

TOMAS T. TEODORO, PETITIONER, VS. THE COURT OF APPEALS AND CONTINENTAL CEMENT CORPORATION, RESPONDENTS.

G.R. No. 140799. September 10, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

It appears from the records that on July 13, 1959, PAMI Development Corporation registered with the Mining Records of Bulacan its mining claims to a parcel of land consisting of 185.8611 hectares, located at San Mateo, Norzagaray, Bulacan. On December 23, 1964, it was issued Placer Lease Contracts, later renamed Mining Lease Contracts (MLC), Nos. V-202 and V-203, for a period of twenty-five years. On January 5, 1965, PAMI sold its mining claims to respondent Continental Cement Corporation.

Almost fifteen years later, on April 10, 1980, Francisco and Tomas Teodoro applied for quarry permits with the Bureau of Mines, denominated as AQP-551 and AQP-552, over their property located at Barrio Pinagkamaligan, Norzagaray, Bulacan. The Bureau of Mines denied the Teodoros' application since it will conflict with the mining claims of respondent.

Subsequently, the Teodoros filed with the then Ministry of Natural Resources a petition for cancellation of respondent's MLC Nos. V-202 and V-203 on the ground of non-development of mineral lands. The said mining lease contracts of respondent were cancelled for non-compliance with the work obligations under the law.

Respondent appealed the cancellation order to the Office of the President, docketed as OP Case No. 2755. While the appeal was pending, the Bureau of Mines and Geo-Sciences issued Quarry Temporary Permit (QTP) No. 186 to the Teodoros.

On January 5, 1987, then Deputy Executive Secretary Fulgencio Factoran set aside the orders of cancellation and reinstated respondent's mining lease contracts, after finding that respondent actually performed the work obligations on the PAMI mining claims.

Anticipating the expiration of the term of its mining lease contracts, respondent applied for the renewal thereof. In the meantime, the Department of Environment and Natural Resources (DENR) issued Administrative Order No. 82 mandating that all mining lease applications, including renewal applications, be converted to Mineral Production Sharing Arrangement (MPSA) applications.

Accordingly, on April 25, 1991, respondent filed with the DENR an application, docketed as MPSA-P-III-9, for a Mineral Production Sharing Agreement over a 547.68-portion of land in Norzagaray, Bulacan. Petitioner Tomas Teodoro opposed the application, alleging that the area subject thereof included a tract of land owned by him and Francisco Teodoro. Hence, he prayed that the said portion, consisting of 12.88 hectares, be excluded from the respondent's application. His opposition was docketed as DENR Case No. MSC-III-1-93.

The Regional Executive Director of the DENR, Region III, dismissed petitioner's opposition on May 25, 1993. Petitioner appealed to the Secretary of the DENR who, on April 13, 1994, dismissed the appeal for lack of merit

and affirmed the Decision of the Regional Director.[1] Petitioner's motion for reconsideration was denied in a Resolution dated April 18, 1995. Thus, petitioner interposed an appeal to the Office of the President, where the same was docketed as OP Case No. 6167.

On September 26, 1996, the Office of the President dismissed petitioner's appeal.[2] Petitioner filed a motion for reconsideration which was granted in a Resolution of the Office of the President dated December 26, 1996, which set aside the appealed decisions of the DENR and directed the Secretary of the DENR to exclude Teodoro's land from the coverage of respondent's MPSA.[3]

Respondent filed a Motion for Reconsideration, which was denied in a Resolution dated April 30, 1997. Respondent filed a Second Motion for Reconsideration. Petitioner filed a Motion to Expunge the Second Motion for Reconsideration citing the following grounds: (1) the Second Motion for Reconsideration was not filed by private respondent's counsel of record but by the law office of Calanog & Associates; (2) Registry Receipt No. 01150 which appeared on the envelope bearing the copy of the Second Motion served upon petitioner was not entered in the registry book of the Makati Post Office where it was supposed to have been mailed; (3) the rubber stamps appearing on the same envelope did not match those of the Makati Central Post Office; (4) the envelope was hand delivered to petitioner's counsel by a messenger of the law office of Calanog & Associates, and was not received by registered mail. Petitioner argued that by making it appear that the Second Motion for Reconsideration was filed by registered mail, private respondent attempted to resurrect an appeal of a decision that has become final and executory.

In a Resolution dated September 3, 1997,[4] the Office of the President denied respondent's Second Motion for Reconsideration on the grounds that the Calanog Law Office has no personality to file the motion, there having been no valid substitution of counsel; that second motions for reconsideration before the Office are prohibited, except in extremely meritorious cases; and that the arguments raised in the motion were a mere rehash of those already submitted in the first motion for reconsideration.

