

PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. SARGASSO CONSTRUCTION & DEVELOPMENT CORP., PICK & SHOVEL, INC., ATLANTIC ERECTORS, INC. (JOINT VENTURE), RESPONDENTS.

G.R. No. 146478. July 30, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Resolution[1] of the Court of Appeals dismissing the appeal of the petitioner in CA-G.R. CV No. 63180 and its Resolution denying the motion for reconsideration thereon.

The Antecedents

The petitioner Philippine Ports Authority embarked on the development of the northwest Ground Quadrangle consisting of the construction of the rock causeway for the port of San Fernando, La Union and Pier 2. An important component of the project was the improvement of the San Fernando port, inclusive of the reclamation of 4,280 square meters adjacent to Pier 2.

The petitioner offered up for public bidding the construction of Pier 2 and the rock causeway for the port of San Fernando, La Union. The project was awarded to a consortium composed of Sargasso Construction and Development Corp., Pick & Shovel, Inc., and Atlantic Erectors, Inc., the respondents herein. The contractor commenced the project on August 14, 1990.[2]

Instead of awarding the reclamation project to a constructor after public bidding, the General Manager of the petitioner decided to negotiate with a contractor for a contract for the completion of the project. The award of the reclamation project was made subject to the following conditions: a) the completion of the installation of the rubber dock fender at Pier 2, San Fernando and the Tobacco port; b) that the mobilization/demobilization costs shall not be included in the contract; and, c) that escalation shall be reckoned from the approval of the supplemental agreement.

On October 1, 1992, the respondents offered to complete the project as extra work to its existing contract with the petitioner, for the total cost of P36,294,857.03.[3]

In a Letter dated December 18, 1992, the petitioner's Assistant General Manager for Engineering, Teofilo H. Landicho, informed the respondents that its proposal was not acceptable. However, he stated that if the price of the project would be lowered to P30,794,230.89, then the petitioner PPA may award the project to the respondents, subject to the approval of higher authority.[4] The respondents, through their Executive Director, agreed to reduce the price of the project.[5]

On August 26, 1993, the petitioner's General Manager Rogelio A. Dayan, issued a Notice of Award of the project to the respondents. The approval of the reclamation project was conditioned upon the completion of the fendering of Pier 2 of the San Fernando port and the port of Tobacco, and was contained in the notice of award.[6] The respondents agreed to this condition.[7] The petitioner instructed the consortium to prepare a supplemental

agreement and, thereafter, to transmit the same, including the documents specified therein.

Upon the completion of the installation of the rubber dock fenders, General Manager Dayan presented the approval of the reclamation project and the award thereof to the respondents for P30,794,230.89, as well as the contract thereon. The presentation was made during a meeting of the Board of Directors on September 9, 1994. After due deliberation, the Board of Directors resolved to reject the contract and to direct the management to bid the project for lack of basis to award the contract through negotiation. The Board noted that:

...[T]he Pier 2 Project was basically for the construction of a pier while the supplemental agreement refers to reclamation. Thus, there is no basis to compare the terms and conditions of the reclamation project with the original contract (Pier 2 Project) of Sargasso.[8]

Upon being ere notified of the resolution of the Board of Directors, the respondents wrote the General Manager on September 19, 1994 requesting that its agreement be presented again to the Board of Directors for approval.[9] However, the petitioner did not advise the respondents as to the Board of Directors' action on its request for the reconsideration of the resolution.

On June 30, 1997, the respondents filed a Complaint with the Regional Trial Court of Manila, Branch 14, for specific performance against the petitioner, praying that the latter be ordered to execute a supplemental contract based on the August 26, 1993 Notice of Award for the project, and to pay actual and exemplary damages, attorney's fees and litigation expenses.

The petitioner, through the Office of the Government Corporate Counsel (OGCC), represented by the Government Corporate Counsel and Atty. Ramiro R. Madarang, its Assistant General Corporate Counsel, with collaboration from the Legal Services Department of the petitioner, through Atty. Francisquiel O. Mancile, filed its Answer with counterclaims. It alleged that (a) the complaint was premature, as the respondents' request for the reconsideration of the resolution had not yet been acted upon; and, (b) no contract on the project was perfected between it as the owner, and the respondents as the contractor, since the proposed supplemental agreement between the parties was rejected by the petitioner's Board of Directors, and which rejection was relayed to the respondent.

The petitioner, through its General Manager, executed a Special Power of Attorney appointing Atty. Ramiro R. Madarang and other lawyers of the OGCC, and Atty. Francisquiel O. Mancile and other lawyers of its Legal Services Department as its lawful attorneys at all stages of the proceedings in the present case.[10] Atty. Francisquiel Mancile appeared before the trial court as counsel of the petitioner. Atty. Mancile appeared for the petitioner during the trial except during the hearing of October 21, 1997[11] when Atty. Ramiro R. Madarang of the OGCC appeared for the petitioner with Atty. Mancile.

