RAMON ORO, PETITIONER, VS. JUDGE GERARDO D. DIAZ, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 68, DUMANGAS, ILOILO; AND DONATO MANEJERO, RESPONDENTS.

G.R. No. 140974. July 11, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The power of the trial court to disallow or disapprove a notice of appeal that has been filed out of time is expressly recognized by the Rules of Court. The approval of the notice becomes a ministerial duty of the court only when the appeal is filed on time. Otherwise, the court has the discretion to refuse or disallow it in accordance with the Rules.

The Case

Before us is a Petition[1] for Certiorari under Rule 65 of the Rules of Court. The Petition challenges the Order[2] dated September 15, 1999, issued in Civil Case No. 99-070 by the Regional Trial Court (RTC), Branch 68, Dumangas, Iloilo. The RTC Order disapproved petitioner's Notice of Appeal for having been filed beyond the reglementary period.

The Facts

The factual antecedents, as alleged by petitioner in his Memorandum,[3] are as follows:

> "1. The private respondent is a tenant of the petitioner over a landholding located at Badiangan, Province of Iloilo, Philippines;
>
> "2. When the private respondent maliciously failed to pay his rentals for crop years 1988 and 1989, the petitioner brought an action before the Department Of Agrarian Reform Adjudication Board (DARAB) for the collection of said rentals;
>
> "3 Throughout the course and/or pendency of the said DARAB Case, the private respondent did not pay rentals until the same was decided and finally executed sometime in 1998 the private respondent was made to pay the past due rentals from 1988 to 1998 without interests and damages;
>
> "4. Believing that the private respondent [was] liable for damages arising from the latter's malicious act of delaying the said DARAB case and not paying the rentals during the pendency of the aforesaid case, the petitioner filed an action for Damages before the Regional Trial Court, 6th Judicial Region, Branch 68, Dumangas, Iloilo, Philippines, which case was presided by the respondent judge;
>
> "5. After considering the `urgent' motion to dismiss filed by the private respondent, and before trial, the respondent judge dismissed the complaint of the petitioner;
>
> "6. Petitioner filed a motion for reconsideration and after hearing of the same, the respondent judge denied the said motion;

> "7. Petitioner filed a notice of appeal thereafter[;] however, the respondent judge denied the said notice of appeal on the ground that the period to appeal ha[d] already expired. Hence, this Petition before the Honorable Court."[4]

On the other hand, private respondent relates the facts in his Memorandum in this wise:

> "1. Respondent Donato Manejero is a bonafide tena[n]t-lessee of the herein petitioner over lot 2660 covered by TCT No. T-37686 located at Barangay Manaulan, Badiangan, Iloilo;
>
> "2. Sometime on May 7, 1990, herein petitioner filed a case for `Ejectment and Collection of Back Rentals with Damages' against said respondent with the Department of Agrarian Reform Adjudication Board (PARAD-ILOILO) docketed as DARAB Case No. VI-421-ILO-90 and particularly [in] paragraph 7 of his Complaint, he made the following allegations, to wit:
>
> `x x x x x x x x x
>
> `(7) That because of the willful refusal of the defendant to pay his rentals, as well as the fraud committed by him, complainant suffered wounded feelings, sleepless nights, moral shock, and economic dislocation, or such reason, complainant should be awarded moral, actual and exemplary damages the amount of which is subject to the discretion of the Honorable Adjudication Board.'
>
> `x x x x x x x x x'

"3. Respondent filed his answer and denied all the allegations in the Complaint;

"4. Sometime on August 12, 1996, Hon. PARAD Manuel Traviña decided said case in favor of Ramon Oro (petitioner herein) but ruled out the prayer for payment of moral, actual and exemplary damages[;] ordered the ejectment of Donato Manejero from the premises in question and ordered him to pay back rentals equ[i]valent to 50 cavans of clean and dried palay representing unpaid back rentals for agricultural year 1988-89 and 1989-90 or its money equivalent and he was also ordered to pay litigation expenses of P1,000.00;

"5. Donato Manajero (respondent) appealed the questioned Decision with the DARAB Central Board, Diliman, Quezon City and on appeal said case was docketed as DARAB CASE No. 5296;

