

LIBERTAD ALTAVAS CONLU, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, ET AL., RESPONDENTS.

G.R. No. 14027. January 29, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

Petition to review a resolution of the Court of Appeals.

The facts involved are not controverted. On October 3, 1957, the Court of First Instance of Capiz handed down a decision in Cadastral Case No. 5, G.L.R.O. Record No. 337, covering a lot of the Capiz Cadastre. The herein petitioner against whom said decision was rendered received a copy thereof on October 11, 1957. Twenty-five (25) days thereafter, or on November 5 of that same year, petitioner filed a motion for reconsideration and new trial, praying that the decision be set aside upon the grounds that it is contrary to law and is not supported by sufficient evidence. The said motion was denied by the trial court in an order dated January 11, 1958, notice of which was received by petitioner on January 15. On January 13, she filed a "Petition Ex Parte for Extension of Time to Perfect The Appeal." The following day, the trial court granted thirty (30) days from that day, January 14, within which petitioner may submit her record on appeal.

On February 1, 1958, twelve (12) days after January 20 when the original reglementary period to appeal had expired, petitioner filed notice of appeal and appeal bond, and on February 8, that is, five days before the expiration of the thirty days extension, petitioner filed the record on appeal. Sustaining some oppositions filed against the approval of the record on appeal, the trial court, on March 1, 1958, dismissed the appeal on the ground that the appeal bond and the notice of appeal were filed out of time. Motion to reconsider that order of dismissal had been denied. Whereupon, the petitioner filed with the Court of Appeals an action for mandamus praying that the Court of First Instance be ordered to approve, certify and transmit to it the record on appeal. Failing to obtain such relief from the appeals court, the petitioner has brought the case to us for review.

After going over the record, we are persuaded that the petitioner has not made out a good case for the issuance of a writ of mandamus.

There is no question that the petitioner was given an additional thirty (30) days within which to submit her record on appeal, for on January 14, 1959, the Court of First Instance issued the following order:

"As prayed for in the ex parte motion of Attorney Jose Y. Torres, he is hereby given thirty (30) days from today within which to submit his record on appeal." (Italics ours)

Petitioner contends that the order above-quoted extended also the filing of the notice of appeal and the appeal bond. Petitioner's main argument is that her petition dated January 13, 1958 prayed for an extension of time not merely to submit the record on appeal but to perfect her appeal, which includes the filing of the notice of appeal and appeal bond. The contention is devoid of merit. The language used in the order is plain and unequivocal. It cannot be construed in the manner suggested by petitioner. If the trial court really intended to extend also the

period for the filing of the notice of appeal and appeal bond, it could have easily stated so in its order, or simply, the order would have granted "an additional 30 days to perfect the appeal." In fact, the said court clearly explained the meaning of its order of extension as being limited to the filing of the record on appeal when on March 1, 1958, it issued an order dismissing the appeal for the untimely filing of the notice of appeal and appeal bond. Presumably, the reason of the trial court in granting an extension only for the filing of the record on appeal is that the petition for extension was predicated solely on the ground "that the record of the case is very voluminous and the Record on Appeal will probably consist of 50 typewritten pages more or less so that it would need much time to prepare, finish and file the Record on Appeal and furthermore due to pressure of work her counsel cannot attend exclusively in the preparation of said Record on Appeal."

In the case of *Silverio Salva vs. Hon. Perfecto R. Palacio, et al.*, 90 Phil., 731, 52 Off. Gaz., p. 3089, this Court has held that an extension of time granted to amend a record on appeal does not carry with it an extension of the reglementary period for the filing of the appeal bond. Similarly, in this case, we hold that the extension of time granted for the filing of the record on appeal does not also carry with it an extension for the filing of the notice of appeal and appeal bond.

Rules of Courts, promulgated by authority of law, have the force and effect of law; and rules of court prescribing the time within which certain acts must be done, or certain proceedings, taken, are considered absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of judicial business (*Shioji vs. Harvey*, 43 Phil., 333; *Alvero vs. De la Rosa et al.*, 76 Phil., 428, 42 Off. Gaz., p. 316).

Conformably with the foregoing, the resolution sought to be reviewed is hereby affirmed, at petitioner's costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

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