REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE NATIONAL CENTENNIAL COMMISSION, PETITIONER, VS. COURT OF APPEALS, HON. CHRISTOPHER LOCK, IN HIS CAPACITY AS THE PRESIDING JUDGE OF...

G.R. No. 141530. March 18, 2003

Ponente: CORONA, J.

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CORONA, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure seeking to annul the Resolution dated March 15, 1999 of the Court of Appeals[1] which dismissed (1) the petition for certiorari filed by the petitioner Republic of the Philippines for having been filed out of time and (2) the subsequent resolution which denied petitioner's motion for reconsideration.

The antecedent facts follow.

In line with the centennial celebration of Philippine Independence on June 12, 1998, the government embarked on several commemorative Centennial Freedom Trail (CFT) projects. One of these projects was the construction of the Tejeros Convention Center and the founding site of the Philippine Army on the 3,497 sq. m. property of respondent Fe Manuel located in Tejeros, Rosario, Cavite. The said property was declared by the National Historical Institute (NHI) as a historical landmark in its Resolution No. 2 dated April 19, 1995.[2]

To carry out the Tejeros Convention Project, the government, through the National Centennial Commission (NCC), filed on December 4, 1997 a complaint for expropriation against respondents Fe Manuel and Metropolitan Bank and Trust Company (Metrobank).[3] The land was mortgaged by Fe Manuel to Metrobank and was extrajudicially foreclosed by the latter on November 20, 1997.[4] Respondent Fe Manuel interposed no objection to the expropriation as long as just compensation was paid.[5]

On May 27, 1998, Presiding Judge Christopher Lock of the Regional Trial Court of Cavite City, Branch 88, dismissed the complaint for expropriation on the ground of lack of cause of action. The trial court ruled that, based on the 1987 Administrative Code,[6] there were: (1) no prior determination by the President as to the necessity or wisdom of the exercise of the right of eminent domain, and (2) no prior written authority for the Solicitor General to institute the expropriation case. Without such conditions precedent, the trial court ruled that plaintiff had no cause of action to file the expropriation case.[7] The trial court also ruled that the NCC had no power under Executive Order No. 128[8] to acquire real estate properties through negotiated sale, nor to recommend to the President the propriety of taking property through condemnation proceedings. It explained that since the NCC's life was only up to the June 12, 1998 celebrations, the fear of defendant Metrobank that there would be no more entity to process its claim for just compensation was perfectly valid. Accordingly, the trial court dismissed the complaint for expropriation.[9]

On June 17, 1998, petitioner filed a motion for reconsideration of the trial court's order dismissing its complaint.

The trial court denied the motion in its order dated October 6, 1998, a copy of which was received by the petitioner on October 12, 1998.[10]

On December 11, 1998, petitioner filed a petition for certiorari before the Court of Appeals, alleging grave abuse of discretion on the part of Judge Christopher Lock for summarily dismissing its complaint and denying its motion for reconsideration.[11]

The Court of Appeals dismissed the petition, in its resolution dated March 15, 1999, for having been filed out of time. It also denied petitioner's motion for reconsideration in its January 13, 2000 resolution.[12]

Aggrieved, petitioner filed the instant petition for review, arguing that the Court of Appeals should not have applied to its case the amendment made to Section 4, Rule 65 of the 1997 Rules of Civil Procedure, which took effect on September 1, 1998. Procedural rules, petitioner argued, should not be given retroactive effect where their application would result in injustice. Petitioner invoked Section 6, Rule 1 of the 1997 Rules of Civil Procedure which provides that liberality should be observed in construing the Rules of Court in order to promote its objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Petitioner also called the Court's attention to the case of Solar Team Entertainment vs. Ricafort,[13] wherein we accorded liberality to the implementation of Section 11, Rule 13 of the 1997 Rules of Civil Procedure.[14] We ruled in the said case that strict compliance with Section 11, Rule 13 thereof shall be required 1 month from the promulgation of the Court's decision or 2 years from the time the Rules actually took effect. Petitioner said that Solar Team and its case were similar in that both arose about the time when a new amendment was being implemented; hence, its case should be accorded the same consideration given in Solar Team.[15]

In its Memorandum dated September 11, 2001, petitioner invoked A.M. No. 00-2-03-SC which took effect on September 1, 2000, specifically amending Section 4, Rule 65 of the 1997 Rules of Civil Procedure. A.M. No. 00-2-03-SC was the amendment reverting to the original rule that the 60-day period for filing a petition for certiorari shall be reckoned from receipt of the order denying the motion for reconsideration.[16]

Private respondent Fe Manuel, owner and mortgagor of the land subject of expropriation, interposed no objection to the expropriation in her Comment to the petition for review.[17] She in fact adopted the arguments of the petitioner in her Memorandum.[18]

On the other hand, Metrobank asserted that the petition for certiorari was correctly dismissed because it was filed out of time. It argued that when petitioner received the order of the trial court denying its motion for reconsideration on October 12, 1998, the new Section 4, Rule 65 of the 1997 Rules of Civil Procedure, as amended by the Resolution of the Supreme Court En Banc dated July 21, 1998 in Bar Matter No. 803, was already in effect. Said amended rule, effective as of September 1, 1998, provides that the 60-day period shall be reckoned from receipt of the assailed decision, order or resolution. Thus, based on this new rule, the petition for certiorari was filed 14 days late.[19]

The sole issue at hand is whether or not the petition for certiorari filed by the Republic of the Philippines before the Court of Appeals was filed out of time.

The petition is meritorious.