"6. Sometime on September 3, 1997, the DARAB Appellate Board rendered a Decision by modifying the Decision of PARAD Manuel Traviña dated, August 12, 1996. A machine copy of the Decision is hereto attached as Annex `A';

"7. In said Decision, Donato Manejero (respondent) was x x x MAINTAINED in peaceful possession and cultivation but he was ordered to pay the aforementioned back rentals for 1988-89 and 1989-90 or a total of fifty (50) cavans of clean and dried palay or its mon[e]y equivalent;

"8. The Decision of the DARAB Central Board still ruled out damages and the same became final and executory Pursuant to the Entry of Judgment issued by the DARAB executive director dated, October 6, 1998. A machine copy of the Entry of Judgment is hereto attached as Annex `B';

"9. A Writ of Execution has been issued and fully implemented[;] hence, this case is considered closed and terminated with nothing more to litigate;

"10. The record would reveal that petitioner filed a Complaint against respondent Donato Manejero with RTC-Dumangas, Iloilo (Branch No. 68) being presided by the Honorable Public Respondent Judge Gerardo Diaz, [and] respondent filed his Answer with Motion to Dismiss. A machine copy of the Complaint is hereto attached as Annex `C' and Answer as Annex `D';

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"11. Sometime on May 19, 1999, petitioner's case docketed as Civil Case No. 99-070 was ordered dismissed. A machine copy of the Order of Dismissal is hereto attached as Annex `E';

"12. Petitioner filed a Motion for Reconsideration upon receipt of the Order and sometime on June 9, 1999 file[d] a Motion for reconsideration. Respondent upon receipt of a copy filed an Opposition and the record would show that his Motion was denied pursuant to the Order of RTC-Dumangas, Iloilo dated, July 27, 1999. A machine copy of the resolution is hereto attached as Annex `F';

"13. Instead of filing a Notice of Appeal and appeal[ing] the Order of Dismissal with the Court of Appeals, herein petitioner filed this instant Petition;"[5]

The Trial Court's Ruling

The trial court, in disapproving the Notice of Appeal filed by petitioner, explained its disposition in this wise:

> "To be dealt with is the legal issue of whether or not to approve Notice of Appeal filed by plaintiff. No opposition has been filed by defendant.
>
> "The records show that on May 19, 1999 the Court issued an Order dismissing the complaint[,] which order was received by plaintiff on June 02, 1999. On June 14, 1999, plaintiff filed a Motion for Reconsideration which was opposed by defendant on June 17, 1999. The Motion for Reconsideration was set for hearing on July 02, 1999 at 8:30 o'clock in the morning. On July 01, 1999, a motion to set hearing was filed by plaintiff which was granted by the Court[, which reset] the hearing on the Motion for Reconsideration to July 09, 1999 at 8:30 o'clock in the morning. On July 09, 1999, the Motion for Reconsideration and the Opposition was submitted for resolution. On July 27, 1999, the Court issued an Order denying the Motion for Reconsideration for [the] reason that [the] motion is pro-forma and the issues therein were already passed upon by the Court. On August 26, 1999, [plaintiff filed] a Notice of Appeal x x x o[f] the Order dated July 27, 1999 which Order was received by him on August 19, 1999.
>
> "The Motion for Reconsideration filed by the plaintiff is pro-forma. The allegations in plaintiff's Motion for Reconsideration are [a] rehash of the allegations in his opposition which the court had already passed upon in the Order dated May 19, 1999. Nor [do] the allegations raise new matters which go beyond the meaning of pro-forma [or] which would prompt the Court to look into the issues raised.
>
> "The Notice of Appeal [was] filed out of time. On July 27, 1999, the plaintiff's Motion for Reconsideration was denied by the Court on [the] ground of pro-forma and therefore, when the aforesaid Motion for Reconsideration was filed by him on June 17, 1999, the said motion did not toll the running of the 15-day reglementary period to appeal. Sec. 2, paragraph 4, Rule 37 of the 1997 Rules on Civil Procedure provides: `A pro-forma motion for new trial or reconsideration shall not toll the reglementary period of appeal. Notably, the records show that no Notice of Appeal was filed by the plaintiff within the 15-day reglementary period form receipt of the order dated May 19, 1999.
>
> "Perfection of an appeal in the manner and within the period laid down by law is not only mandatory but jurisdictional and failure to perfect an appeal as legally required has the effect of rendering final and executory [the] judgment of the Court below and deprives the appellate court jurisdiction to entertain an appeal. (Ceniza vs. Court of Appeals, 218 SCRA 390).
>
> "Plaintiff's Notice of Appeal o[f] the Order dated July 23, 1999 which denie[d] his motion for reconsideration, is misplaced. The appeal should be directed against the order dated May 19,1999, dismissing his complaint. Sec. 9, Rule 37 of the 1997 Rules of Civil Procedure reads as follows:
> `Sec. 9. Remedy against order denying a motion for new trial or reconsideration. - An order denying a motion for new trial or reconsideration [is] not appealable, the remedy being an appeal from the judgment or final order.'