Respondent filed a petition for review with the Court of Appeals, docketed as CA-G.R. SP No. 45396.[5] Petitioner promptly filed a Motion to Expunge, arguing that the petition was filed out of time and that the verification contained therein was defective.

Instead of acting on the Motion to Expunge, the Court of Appeals required petitioner to file his comment to the petition and held in abeyance the resolution of respondent's application for a temporary restraining order. However, on October 24, 1997, the Court of Appeals, acting on respondent's urgent ex-parte motion, issued a temporary restraining order enjoining the enforcement of the resolutions of the Office of President.

Petitioner thereafter filed his comment to the petition. Respondent filed its reply and supplemental reply.

On June 26, 1998, the Court of Appeals rendered the assailed decision, reversing and setting aside the Resolutions of the Office of the President and making permanent the temporary restraining order previously issued.

On July 28, 1998, petitioner filed with this Court a motion[6] for extension of thirty days within which to file the petition for review, which was docketed as G.R. No. 134501. The following day, July 29, 1998, petitioner filed a Manifestation explaining why he service on respondent of the motion for extension of time was done by registered mail. On August 26, 1998, petitioner filed the petition for review.[7]

In a Resolution dated August 17, 1998,[8] this Court denied petitioner's motion for extension of time for lack of the required written explanation why service by registered mail was resorted to. In the same Resolution, this Court noted without action petitioner's Manifestation explaining why service of the motion for extension was done by registered mail.

Petitioner filed a Motion for Reconsideration. On October 12, 1998, this Court issued a Resolution[9] denying the petition for review on the following grounds: (1) lack of certification of non-forum-shopping executed by petitioner himself; and (2) late filing, in view of the denial of petitioner's motion for extension of time to file petition. Petitioner's motion for reconsideration was denied with finality.

Petitioner filed a second motion for reconsideration which, on January 13, 1999, was denied with finality.[10] Petitioner then filed a Motion for Leave to File Motion for Reconsideration, which this Court denied on March 22, 1999.[11]

Meanwhile, the Resolution of this Court dated October 12, 1998, which denied the petition for review in G.R. No. 134501, as well as the Decision of the Court of Appeals dated June 26, 1998 in CA-G.R. SP No. 45396, became final and executory.[12]

Despite the denial of the Motion for Leave to File Motion for Reconsideration, petitioner filed another Motion for Reconsideration, which this Court noted without action.[13]

Undaunted, petitioner filed an Urgent Omnibus Motion to Recall Entry of Judgment and Motion for Reconsideration. In a Resolution dated October 4, 1999, this Court denied the Omnibus Motion.

Thus, petitioner filed the instant "Petition [To Declare As Null and Void the Decision of the Court of Appeals in CA-G.R. SP No. 45396]." He contends that while the petition is not sanctioned by any provision in the 1997 Rules of Civil Procedure, the Court of Appeals' Decision is a void judgment and, therefore, can be annulled and declared void on the grounds of extrinsic fraud and lack of jurisdiction.

Petitioner argues that the Resolutions of the Office of the President were already final at the time respondent filed the petition for review before the Court of Appeals, hence the latter did not have jurisdiction to entertain the same. He also claims that the decision of the Court of Appeals was obtained through extrinsic fraud. More specifically, respondent misrepresented that its Second Motion for Reconsideration was filed through registered mail in order to make it appear that it was filed within the reglementary fifteen-day period. Further, petitioner contends that the Court of Appeals failed to follow the procedure prescribed in Rule 43 by first giving due course to the petition, requiring the Office of the President to transmit the records of the case to it and allowing petitioner to file a memorandum to discuss the merits of its case. Finally, petitioner points out that the lawyer who filed the Second Motion for Reconsideration for respondent was a former Regional Trial Court Judge who was dismissed from the Judiciary for immorality and conduct unbecoming a judge and who, incidentally, was a classmate of the ponente of the Court of Appeals' decision.

After carefully going over the records, we do not find that the Resolutions of the Office of the President were already final and executory when the petition for review was filed before the Court of Appeals. The Resolution of the Office of the President dated April 30, 1997, denying respondent's first Motion for Reconsideration, was received by the latter on May 9, 1997. Hence, it had until May 24, 1997 within which to file its appeal. Respondent filed its Second Motion for Reconsideration on May 20, 1997, which the Office of the President denied on September 3, 1997. Respondent received a copy of the denial of its Second Motion for Reconsideration on September 12, 1997. On September 26, 1997, it filed the petition for review with the Court of Appeals. There is, therefore, no truth to petitioner's allegation that the Resolutions of the Office of the President have become final and executory.

