents. After the parties filed their pleadings and supporting documents, the arbiter rendered a decision dismissing petitioner's complaint as well as private respondents' counterclaim.

Petitioner then filed a petition for review with the Board of Commissioners of the HLURB which, however, dismissed said petition. On October 23, 1995, petitioner received a copy of said decision of the Board of Commissioners. On November 20, 1995, petitioner filed an appeal with public respondent. After the parties filed their memorandum, they filed their respective draft decisions as ordered by public respondent.

On June 18, 1996, public respondent, without delving into the merits of the case, rendered the assailed decision which reads:

"IN VIEW OF THE FOREGOING, the appeal is hereby DISMISSED for being filed out of time.

"SO ORDERED." [3]

Petitioner seasonably filed a motion for reconsideration which was denied. Undaunted, petitioner filed the instant petition, alleging that public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction:

[I]

...IN HOLDING THAT THE PERIOD TO APPEAL FROM THE HOUSING AND LAND USE REGULATORY BOARD TO THE OFFICE OF THE PRESIDENT IS FIFTEEN (15) DAYS AND NOT THIRTY (30) DAYS AS MANDATED IN THE 1994 RULES OF PROCEDURE ADOPTED BY THE HOUSING AND LAND USE REGULATORY BOARD, AN ADMINISTRATIVE AGENCY UNDER THE SUPERVISION AND CONTROL OF PUBLIC RESPONDENT OFFICE OF THE PRESIDENT.

[II]

... IN DISREGARDING THE 1994 RULES OF PROCEDURE OF THE HOUSING AND LAND USE REGULATORY BOARD WITHOUT DECLARING THE SAME ILLEGAL AND/OR INVALID, AND IN DISREGARDING THE WELL-ESTABLISHED DOCTRINE OF LIBERAL CONSTRUCTION OF THE ADMINISTRATIVE RULES OF PROCEDURE IN ORDER TO PROMOTE THEIR OBJECT AND TO ASSIST THE PARTIES IN CLAIMING JUST, SPEEDY AND INEXPENSIVE DETERMINATION OF THEIR RESPECTIVE CLAIMS AND DEFENSES.[4]

The fundamental issue for resolution is whether or not public respondent committed grave abuse of discretion in ruling that the reglementary period within which to appeal the decision of HLURB to public respondent is fifteen days.

Petitioner contends that the period of appeal from the HLURB to the Office of the President is thirty (30) days from receipt by the aggrieved party of the decision appealed from in accordance with Section 27 of the 1994 Rules of Procedure of HLURB and Section 1 of Administrative Order No. 18, series of 1987, of the Office of the President.

However, we find petitioner's contention bereft of merit, because of its reliance on a literal reading of cited rules without correlating them to current laws as well as presidential decrees on the matter.

Section 27 of the 1994 HLURB Rules of Procedure provides as follows:

"Section 27. Appeal to the Office of the President. - Any party may, upon notice to the Board and the other party, appeal the decision of the Board of Commissioners or its division to the Office of the President within thirty (30) days from receipt thereof pursuant to and in accordance with Administrative Order No. 18, of the Office of the President dated February 12, 1987. Decision of the President shall be final subject only to review by the Supreme Court on certiorari or on questions of law."[5]

On the other hand, Administrative Order No. 18, series of 1987, issued by public respondent reads:

"Section 1. Unless otherwise governed by special laws, an appeal to the Office of the President shall be taken within thirty (30) days from receipt by the aggrieved party of the decision/resolution/order complained of or appealed from."[6]

As pointed out by public respondent, the aforecited administrative order allows aggrieved party to file its appeal with the Office of the President within thirty (30) days from receipt of the decision complained of. Nonetheless, such thirty-day period is subject to the qualification that there are no other statutory periods of appeal applicable. If there are special laws governing particular cases which provide for a shorter or longer reglementary period, the same shall prevail over the thirty-day period provided for in the administrative order. This is in line with the rule in statutory construction that an administrative rule or regulation, in order to be valid, must not contradict but conform to the provisions of the enabling law.[7]

