

REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE DIRECTOR, LANDS MANAGEMENT BUREAU, PETITIONER, VS. FELIX S. IMPERIAL JR., FELIZA S. IMPERIAL, ELIAS S. IMPERIAL, MIRIAM S. IMPERIA...

G.R. No. 130906. February 11, 1999

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

In this petition for review on certiorari, petitioner seeks to reverse and set aside the (1) Resolution[1] of 30 July 1997 of the Court Appeals in CA-G.R. CV No. 53972 granting petitioner until 11 August 1997 within which to file its appellant's brief, and the (2) Resolution[2] of 29 September 1997 dismissing petitioner's appeal. The appeal was taken from the Order[3] of Branch I, Regional Trial Court of Legaspi City in Civil Case No. 9176, which petitioner instituted to cancel the title to some lots issued to private respondents for the reversion thereof to the mass of the public domain.

The facts of the case, as found by the trial court, are as follows:

On September 12, 1917, the late Elias Imperial was issued Original Certificate of Title (OCT) 408 (500) pursuant to Decree No. 55173 of the then Court of First Instance of Albay, covering a parcel of land identified as Lot No. 1113 of the Cadastral Survey of Legazpi, G.L. Cad. Rec. No. 88, containing an area of fifty eight thousand and twenty six square meters (58,026), more or less, situated in Legazpi City.

Original Certificate of Title No. 408 (500) was subdivided and further subdivided resulting in the issuance of several titles, which are now the subject of this case, in the name of the following defendants:

TCT NO. LOT NO. AREA (sq.m.) REGISTERED OWNER

1. 978 1113-M-3 5,853 Elias S. Imperial
2. 31054 1113-M-4-A 1,200 Felix S. Imperial
3. 31055 1113-M-4-B 4,653 Felix S. Imperial
4. 35508 1113-M-2-A 1,335 EANCRA CORPORATION
5. 35509 1113-M-2-B 4,518 Feliza S. Imperial
6. 35213 1113-M-1-A 1,500 Lolita Alcazar and Salvador Alcazar
7. 35214 1113-M-1-B 4,353 Miriam S. Imperial

The plaintiff seeks to judicially declare the transfer certificate of titles described in the preceding paragraphs null and void; to order the said defendants to surrender the owner's duplicate of their aforesaid titles to the Register of Deeds of Legazpi City and directing [sic] the latter to cancel them as well as the originals thereof and to declare the reversion of the lots covered by the aforesaid titles to the mass of the public domain.

In support of its stand, the plaintiff contends among others that on letter request addressed to the Honorable

Solicitor General dated March 20, 1994, residents of Purok No. 1 and Bgy. 24, Legazpi City, represented by Antonio F. Aguilar, requested that Original Certificate of Title No. 408 (500) in the name of Elias Imperial be cancelled and the land covered thereby reverted back to the State on the ground that the land subject thereof is a foreshore land. Subsequent investigation conducted by the Department of Environment and Natural Resources (DENR), Region V, Legazpi City, upon the request of the Office of the Solicitor General (OSG) disclosed that OCT No. 408 (500), from whence the transfer certificate of titles of the defendants were derived is null and void, and was, thus, acquired to the prejudice of the State, considering that:

- the parcel of land covered by OCT No. 408 (500) has the features of a foreshore land;
- natural ground plants such as mangroves and nipas thrive on certain portions of the land in question;
- some portions of the same land are permanently submerged in seawater even at low tide;
- some portions of the same land are not anymore inundated by seawater due to the considerable amount of improvements built thereon and the placing of boulders and other land-filling materials by the actual residents therein.

The plaintiff alleged that consequently on the basis of said findings, the Director, Lands Management Bureau recommended to the Director, Lands Services, DENR, the cancellation of OCT No. 406 [sic] (500) as well as its derivative titles through appropriate proceedings.

The plaintiff contended that since the land in question is a foreshore land, the same cannot be registered under the Land Registration Act (Act No. 496, now P.D. No. 1529) in the name of private persons since it is non-alienable and belongs to the public domain, administered and managed by the State for the benefit of the general public.