Petitioner contends that the filing of the second Motion for Reconsideration did not interrupt the period within which to appeal, because: (1) it was filed by counsel who had no authority to appear, not being counsel of record at the time of its filing; (2) it was pro forma, inasmuch as the arguments therein were merely a rehash of the

grounds contained in the first Motion for Reconsideration; and (3) it was filed late.

It is not denied that the law office of Calanog and Associates had not properly entered its appearance before the Office of the President when it filed the second Motion for Reconsideration. Time and again, however, we have ruled that in administrative proceedings, technical rules of procedure are not strictly applied.[14] The requirement of an entry of appearance should not be strictly enforced when to do so would defeat a litigant's substantive right to appeal and afford him every opportunity to present his case for the proper and just determination of his cause, freed from the constraints of technicality.[15]

We likewise do not agree that the second Motion for Reconsideration was pro forma. Although a motion for reconsideration merely reiterates issues already passed upon by the court, that by itself does not render it pro forma, if the same otherwise complies with the Rules.[16]

Finally, we have shown above the falsity of petitioner's contention that the second Motion for Reconsideration was filed late.

On the question whether there was extrinsic fraud, we rule in the negative. Extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent.[17] Fraud is regarded as extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured.[18] The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[19] None of these conditions obtain in the case at bar.

Then, too, applying by analogy Rule 47, Section 2, second paragraph, of the 1997 Rules of Civil Procedure, which governs annulment of judgments, the instant petition must be denied because "[e]xtrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief." In other words, it is effectively barred if it could have been raised as a ground in an available remedial measure. Here, petitioner availed of the ground of extrinsic fraud in his petition for review, which this Court denied. Therefore, petitioner cannot rely on the ground of extrinsic fraud to obtain the annulment of the Court of Appeals decision.

The bottom line in the instant case is that petitioner lost his right to appeal before this Court and now seeks to resurrect the same via the instant petition, which he admits finds no support in the rules. The time-honored rule is that the failure to perfect an appeal in the manner and within the period fixed by law renders the decision final and executory. Consequently, no court can exercise appellate jurisdiction to review such decision. It is axiomatic that final and executory judgments can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.[20] Upon the other hand, the extraordinary action to annul a final judgment is limited to the grounds provided by law and cannot be used as a stratagem to reopen the entire controversy and thereby make a complete farce of a duly promulgated decision that has long become final and executory.[21]

Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be not deprived of the fruits of the verdict. Courts must, therefore, guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.[22]

WHEREFORE, the instant petition is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.

[1] DENR Case No. 7428, penned by then DENR Secretary Angel C. Alcala.

[2] Penned by then Deputy Executive Secretary Renato C. Corona (now a member of this Court).

[3] Rollo, pp. 58-65; penned by then Executive Secretary Ruben D. Torres.

[4] Ibid., p. 96.

[5] Ibid., pp. 149-191.

[6] Ibid., pp. 230-232.

[7] Ibid., pp. 233-262.

[8] Ibid., p. 263.

[9] Ibid., pp. 609-610.

[10] Ibid., p. 611.

[11] Ibid., pp. 615-616.

[12] Entries of Judgment in G.R. No. 134501 and CA-G.R. SP No. 45396 were both issued on March 2, 1999.

[13] Rollo, pp. 617-618.

[14] See *Concerned Officials of the Metropolitan Waterworks and Sewerage System v. Vasquez*, 240 SCRA 502 [1995] .

[15] See *De Alino v. Mendoza*, 175 SCRA 499, 504-505 [1989] .

[16] See *Marina Properties Corporation v. Court of Appeals*, 294 SCRA 273, 284 [1998] .

[17] *Destura v. Court of Appeals*, 325 SCRA 341, 359 [2000] .

[18] See *Alarcon v. Court of Appeals*, 323 SCRA 716, 725 [2000] .

[19] *Strait Times, Inc. v. Court of Appeals*, G.R. No. 126673, 294 SCRA 714, 722 [1998] , citing *Palanca v. The American Food Manufacturing Co.*, 24 SCRA 819, 826.

[20] *Panado v. Court of Appeals*, 298 SCRA 110, 121 [1998] , citing *In Re Joaquin T. Borromeo*, 241 SCRA 405, 457-458.

[21] See *Pascual v. Court of Appeals*, G.R. No. 120575, 300 SCRA 214, 225 [1998] , citing *Azores v. Securities and Exchange Commission*, 252 SCRA 387, 392; *Macabingkil v. People's Homesite and Housing Corporation*, 72 SCRA 326, 341; and *Amigo v. Court of Appeals*, 253 SCRA 382, 388.

[22] *Salva v. Court of Appeals*, G.R. No. 132250, 304 SCRA 632, 645 [1999] , citing *Lim v. Jabalde*, 172 SCRA 211, 224 and *Banogon v. Serna*, 154 SCRA 593, 597.

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