After trial, the court rendered its Decision[12] in favor of the respondents, the dispositive portion of which reads as follows:

WHEREFORE, and in view of the foregoing considerations, judgment is hereby rendered ordering the defendant to execute a contract in favor of the plaintiff for the reclamation of the area between the Timber Pier and Pier 2 located at San Fernando Port, La Union, for the price of P30,794,230.89 and to pay the costs.

The counterclaim is hereby dismissed for lack of merit.

SO ORDERED.[13]

The petitioner was served with a copy of the trial court's decision. On July 3, 1998, the petitioner, through the Office of the Government Corporate Counsel, filed a Motion for Reconsideration thereof. On January 26, 1999,

the trial court issued an Order denying the said motion.[14] On February 16, 1999, the petitioner was served a copy of the said order through its Legal Department. On February 26, 1999, the petitioner, through the Government Corporate Counsel, filed a Notice of Appeal of the decision and order of the trial court. Such notice of appeal was given due course.[15]

In its brief, the petitioner alleged that it received a copy of the appealed decision on June 22, 1998.[16] The petitioner also alleged that (a) it filed its motion for reconsideration of the trial court's decision on July 3, 1998, or eleven (11) days after the receipt of the decision; (b) it received the trial court's order denying its motion for reconsideration on February 16, 1999; and, (c) it filed its Notice of Appeal on February 26, 1999 or ten (10) days after the receipt of the order. The respondents filed a motion to dismiss the appeal, contending that the petitioner's notice of appeal was filed six (6) days after the period allowed therefor.

In its Opposition to the Motion to Dismiss Appeal,[17] the petitioner averred that the decision of the trial court was served on its Legal Services Department and not on the OGCC as its lead counsel. It averred that the OGCC merely used the copy served on the Legal Services Department as basis for the filing of the motion for reconsideration and the appeal. The petitioner argued that since the OGCC was not served with a copy of the trial court's decision, the period to perfect its appeal therefrom never commenced. It stressed further that the respondents' motion to dismiss was filed belatedly, since such motion to dismiss was not filed while the case was still in the Regional Trial Court.

The respondents, however, argued that they discovered the petitioner's belated filing of the notice of appeal only when the latter filed its appellant's brief with the Court of Appeals, and declared the following material dates: (a) when it received the decision of the trial court; (b) when it filed its motion for reconsideration; (c) when it received the order of the trial court denying its motion for reconsideration; and, (d) when it filed its notice of appeal. According to the respondents, such material dates were declared in the appellant's brief for the first time, and were not stated in the petitioner's notice of appeal in the trial court.

Before the respondents' motion could be resolved, the latter filed their appellees' brief with the appellate court.

On June 27, 2000, the Court of Appeals issued a Resolution granting the respondents' Motion to Dismiss Appeal, declaring that the petitioner's appeal was filed six (6) days late.[18] The Court of Appeals cited the ruling of this Court in *Republic vs. Court of Appeals*,[19] and the admission by the petitioner in its brief that it received a copy of the decision of the trial court on June 22, 1998. The petitioner sought to have the said resolution reconsidered, but the same was denied by the appellate court in a Resolution dated December 12, 2000.[20]

The Present Petition

The petitioner now comes to this Court and raise the following issues:

- WHETHER OR NOT THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DENYING PETITIONER'S APPEAL AND CONSEQUENTLY DISMISSED THE SAME FOR BEING FILED OUT OF TIME, OVERLOOKING THE FACT THAT PETITIONER, THROUGH ITS LEAD COUNSEL OF RECORD, THE OGCC, WAS NOT VALIDLY SERVED WITH A COPY OF THE TRIAL COURT'S DECISION DATED JUNE 8, 1998, AND, THEREFORE, THE PERIOD TO PERFECT AN APPEAL DID NOT RUN.
- WHETHER OR NOT THE INSTANT CASE IS WARRANTED SO THAT PETITIONER'S APPEAL WITH THE COURT OF APPEALS COULD BE REINSTATED AND PROCEED IN DUE COURSE IN ORDER NOT TO DEPRIVE PETITIONER OF ITS RIGHT TO PROSECUTE ITS CASE SO THAT THE COURT OF APPEALS WILL DECIDE ON THE MERITS AND NOT ON TECHNICALITY.

Anent the first assigned issue, the petitioner argues that while the trial court's decision and order were served on it through its Legal Services Department, such service was ineffectual since the OGCC is its statutory lead counsel. