ANTONIO C. SAN LUIS, PETITIONER, VS. COURT OF APPEALS, HON. NELSON BAYOT, AS PRESIDING JUDGE, RTC, PASAY CITY, BRANCH 118, AND T.N. LAL & CO., LTD., RESPONDENTS.

G.R. No. 142649. September 13, 2001

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

Challenged in the petition for review in this case is the Resolution[1] of 24 January 2000 of the Court of Appeals in CA G.R. SP No. 56549, which dismissed petitioner's special civil action for certiorari for having been filed out of time, as well as its Resolution of 13 March 2000, denying the motion for reconsideration of the former.

The record discloses that private respondent T.N. Lal & Co., Ltd. filed a petition for indirect contempt against herein petitioner, Antonio C. San Luis, Administrator of the Light Rail Transit Authority (LRTA), before the Regional Trial Court of Pasay City. The petition was docketed as Civil Case No. 99-0480 and raffled to Branch 118 of said court. The action arose from the alleged failure or refusal of petitioner to comply with the order of 7 April 1999 of Hon. Ernesto A. Reyes, presiding judge of Branch 111 of said court in Civil Case No. 97-0423. The order directed the LRTA to immediately restore the power supply of private respondent's sound system in all places, sites and locations in its area of responsibility within 24 hours from receipt of the same.[2]

Petitioner filed a motion to dismiss the petition for indirect contempt on the ground that it states no cause of action and private respondent, as petitioner therein, was guilty of forum-shopping.[3]

On 15 July 1999, public respondent Hon. Nelson Bayot, presiding judge of Branch 118, issued an order, a copy of which was received by petitioner on 9 August 1999, directing that the petition for indirect contempt, Civil Case No. 99-0480, be transferred to Branch 111 for disposition and appropriate action, since it was that branch which issued the order of 7 April 1999 and against which the contemptuous act was committed; hence, Branch 111 was in a better position to determine whether or not the order of 7 April 1999 had been violated.[4]

On 18 August 1999, petitioner moved to reconsider the 15 July 1999 order of Judge Bayot. The latter issued an order on 22 October 1999, stating that the records of the case had already been transferred to Branch 111 and that he believed the assailed order was correct and proper. Accordingly, he would not act anymore on the motion for reconsideration.[5] A copy of said order was received by petitioner on 8 November 1999.

On 7 January 2000, petitioner filed with the Court of Appeals a petition for certiorari and mandamus under Rule 65 of the Rules of Court. In the petition, which was docketed as CA-G.R. SP No. 56549, petitioner sought to annul Judge Bayot's orders of 15 July 1999 and 22 October 1999 on the ground that the latter acted without or in excess of jurisdiction and/or with grave abuse of discretion when he did not act on petitioner's motion to dismiss and motion for reconsideration and, instead, transferred the case to Branch 111 of the court below.[6]

In its Resolution of 24 January 2000, the Court of Appeals dismissed the petition for having been filed out of time.[7] Forthwith, petitioner filed a "Motion for Reconsideration" as well as a "Motion to Admit Petition for

Certiorari and Mandamus and to Relax Strict Rules on Procedure," both of which the Court of Appeals denied in its Resolution of 13 March 2000.[8]

Petitioner is now before us, asking for a liberal application of the procedural rules. He raises the following issues for resolution:

> - WHETHER OR NOT THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DENYING PETITIONER'S PETITION FOR CERTIORARI AND MANDAMUS AND CONSEQUENTLY DISMISSED THE SAME FOR ITS FAILURE TO FILE THE SAID PETITION ON TIME, OVERLOOKING THE FACT THAT THE FAILURE TO FILE THE SAME WAS DUE TO AN HONEST MISTAKE AND HUMAN ERROR IN COMPUTING THE PERIOD FOR FILING THE INSTANT PETITION BY HANDLING COUNSEL.
>
> - WHETHER OR NOT THE INSTANT CASE IS WARRANTED SO THAT PETITIONER'S PETITION FOR CERTIORARI AND MANDAMUS WITH THE COURT OF APPEALS COULD BE REINSTATED AND PROCEED IN DUE COURSE IN ORDER NOT TO DEPRIVE PETITIONER OF ITS [SIC] RIGHT TO PROSECUTE HIS CASE BEFORE THE COURT OF APPEALS SO THAT IT CAN BE DECIDED ON THE MERITS AND NOT ON ITS TECHNICALITY ASPECT.[9]

On the procedural aspect, we rule in favor of petitioner.

In finding that the petition for certiorari and mandamus was filed out of time, the Court of Appeals applied Section 4, Rule 65 of the 1997 Rules of Civil Procedure, as amended by the Resolution of 21 July 1998, which reads:

> Sec. 4. Where petition filed. — The petition shall 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 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 law or these 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 exceeding fifteen (15) days.

The Court of Appeals reckoned the counting of the 60-day period from petitioner's receipt on 9 August 1999 of a copy of the assailed 15 July 1999 order, considered the interruption of the running of the period by the filing on 18 August 1999 of the "Motion for Reconsideration," and held that the remaining period resumed to run on 8 November 1999, the date petitioner received the 22 October 1999 order. Accordingly, petitioner should have filed the petition on or before 29 December 1999. He filed the petition only on 7 January 2000, or nine days after the expiration of the period.

It must be pointed out, however, that Section 4, Rule 65 of the 1997 Rules of Civil Procedure was subsequently amended in the Court's Resolution in A.M. No. 00-2-03-SC, which took effect on 1 September 2000. As amended, said section 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.

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> 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. If it 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.

Under this amendment, the 60-day period within which to file the petition starts to run from receipt of notice of the denial of the motion for reconsideration, if one is filed. In our decision in Systems Factors Corporation and Modesto Dean vs. NLRC, et al.,[10] reiterated in Unity Fishing Development Corp. and/or Antonio Dee vs. Court of Appeals, et al.,"[11] the new period was made applicable to pending cases, such as in the case at bar. Settled is the rule that remedial statutes or statutes relating to remedies or modes of procedure, which do not create new rights or take away vested rights but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the purview of the general rule against the retroactive operation of statutes. Procedural laws are construed to be applicable to actions pending and undetermined at the time of their passage, and are deemed retroactive in that sense and to that extent. As a general rule, the retroactive application of procedural laws cannot be considered violative of any personal rights because no vested right may attach to nor arise therefrom.

Conformably with Section 4 of Rule 65, as amended, the 60-day period of petitioner to file the petition for certiorari should be counted from his receipt on 8 November 1999 of the Resolution of 22 October 1999, denying his motion for reconsideration. Hence, the petition for certiorari having been filed on 7 January 2000, the last day of the reglementary period, the Court of Appeals should not have dismissed the same on ground of late filing.

In view of the foregoing, our next logical step would be to direct the Court of Appeals to resolve on its merit CA-G.R. SP No. 56549 by determining the issue raised therein on whether Judge Bayot committed grave abuse of discretion or acted without or in excess of jurisdiction in transferring the case for indirect contempt to Branch 111 of the court below. Such step would, however, unduly prolong the disposition of the main action. We shall act on said petition, considering that the lone issue raised is one of law.[12] It is already an accepted rule of procedure for us to strive to settle the entire controversy in a single proceeding, leaving no root or branch to bear the seeds of future litigation.[13] If, based on the records, the pleadings, and other evidence, the dispute can be resolved by us, we will do so to serve the ends of justice, instead of remanding the case to the lower court for further proceedings.[14]

In his petition for review on certiorari before the Court of Appeals in CA-G.R. SP No. 56549, petitioner contended that Judge Bayot committed grave abuse of discretion in refusing to act on his motion to dismiss the indirect contempt case and on his motion for reconsideration, and, instead, referred the case to Branch 111 of the court below, the court which issued the order subject of the case for indirect contempt.

The pertinent rules on the matter are Sections 4 and 5, Rule 71 of the Rules of Court, which read:

> SEC. 4. How proceedings commenced. — Proceedings for indirect contempt may be initiated motu proprio by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.
>
> In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with

> the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.
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> SEC. 5. Where charge to be filed. — Where the charge for indirect contempt has been committed against a Regional Trial Court or a court of equivalent or higher rank, or against an officer appointed by it, the charge may be filed with such court. Where such contempt has been committed against a lower court, the charge may be filed with the Regional Trial Court of the place in which the lower court is sitting; but the proceedings may also be instituted in such lower court subject to appeal to the Regional Trial Court of such place in the same manner as provided in section 11 of this Rule.

"In whatever context it may arise, contempt of court involves the doing of an act, or the failure to do an act, in such a manner as to create an affront to the court and the sovereign dignity with which it is clothed. As a matter of practical judicial administration, jurisdiction has been felt to properly rest in only one tribunal at a time with respect to a given controversy."[15] Only the court which rendered the order commanding the doing of a certain act is vested with the right to determine whether or not the order has been complied with, or whether a sufficient reason has been given for noncompliance, and, therefore, whether a contempt has been committed.[16] It is a well-established rule that the power to determine the existence of contempt of court rests exclusively with the court contemned. No court is authorized to punish a contempt against another.[17]

"The rationale that is usually advanced for the general rule . . . is that contempt proceedings are sui generis and are triable only by the court against whose authority the contempts are charged; the power to punish for contempt exists for the purpose of enabling a court to compel due decorum and respect in its presence and due obedience to its judgments, orders and processes and in order that a court may compel obedience to its orders, it must have the right to inquire whether there has been any disobedience thereof, for to submit the question of disobedience to another tribunal would operate to deprive the proceeding of half its efficiency."[18]

Section 4, Rule 71 of the Rules of Court provides, in effect, that a charge for indirect contempt must be filed with the court contemned. Although this provision is permissive in nature, in the event of concurrent jurisdiction over cases of contempt of court, it would be a good practice to acknowledge the preferential right of the court against which the act of contempt was committed to try and punish the guilty party.[19]

On the basis of the foregoing disquisitions, we find and so hold that public respondent Judge Nelson Bayot committed no error and did not act with abuse of discretion in ordering the transfer of the petition for indirect contempt, Civil Case No. 99-0480, to Branch 111 of the Regional Trial Court of Pasay City, whose order was the subject of the contempt suit.

WHEREFORE, the Resolutions of the Court of Appeals dated 24 January 2000 and 13 March 2000 in CA-G.R. SP No. 56549 are hereby SET ASIDE. For the reasons set forth above, said case is ordered DISMISSED, and the orders of public respondent judge dated 15 July 1999 and 22 October 1999 in Civil Case No. 99-0480 are hereby AFFIRMED. The Presiding Judge of Branch 111, Regional Trial Court of Pasay City, shall forthwith conduct the appropriate proceedings in Civil Case No. 99-0480, including the resolution of petitioner's motion to dismiss the case.

No pronouncement as to costs.

SO ORDERED.

Kapunan, Pardo, and Ynares-Santiago, JJ., concur.
Puno, J., on official leave.

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[1] Per Abad Santos, Q., J., with Adefuin-de la Cruz, B. and Villarama, Jr., M., JJ., concurring.

[2] Annex "C," CA Rollo, 20.

[3] Annex "D," Id., 21-30.

[4] Annex "A," Id., 18.

[5] Annex "B," Id., 19.

[6] Rollo, 1-14.

[7] Id., 27-28.

[8] Id., 30-31.

[9] Id., 14.

[10] G.R. No. 143789, 27 November 2000.

[11] G.R. No. 145415, 2 February 2001.

[12] See Roman Catholic Archbishop of Manila v. Court of Appeals, et al., 198 SCRA 300 [1991]; Republic v. Security Credit and Acceptance Corp., 19 SCRA 58 [1967].

[13] Gokongwei, Jr. v. Securities and Exchange Commission, 89 SCRA 336 [1979].

[14] Ching v. Court of Appeals, G.R. No. 110844, 27 April 2000. See also Morales v. Court of Appeals, 283 SCRA 211 [1997]; Golangco v. Court of Appeals, 283 SCRA 493 [1997].

[15] People v. Godoy, 243 SCRA 64 [1995], citing 99 ALR 2d 1103.

[16] La.—State ex rel. Connerly v. Tangipahoa Parish School Board, App., 9 So. 2d 826.

[17] 17 C.J.S., Contempt, §51.

[18] People v. Godoy, supra note 15, citing In re Debs, 158 U.S. 564.

[19] People v. De Luna, 102 Phil. 968 [1958].

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