In dismissing the petition for certiorari for having been filed out of time, the Court of Appeals applied Section 4, Rule 65 of the 1997 Rules of Civil Procedure, as amended by the July 21, 1998 Bar Matter No. 803, effective September 1, 1998, which provides:

> Sec. 4. Where and when petition to be filed. â"€ The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court, or if it relates to the acts

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> or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by the law or the Rules, the petition shall be filed in and cognizable only by the Court of Appeals.
>
> If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (Emphasis ours)

Strictly speaking, the Court of Appeals did not err in dismissing the petition for having been filed out of time because the prevailing rule at that time provided that the 60-day period for filing a petition for certiorari shall be reckoned from receipt of the assailed decision or order. The period is interrupted when a motion for reconsideration is filed but it starts to run again from receipt of the denial of the said motion for reconsideration. Based on this amendment, respondent Court of Appeals ruled that the filing of the petition for certiorari was 14 days late. The respondent Court of Appeals ruled:

> In the petition at bench, records show that the Office of the Solicitor General received a copy of the Court a quo's Order dated May 7, 1998 on June 3, 1998 and that a motion for reconsideration was filed on June 17, 1998. Therefore, there was a lapse of fourteen (14) days from receipt of the assailed Order before the OSG filed a motion for reconsideration.
>
> Considering the material dates stated above, the Office of the Solicitor General had only forty-six 46 days left from October 12, 1988 (sic), date when it received the Order denying the motion for reconsideration dated October 6, 1998 or until November 27, 1998 within which to file the instant petition for certiorari. However, the petition was filed only on December 11, 1998 by registered mail. Therefore, it was filed fourteen (14) days late.[20]

However, Section 4, Rule 65 of the 1997 Rules of Civil Procedure as amended by Bar Matter No. 803 effective September 1, 1998, was recently amended by A.M. No. 00-2-03-SC effective September 1, 2000. The recent rule no longer provides that the 60-day period shall be reckoned from receipt of the assailed decision, order or resolution. Instead, it provides that the 60-day period shall be reckoned from receipt of the order denying the motion for reconsideration. The rule at present reads as follows:

> Sec. 4. When and where petition filed. – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.
>
> The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. It if involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.
>
> No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days. (Emphasis ours)

The amendment under A.M. 00-2-03-SC quoted above is procedural or remedial in character. It does not create new or remove vested rights but only operates in furtherance of the remedy or confirmation of rights already

existing. It is settled that procedural laws do not come within the legal conception of a retroactive law, or the general rule against retroactive operation of statutes. They may be given retroactive effect to actions pending and undetermined at the time of their passage and this will not violate any right of a person who may feel that he is adversely affected, inasmuch as there is no vested rights in rules of procedure.[21]

The retroactive application of A.M. 00-2-03-SC has, in fact, already been ordered by this Court in a number of recent cases, such as Systems Factors Corporation vs. NLRC, [22] Unity Fishing Development Corporation vs. Court of Appeals, [23] Docena et. al. vs. Lapesura, [24] Pfizer vs. Galan [25] and Universal Robina Corporation et. al. vs. Court of Appeals et. al. [26]

Thus, by virtue of this retroactive application of A.M. 00-2-03-SC, we hold that the instant petition for certiorari was filed on time. In fact, there is no dispute that the petition was filed by petitioner on the 60[th] day from receipt of the order denying the motion for reconsideration. Petitioner received the denial on October 12, 1998 and it filed the petition for certiorari on December 11, 1998. Clearly therefore the petition was filed on time.

WHEREFORE, the petition is granted. The assailed resolutions of the Court of Appeals dated March 15, 1999 and January 13, 2000 are hereby set aside and the case is remanded to the Court of Appeals for further proceedings.

No costs.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez and Carpio-Morales, JJ., concur.

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[1] Penned by Associate Justice Corona Ibay-Somera and concurred in by Associate Justice Oswald D. Agcaoili and Associate Justice Eloy R. Bello, Jr. Petition, Annex “A”, Rollo, pp. 35-37.

[2] Rollo, pp. 13, 51.

[3] Rollo, pp. 13, 53.

[4] Rollo, pp. 110, 120.

[5] Rollo, pp. 73-79.

[6] Section 12, Chapter 4, Book III of the 1987 Administrative Code.

[7] Rollo, pp. 39-44.

[8] Dated October 4, 1993.

[9] Rollo, pp. 39-44.

[10] Rollo, p. 14.

[11] Rollo, pp. 14-15.

[12] Rollo, p. 15.

[13] 293 SCRA [1998].

[14] A mandatory provision in the 1997 Rules of Civil Procedure which requires a party to explain his/her failure to effect a personal filing of a pleading in court or personal service thereof on an adverse party.

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[15] Rollo, pp. 16-20.

[16] Rollo, pp. 201-204.

[17] Rollo, pp. 73-79.

[18] Rollo, pp. 180-188.

[19] Rollo, pp. 110-112; 235-237.

[20] Rollo, pp. 35-37.

[21] Systems Factors Corporation vs. NLRC, 346 SCRA 149, 152 [2000], citing Castro vs. Sagales, 94 Phil 208 [1953]; Gregorio vs. CA , 26 SCRA 229 [1968]; Tinio vs. Mina, 26 SCRA 512 [1968]; Billones vs. CIR, 14 SCRA 674 [1965].

[22] 346 SCRA 140 [2000].

[23] 351 SCRA 140 [2001].

[24] G.R. No. 140153, March 23, 2001.

[25] G.R. No. 143389, May 25, 2001.

[26] G.R. No. 144978, January 15, 2002.

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