"WHEREFORE, in view of all the foregoing, the Notice of Appeal filed by plaintiff is hereby DISAPPROVED for the same was filed out of time."[6]

Hence, this Petition.[7]

The Issues

In his Memorandum, petitioner submits the following issues for the consideration of this Court:

> "I. Whether the respondent judge committed grave abuse of discretion in denying the notice of appeal.
>
> "II. Whether the private respondent is liable for damages as claimed by the petitioner before the lower court."[8]

The Court's Ruling

The Petition has no merit.

First Issue:
No Grave Abuse of Discretion

For the disapproval of his Notice of Appeal, petitioner ascribes grave abuse of discretion to public respondent. He likewise questions the finding of the trial court that his Motion for Reconsideration, being pro forma, did not interrupt the running of the period within which to file an appeal. He argues that because it was the appellate court which had jurisdiction to disapprove the Notice of Appeal for having been filed late, public respondent had no authority to do so.

At the outset, the Court emphasizes that the power of the trial court to disallow or disapprove a notice of appeal for being filed out of time is expressly recognized. Section 13, Rule 41 of Rules of Court, explicitly provides:

> "Sec. 13. Dismissal of appeal.- Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may motu proprio, or on motion, dismiss the appeal for having been taken out of time." (Emphasis supplied)

Petitioner also contends that respondent judge should not have deemed the Motion for Reconsideration as pro forma, simply because it was a mere rehash of the earlier arguments in the Complaint. The former believes that a contrary finding would have tolled the running of the 15-day prescriptive period, and so his Notice of Appeal would not have been considered late. Indeed, although a motion for reconsideration merely reiterates issues already passed upon by the court, that by itself does not make it pro forma. What is essential is compliance with the requisites of the Rules.[9]

However, even if petitioner's Motion for Reconsideration is not considered pro forma - in which case the running of the 15-day reglementary period is effectively interrupted -- still, the trial court was correct in ruling that the Notice of Appeal had been filed out of time.

A review of the records of the case shows that the RTC Order dismissing the Complaint was received by petitioner on June 2, 1999. On that date, the 15-day prescriptive period within which to file an appeal began to run. Instead of preparing an appeal, petitioner filed his Motion for Reconsideration on June 14, 1999. His filing of the Motion interrupted the reglementary period to appeal. By that time, however, 12 days had already lapsed; thus, from his receipt of the Order denying his Motion for Reconsideration, he had only three (3) days left within which to file a notice of appeal.

On August 19, 1999, petitioner received the RTC Order denying his Motion for Reconsideration. Accordingly, he

had three (3) days or until August 22, 1999 to file a notice of appeal. Unfortunately, he was able to do so only on August 26, 1999, or four (4) days late.

The approval of a notice of appeal becomes the ministerial duty of the lower court, provided the appeal is filed on time.[10] If the notice of appeal is, however, filed beyond the reglementary period, the trial court may exercise its power to refuse or disallow the same in accordance with Section 13 of Rule 41 of the Rules of Court.