The plaintiff further contended that under Public Land Act No. 141, as amended, such land shall be disposed of to private parties by lease only and not otherwise as soon as the President upon recommendation of the Secretary of Agriculture and Natural Resources, now DENR, shall declare that the same are not necessary for public services and are open to disposition.

Within the time for pleading, defendants EANCRA Corporation, Lolita Alcazar and Salvador Alcazar filed their answer with cross-claim, while the rest of the defendants, namely, Felix S. Imperial, Jr., Feliza S. Imperial, Elias S. Imperial and Miriam S. Imperial filed a motion to dismiss.

The aforesaid motion to dismiss was anchored on the following grounds: (a) the lands covered by the defendants' transfer certificate of titles which were derived from OCT No. 408 (500) was already the subject of the cadastral proceedings in 1917 and which has been implemented by the issuance of OCT No. 408 (500) under the Torrens system.

The adjudication by the cadastral court is binding against the whole world including the plaintiff since cadastral proceedings are in rem and the government itself through the Director of Lands instituted the proceedings and is a direct and active participant. OCT No. 408 (500) issued under the Torrens system has long become incontrovertible after the lapse of one year from the entry of decree of registration; (b) OCT No. 408 (500) was judicially reconstituted in 1953 in accordance with Republic Act [No.] 26 in the then Court of First Instance of Albay, by Jose R. Imperial Samson in Court Case No. RT-305, entitled, The Director of Lands vs. Jose R. Imperial Samson. The proceedings in the judicial reconstitution in said case No. RT-305 is one in rem and has long become final and gave rise to res judicata and therefore can no longer legally be assailed; (c) the findings of the Director of Lands dated February 22, 1983 [sic] from which no appeal was taken in said administrative investigation that Lot No. 1113, Cad. 27 and a portion of it covered by Lot No. 1113-M-5 in the name of Jose Baritua cannot be considered as part of the shore or foreshore of Albay Gulf. This finding of the Director of Lands has become final and thus constitute res judicata, and finally moving defendants contended that several interrelated cases have been decided related to OCT No. 408 (500),

specifically Civil Cases Nos. 6556, 6885, 6999 and 7104, all of the Regional Trial Court, Legazpi City which have been brought by several squatters [sic] family against Jose Baritua attacking the latter's title over Lot No. 1113-M-5 which was derived from OCT No. 408 (500) which cases were all decided in favor of Jose Baritua, hence, the decisions rendered therein have become final and executory and constitute res judicata.

The plaintiff through the Office of the Solicitor General filed an objection to the motion to dismiss based on the following grounds: (1) the purported decision issued by the Court of First Instance of Albay in G.R. Cad. Rec. No. 88 supposedly resulting in the issuance of OCT No. 408 (500) pursuant to Decree No. 55173 does not constitute res judicata to the present case; (2) the incontestable and indisputable character of a Torrens certificate of title does not apply when the land thus covered, like foreshore land, is not capable of registration; (3) a certificate of title judicially reconstituted from a void certificate of title is, likewise, void; (4) administrative investigation conducted by the Director of Lands is not a bar to the filing of reversion suits; and (5) the filing of the motion to dismiss carries with it the admission of the truth of all material facts of the complaint.[4]

After hearing the motion to dismiss, or on 9 August 1996, the trial court dismissed the complaint on the ground that the judgment rendered by the cadastral court in G.R. Cad. Rec. No. 88 and our resolution in the petition to quiet title, G.R. No. 85770, both decreed that the parcel of land covered by OCT No. 408 (500) was not foreshore. The 1917 cadastral proceeding was binding upon the government, which had initiated the same and had been an active and direct participant thereon. Likewise, the 1982 petition to cancel OCT No. 408 (500) filed by the claimants of Lot No. 1113, Cad-47, and resolved by the Director of Lands in his 22 February 1984 letter[5] to the effect that "Original Certificate of Title No. 408 (500) 2113 in the name of Elias Imperial and its derivative title[s] were legally issued" was res judicata to the instant case. Petitioner's contention that the judicially reconstituted certificate of title was void since the land covered by OCT No. 408 (500) was foreshore land was a mere assumption contrary to existing physical facts. The court further considered as forum shopping petitioner's attempt to seek a favorable opinion after it was declared in related cases questioning the title of a certain Jose Baritua, which was also derived from OCT No. 408(500), that the land in question was foreshore.