We note that indeed there are special laws that mandate a shorter period of fifteen (15) days within which to appeal a case to public respondent. First, Section 15 of Presidential Decree No. 957 provides that the decisions of the National Housing Authority (NHA) shall become final and executory after the lapse of fifteen (15) days from the date of receipt of the decision. Second, Section 2 of Presidential Decree No. 1344 states that decisions of the National Housing Authority shall become final and executory after the lapse of fifteen (15) days from the date of its receipt. The latter decree provides that the decisions of NHA is appealable only to the Office of the President. Further, we note that the regulatory functions of NHA relating to housing and land development has been transferred to Human Settlements Regulatory Commission, now known as HLURB.[8] Thus, said presidential issuances providing for a reglementary period of appeal of fifteen days apply in this case. Accordingly, the period of appeal of thirty (30) days set forth in Section 27 of HLURB 1994 Rules of Procedure no longer holds true for

being in conflict with the provisions of aforesaid presidential decrees. For it is axiomatic that administrative rules derive their validity from the statute that they are intended to implement. Any rule which is not consistent with statute itself is null and void.[9]

In this case, petitioner received a copy of the decision of HLURB on October 23, 1995. Considering that the reglementary period to appeal is fifteen days, petitioner has only until November 7, 1995, to file its appeal. Unfortunately, petitioner filed its appeal with public respondent only on November 20, 1995 or twenty-eight days from receipt of the appealed decision, which is obviously filed out of time.

As the appeal filed by petitioner was not taken within the reglementary period, the prescriptive period for perfecting an appeal continues to run. Consequently, the decision of the HLURB became final and executory upon the lapse of fifteen days from receipt of the decision. Hence, the decision became immutable; it can no longer be amended nor altered by public respondent. Accordingly, inasmuch as the timely perfection of an appeal is a jurisdictional requisite, public respondent has no more authority to entertain the petitioner's appeal. Otherwise, any amendment or alteration made which substantially affects the final and executory judgment would be null and void for lack of jurisdiction.[10]

Thus, in this case public respondent cannot be faulted of grave abuse of discretion in ruling that the period of appeal is fifteen days and in forthrightly dismissing petitioner's appeal as the same was clearly filed out of time.

Worth mentioning, just days prior to the promulgation of the assailed decision of public respondent, the HLURB adopted on June 10, 1996, its 1996 Rules of Procedure. Significantly, Section 2, Rule XVIII of said rules provides that any party may, upon notice to the HLURB and the other party, appeal a decision rendered by the Board of Commissioners en banc or by one of its divisions to the Office of the President within fifteen (15) calendar days from receipt thereof in accordance with P.D. 1344 and A.O. 18, series of 1987.[11] Apparently, the amendment was made pursuant to the pronouncements of public respondent in earlier cases[12] it decided that appeals to the Office of the President from the decision of HLURB should be filed within fifteen (15) days from receipt thereof. At present therefore, decisions rendered by HLURB is appealable to the Office of the President within fifteen (15) calendar days from receipt thereof.

Finally, we find that the instant petition ought not to have been directly filed with this Court. For while we have concurrent jurisdiction with the Regional Trial Courts and the Court of Appeals to issue writs of certiorari, this concurrence is not to be taken as an unrestrained freedom of choice concerning the court to which application for the writ will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs.[13] A direct invocation of the Supreme Court's original jurisdiction to issue these extraordinary writs is allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.[14]

WHEREFORE, the instant petition is DISMISSED for utter lack of merit. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 22-24.

[2] Id. at 25.

[3] Id., at 24.

[4] Id. at 8-9.

[5] Id. at 4.

[6] Id. at 22.

[7] R.E. Agpalo. Statutory Construction (1995) p. 17.

[8] Executive Order No. 648 (7 February 1981) and Executive Order No. 90 (17 December 1986)

[9] GMCR Inc. vs. Bell Telecommunication Phils., Inc., 338 Phil 507, 525 (1997)

[10] Navarro vs. NLRC, GR-116464, March 1, 2000, p. 7.

[11] U.P. Law Center. 7 National Administrative Register 3, July-September 1996, pp. 590-596.

[12] Sycip vs. Francel Realty Corp., OP Case No. 5810, June 28, 1995; Go vs. Swire Realty Corp., OP Case No. 5590, July 10, 1995, Rollo, p. 23.

[13] Fortich vs. Corona, 289 SCRA 624, 645 (1998); Executive Secretary vs. Gordon, 298 SCRA 736, 742 (1998). In any case, under the Revised Rules of Civil Procedure which took effect on July 1, 1997, petitions for certiorari seeking to review acts or omissions of a quasi-judicial agency, like the Office of the President, are cognizable only by the Court of Appeals.

[14] Malonzo vs. Zamora, GR-137718, July 27, 1999, p. 10.

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