The trial court was correct in disallowing the Notice of Appeal, also because it was directed at an Order denying a motion for reconsideration, instead of at the judgment or final order disposing the case. Section 1 of Rule 41 of the Rules of Court proscribes the filing of an appeal from an order denying a motion for reconsideration. That provision reads:

> "Section 1. Subject of appeal. - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> No appeal may be taken from:
>
> (a) An order denying a motion for new trial or reconsideration;
>
> x x x x x x x x x
>
> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65." (Emphasis supplied)

It should be stressed that the right to appeal is not a natural right or a part of due process. Rather, it is a procedural remedy of statutory origin and, as such, may be exercised only in the manner prescribed by the provisions of law authorizing its exercise."[11] Hence, its requirements must be strictly complied with.[12] Failure of a party to perfect an appeal within the period fixed by law renders final the decision sought to be appealed. As a result, no court could exercise appellate jurisdiction to review the decision.[13]

Moreover, the perfection of an appeal within the period and in the manner prescribed by law is essential; noncompliance with this legal requirement is fatal and has the effect of rendering the judgment final and executory.[14] After a decision is declared final and executory, vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the case.[15]

Second Issue:
Liability for Damages, a Factual Determination

A discussion of damages can no longer be entertained because of the lateness of the appeal notice, the impropriety of the mode of review and, consequently, the finality of the assailed Order as discussed above.

The sole office of a writ of certiorari is the correction of errors of jurisdiction and does not include a review of public respondent's evaluation of the evidence and factual findings.[16] In a special civil action for certiorari under Rule 65 of the Rules of Court, questions of fact are generally not permitted, the inquiry being limited to whether the public respondent acted without or in excess of its jurisdiction or with grave abuse of discretion.[17] Petitioner raises questions of fact, the determination of which is beyond the scope of certiorari.[18] Moreover, a special civil action for certiorari cannot and should not be a substitute for a lapsed appeal.[19]

WHEREFORE, the Petition is hereby DISMISSED and the assailed Order AFFIRMED. Costs against petitioner.

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SO ORDERED.

Melo, (Chairman), Vitug, and Sandoval-Gutierrez, JJ., concur.
Gonzaga-Reyes, J., on leave.

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[1] Rollo, pp. 4-10.

[2] Rollo, pp. 13-14.

[3] Rollo, pp. 111-118.

[4] Ibid., Petitioner's Memorandum, at pp. 1-3.

[5] Respondent's Memorandum, pp. 1-4; rollo, pp. 71-82.

[6] RTC Order, pp. 1-2; rollo, pp. 13-14.

[7] The Court deemed the case submitted for resolution on December 29, 2000, upon receipt of Petitioner's Memorandum signed by Atty. Stevenson G. Conlu. The Memorandum for respondents, signed by Atty. Darrill P. Venus, was filed on December 6, 2000.

[8] Rollo, p. 112-A.

[9] Marina Properties Corporation v. Court of Appeals, 294 SCRA 273, August 14, 1998.

[10] Commission on Elections v. Silva Jr., 286 SCRA 177, February 10, 1998.

[11] Ortiz v. Court of Appeals, 299 SCRA 708, December 4, 1998.

[12] Pedrosa v. Hill, 257 SCRA 373, June 14, 1996.

[13] Uy v. Court of Appeals, 286 SCRA 343, February 12, 1998.

[14] MERS Shoes Manufacturing, Inc. v. NLRC, 286 SCRA 647, February 27, 1998; Kathy-O Enterprises v. NLRC, 286 SCRA 729, March 2, 1998; Mabuhay Development Industries v. NLRC, 288 SCRA 1, March 25, 1998.

[15] Videogram Regulatory Board v. Court of Appeals, 265 SCRA 50, 56, November 28, 1996.

[16] Building Care Corporation v. NLRC, 268 SCRA 666, February 26, 1997.

[17] Buñag v. Court of Appeals, 303 SCRA 591, February 25, 1999.

[18] Philippine Tuberculosis Society, Inc. v. NLRC, 294 SCRA 567, August 25, 1998; Reyes v. Court of Appeals, 321 SCRA 368, December 21, 1999.

[19] GSIS v. Olisa, 304 SCRA 421, March 10, 1999; Mathay Jr. v. Civil Service Commission, 312 SCRA 91, August 9, 1999.

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