On 28 October 1996, petitioner filed a notice of appeal.

On 18 April 1997, the Court of Appeals required petitioner to file its appellant's brief within forty-five (45) days from receipt of the notice. Petitioner received said notice ten (10) days later, or on 28 April 1997.

Due to the alleged heavy workload of the solicitor assigned to the case, petitioner moved for an extension of thirty (30) days from 12 June 1997, or until 12 July 1997, within which to file the appellant's brief. The Court of Appeals granted petitioner's motion for extension in a resolution dated 26 June 1997.

On the same ground of continuing heavy pressure of work, petitioner filed, on 12 July 1997, its second motion for extension of thirty (30) days or until 11 August 1997 within which to file the appellant's brief.

On 11 August 1997, petitioner asked for a third extension of thirty (30) days, or until 10 September 1997, within which to file appellant's brief citing the same ground of heavy pressure of work.

Meanwhile, on 30 July 1997, the Court of Appeals issued a resolution, the full text of which reads:

The Office of the Solicitor General is GRANTED a LAST EXTENSION of thirty (30) days from July 12, 1997, or until August 11, 1997, within which to file the oppositor-appellant's brief. Failure to file said brief within the said period will mean dismissal of the appeal.[6]

On 12 August 1997, petitioner received a copy of the aforesaid resolution.

On 26 August 1997, petitioner moved to reconsider the 30 July 1997 resolution and, despite the appellate court's

warning, reiterated its third motion for extension of another thirty (30) days to file the appellant's brief.

On 10 September 1997, petitioner filed a manifestation and motion requesting another extension of five (5) days, or until 15 September 1997, within which to file appellant's brief, reasoning that the brief, although finalized, was yet to be signed by the Solicitor General.

On 15 September 1997, petitioner filed the required appellant's brief.

On 29 September 1997, the Court of Appeals denied petitioner's motion for reconsideration for lack of merit and sustained its Resolution of 30 July 1997 dismissing the case for failure to file the appellant's brief within the extended period.

Hence, petitioner filed this petition assailing the dismissal of its appeal on purely technical grounds. It alleges that it "has raised meritorious grounds in support of its appeal which, if not allowed to be laid down before the proper Court, will result to the prejudice of, and irreparable injury to, public interest, as the Government would lose its opportunity to recover what it believes to be non-registrable lands of the public domain." Minor lapses in adherence to procedural rules should be condoned in order not to frustrate the ends of justice. Thus, petitioner begs the court's indulgence, enumerating the cases that had occupied its time and attention which prevented the filing of the required brief within the extended periods granted by the Court of Appeals.

Petitioner maintains that our resolution of 8 May 1989 in G.R. No. 85770 entitled "Spouses Espiritu v. Baritua" does not constitute *res judicata* to the instant case because there is no identity of parties, causes of action, and subject matter between the two cases. The Supreme Court case was instituted by Spouses Jose and Maura Espiritu and others against Jose Baritua, while the instant case was filed by no less than the Republic of the Philippines against herein respondents. The former arose from a proceeding to quiet title, while the latter is an action for reversion.

Anent the "unappealed letter-decision" of the Director of Lands, petitioner contends that the same was a "reversible mistake" which did not bar the filing of a reversion suit, as the government is never estopped by the mistakes of its officials or agents.

Petitioner also argues that the 1953 reconstitution case only involved the restoration of the title which was supposed to have been lost or destroyed. The issue as to the nature of the land covered by OCT No. 408 (500) was never delved into by the court. Petitioner insists that the parcels of land in question are foreshore lands, and hence, inalienable and incapable of registration. Consequently, the certificates of title covering said lands are void *ab initio*.

