

RITA SANTIAGO, PETITIONER AND APPELLEE, VS. ANIANA MANUEL AND JUANA TUMALE, OBJECTORS AND APPELLANTS.*G.R. No. 13865. March 31, 1919*

Ponente: TORRES, J.

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On September 30, 1916, judgment was rendered in this proceeding by the Court of First Instance of Nueva Ecija, whereby the oppositions filed by the Director of Lands and by Aniana Manuel and Juana Tumale were overruled, it was decreed that, upon a previous declaration of general default, both lots of land, should be adjudicated and registered in the name of the petitioner, Rita Santiago, and that upon this decision becoming final the corresponding decree should be issued. On the same date, a copy of the decision was sent to the parties among whom was Attorney Crisanto de la Fuente who represented the objectors. On the 30th of the following October of the same year, counsel for the objectors excepted in writing (record, p. 65) from the said decision and at the same time moved for a new trial. The motion was denied by order of January 27, 1917 and from this order, Attorney De la Fuente on behalf of the objectors excepted in writing, and on February 12, 1917, counsel for the appellants asked for the approval of the bill of exceptions, which was presented on the same date.

This is a proceeding brought in the Court of First Instance of Nueva Ecija for the inscription of certain lands in the registry of property, and any party interposing an appeal through bill of exceptions against the judgment of the Court of First Instance must present and perfect his bill of exceptions within thirty days, to be counted from the date on which the party appealing received a copy of the judgment rendered in the case.

The above is provided in section 26 of Act No. 2347 which amends Acts Nos. 496 and 1484, the latter amending section 14 of said Act No. 496 as amended by section 4 of Act No. 1108, so that section 1 of said Act No. 1484 shall read as follows:

"SECTION 1. Section fourteen of Act Numbered Four hundred and ninety-six, entitled "The Land Registration Act," as amended by section four of Act Numbered Eleven hundred and eight, is hereby further amended by adding at the end of the last proviso therein contained and immediately before the paragraph marked (a) the following words: 'And provided further, That the period within which the litigating parties must file their appeals and bills of exceptions against the final judgment in land registration c, ses shall be thirty days, counting from the date on which the party received a copy of the decision.' "

It is again necessary to distinguish the case of an appeal and the perfection of a bill of exceptions in a proceeding in the Court of First Instance for the registration of land in the registry of property from the case of an appeal and the presentation of a bill of exceptions to the Supreme Court in an ordinary action brought in the Court of First Instance.

In a proceeding brought in the Court of First Instance for the inscription of an immovable property in the registry of property, the party excepting should appeal, present, and perfect his bill of exceptions from the final judgment rendered in the case within the peremptory period of thirty days, counting from the date on which he received a

copy of the judgment or sentence rendered in the said proceeding. This is expressly provided in the last paragraph of section 26 of Act No. 2347 which deals with the reorganization of the Courts of First Instance and the Court of Land Registration.

In ordinary actions and proceedings brought in the courts of First Instance, when the injured or defeated party asks that the judgment rendered therein be set aside and that a new trial be granted on some of the grounds materially affecting the legitimate rights of the party excepting, the motion for a new trial should be presented, upon a previous notice to the adverse party, within the thirty days, following the date on which he was notified of the rendition of the judgment. Act No. 190 fixes another period for the presentation of the bill of exceptions.

It is necessary to distinguish the case of an appeal and the presentation of a bill of exceptions perfected in a proceeding for the registration of an immovable property in the registry of property from that of an appeal and motion for a new trial to set aside the judgment rendered by a Court of First Instance in an ordinary action which does not have for its object the inscription of a certain real property or land in the registry of property.

The petition to set aside a judgment rendered by the Court of First Instance in a proceeding for the inscription of an immovable property in the registry of property and the motion for a new trial must be presented within the peremptory period of thirty days which is the period fixed for the filing of an appeal and the presentation of the bill of exceptions against the final judgment rendered in the case, and the judge, in order to avoid any injury to the excepting party, must decide the motion as soon as possible and before the lapse of the period fixed by law, because, if the abovesaid Act No. 2347 requires in the above quoted section that the appeal and the presentation of the bill of exceptions should be effected within thirty days counting from the date on which the party excepting received a copy of the decision, such motion for a new trial must necessarily be presented within the said period. According to the terms of the law, the decision rendered by the court becomes final, if the party who believes he has been injured thereby fails not only to appeal but also to present his bill of exceptions, inasmuch as an appeal through bill of exceptions is not deemed to have been duly taken or perfected unless the bill of exceptions was presented within the said period of thirty days as expressly provided by law.

The defeated party may interpose only an appeal and present his bill of exceptions perfected within the period of thirty days, but if he desires that the Supreme Court examine and review the evidence for the purpose of revoking the decision appealed from, it is indispensable that the party excepting move that the judgment be set aside and a new trial granted under the grounds specified by law. And as the law has not fixed any other period for the motion for a new trial and the said thirty days have elapsed without the appellant having presented a bill of exceptions for his appeal the judgment rendered in a land registration proceeding becomes final by operation of law.

In ordinary actions and proceedings, section 145 of Act No. 190, as amended by section 27 of Act No. 2347, provides that the party injured or defeated can ask that the judgment rendered by the court be set aside and a new trial granted within the thirty days following the date on which he received notice of the same. The judge may grant a new trial provided the motion is founded upon any of the grounds specified by law. . Therefore, the motion for a new trial must be presented within the thirty days following the notice of the judgment, and if the judge overrule or deny the motion within or outside of the said period of thirty days, as is usually the case in practice, the party excepting, upon his being notified of the order denying his motion, can except thereto and has then the duty to present and perfect the corresponding bill of exceptions to sustain the appeal interposed by him, within the ten days following the notice of the order denying his motion, in accordance with the provision of section 143 as amended by Act No. 1123. This period of ten days for the presentation of the bill of exceptions in ordinary actions differs from that of thirty days fixed for the appeal and presentation of the bill of exceptions in land registration cases.

The difference between an appeal and the presentation of the bill of exceptions in an ordinary action and that followed in a proceeding for the inscription of an immovable property in the Registry of Property is very apparent, according to the legal provisions above-cited.

In proceedings for the inscription of immovable properties in the Registry of Property, the motion for a new trial with a view to set aside the judgment rendered by the court as well as the appeal, the presentation and perfection of the corresponding bill of exceptions must necessarily be made within the peremptory period of thirty days counting from the date on which the party excepting received a copy of the judgment. When the said period has expired without the interested party having asked for the setting aside of the judgment and for a new trial and without having interposed an appeal or presented the corresponding bill of exceptions, the said party has absolutely lost his right for not having made use of the same in accordance with the provision of law.

In ordinary actions and proceedings, the defeated party or the one who considers himself injured can ask for the annulment of the judgment and the holding of a new trial within thirty days. If the judge does not accede to his petition and does not grant a new trial of the case, whether or not there be an exception taken to the order overruling his motion, the party appealing must present the corresponding bill of exceptions perfected within ten days following the date on which he was notified of the order denying his motion. If this be not done within the period of ten days "or within the extension that may be granted the excepting party, the latter will absolutely lose his right.

From the statement of facts set forth in the first paragraph of this decision, it appears that the attorney for the objectors received, on September 30, 1916, a copy of the decision rendered by the court in this proceeding for the inscription of lands in the registry of property, and although the counsel for the said opponent-appellants excepted in writing against the said decision overruling the opposition of the same, and moved for a new trial of the case, which motion was denied by order of January 27, 1917, exceptions to sustain the appeal was not presented until February 12, 1917. The bill of exceptions was therefore presented after three months and eleven days, and the period of thirty days fixed by law for the presentation of the bill of exceptions in land registration cases had expired.

In order that this court may lawfully acquire jurisdiction by virtue of an appeal interposed against a judgment rendered in a proceeding for the inscription of an immovable property in the registry of property, it is indispensable that the bill of exceptions has been presented and perfected within the period fixed by section 26 of Act No. 2347. The court does not acquire jurisdiction over an appeal when the bill of exceptions to sustain the same has not been presented within the period of thirty days expressly fixed by law. Hence this court is without jurisdiction to decide this case in conformity with law and in accordance with its merits.

Having in view the decisions previously rendered by this court, among others that of *Lim vs. Singian and Soler* (37 Phil. Rep., 817) ; *Director of Lands vs. Maurera and Tiongson* (37 Phil. Rep., 410); and *Layda vs. Legazpi* (p. 83, ante), this court holds that, under the doctrines enunciated therein, the right of the opponent-appellants has elapsed, and consequently the appeal interposed by their counsel is dismissed, with the costs of this instance against them. So ordered.

Arellano, C.J., Johnson, Araullo, Malcolm, Avanceña, and Moir, JJ., concur.

Appeal dismissed.

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