As regards the trial court's finding of forum shopping, petitioner asserts that the same is without basis. It is the first time that petitioner instituted an action against herein respondents concerning the lands in question.

On the other hand, respondents maintain that the dismissal of the appeal for failure to file brief on time was not an abuse of discretion on the part of the Court of Appeals. Petitioner failed to present special circumstances or good reasons to justify its motions for extension. Moreover, that the parcels of land involved are foreshore was confirmed in the 1917 cadastral and 1953 reconstitution proceedings. This finding attained finality through our resolution in the action for quieting of title (G.R. No. 85770), and was further affirmed through the administrative investigation conducted by the Director of Lands. Thus, the instant case is now barred by *res judicata*.

We have long observed that the Office of the Solicitor General (OSG) regularly presents motions for extension of time to file pleadings, taking for granted the court's leniency in granting the same. Instead of contributing to the swift administration of justice as an instrumentality of the State, the OSG contributes to needless delays in

litigation. Despite the numerous cases that need the OSG's time and attention, equal importance should be allotted to each and every case. Deadlines must be respected and court warnings not taken lightly.

However, after a thorough reexamination of this case, we are of the view that the challenged resolutions should be reconsidered.

The rules of court governing practice and procedure were formulated in order to promote just, speedy, and inexpensive disposition of every action or proceeding without sacrificing substantial justice and equity considerations.[7]

The filing of appellant's brief in appeals is not a jurisdictional requirement. Nevertheless, an appeal may be dismissed by the Court of Appeals on its own motion or on that of the appellee upon failure of the appellant to serve and file the required number of copies of the brief within the time provided.[8]

If the appeal brief cannot be filed on time, extension of time may be allowed provided (1) there is good and sufficient cause, and (2) the motion for extension is filed before the expiration of the time sought to be extended.[9] The court's liberality on extensions notwithstanding, lawyers should never presume that their motions for extension would be granted as a matter of course or for the length of time sought; their concession lies in the sound discretion of the Court exercised in accordance with the attendant circumstances.[10]

What constitutes good and sufficient cause that will merit suspension of the rules is discretionary upon the court. The court has the power to relax or suspend the rules or to except a case from their operation when compelling reasons so warrant or when the purpose of justice requires it.[11] Among the reasons which the court allowed in suspending application of the rules on filing an appeal brief were the following: (1) the cause for the delay was not entirely attributable to the fault or negligence of the party favored by the suspension of the rules;[12] (2) there was no objection from the State,[13] and the brief was filed within the period requested; (3) no material injury was suffered by the appellee by reason of the delay in filing the brief;[14] (4) the fake lawyer failed to file the brief;[15] (5) appellant was represented by counsel de oficio;[16] (6) petitioner's original counsel died;[17] and (7) the preparation of the consolidated brief involved a comparative study of many exhibits.[18]

At the core of the controversy is whether the parcels of land in question are foreshore lands. Foreshore land is a part of the alienable land of the public domain and may be disposed of only by lease and not otherwise. It was defined as "that part (of the land) which is between high and low water and left dry by the flux and reflux of the tides." [19] It is also known as "a strip of land that lies between the high and low water marks and is alternatively wet and dry according to the flow of the tide." [20]

The classification of public lands is a function of the executive branch of government, specifically the director of lands (now the director of the Lands Management Bureau). The decision of the director of lands when approved by the Secretary of the Department of Environment and Natural Resources (DENR)[21] as to questions of fact is conclusive upon the court. The principle behind this ruling is that the subject has been exhaustively weighed and discussed and must therefore be given credit. This doctrine finds no application, however, when the decision of the director of lands is revoked by, or in conflict with that of, the DENR Secretary.[22]

There is allegedly a conflict between the findings of the Director of Lands and the DENR, Region V, in the present case. Respondents contend that the Director of Lands found Jose Baritua's land covered by TCT No. 18655, which stemmed from OCT 408(500), to be "definitely outside of the foreshore area." [23] Petitioner, on the other hand, claims that subsequent investigation of the DENR, Region V, Legazpi City, disclosed that the land covered by OCT No. 408 (500) from whence the titles were derived "has the features of a foreshore land." [24] The contradictory views of the Director of Lands and the DENR, Region V, Legazpi City, on the true nature of

the land, which contradiction was neither discussed nor resolved by the RTC, cannot be the premise of any conclusive classification of the land involved.

The need, therefore, to determine once and for all whether the lands subject of petitioner's reversion efforts are foreshore lands constitutes good and sufficient cause for relaxing procedural rules and granting the third and fourth motions for extension to file appellant's brief. Petitioner's appeal presents an exceptional circumstance impressed with public interest and must then be given due course.

WHEREFORE, the instant petition is hereby GRANTED; the Resolutions of 30 July 1997 and 29 September 1997 of the Court of Appeals are SET ASIDE; petitioner's appeal is reinstated; and the instant case is REMANDED to the Court of Appeals for further proceedings.

SO ORDERED.

Melo, Kapunan and Pardo JJ., concur.

[1] Rollo, 41.

[2] Per Rasul, J. with Jacinto and Buzon, JJ., concurring, Rollo, 43-46.

[3] Per Judge Romeo S. Dañas, Rollo, 125-139.

[4] Rollo, 125-130.

[5] Letter of Director of Lands Ramon Casanova to Atty. J. Antonio M. Carpio; Subject: Natividad Quipones v. Jose Baritua, [O.C.T. No. 408 (500) 2113 (New TCT No. 18655), Lot No. 1113 Cad - 47, Lapu-Lapu Street, Legaspi City]; Rollo, 85-86.

[6] Rollo, 41.

[7] Section 6, Rule 1, 1997 Rules of Civil Procedure.

[8] Section 1(f), Rule 50, Rules of Court -- now Section 1(e), Rule 50, 1997 Rules of Civil Procedure.

[9] Section 15, Rule 46, Rules of Court -- now Section 12, Rule 44, 1997 Rules of Civil Procedure.

[10] Diman v. Hon. Florentino M. Alumbres, G.R. No. 131466, 27 November 1998, at 2. See also People v. CA, 242 SCRA 180 [1995]; Videogram Regulatory Board v. CA, 265 SCRA 50 [1996].

[11] Republic v. CA, 83 SCRA 453, 483 [1978]; PNB v. CA, 246 SCRA 304, 317 [1995].

[12] Ginete v. CA, G.R. No. 127596, 24 September 1998, at 13.

[13] Oyao v. People, 75 SCRA 424 [1977].

[14] Gregorio v. CA, 72 SCRA 120 [1976].

[15] Telan v. CA, 202 SCRA 534 [1991].

[16] Foralan v. CA, 241 SCRA 176 [1995].

[17] Avisado v. Villafuerte, 195 SCRA 188 [1991].

[18] Obut v. CA, 70 SCRA 546 [1976].

[19] Republic v. Alagad, 169 SCRA 55, 464 [1989], citing Government v. Colegio de San Jose, 53 Phil. 423,

428-429 [1929], and Republic v. CA, 131 SCRA 532, 539 [1984].

[20]Id.

[21] Director of Lands v. CA, 129 SCRA 689, 692 [1984], citing Garcia v. Aportadera, 164 SCRA 705, 710 [1988].

[22]ANTONIO H. NOBLEJAS AND EDILBERTO H. NOBLEJAS, REGISTRATION OF LAND TITLES AND DEEDS, 412-413 (1992 Rev. ed.), citing Vda.de Calibo v. Ballesteros, 15 SCRA 37 [1965]; Ramirez v. CA, 30 SCRA 297 [1969]; Republic v. CA, 171 SCRA 721, 736 [1989].

[23]Rollo, 86.

[24]Complaint; id., 49.

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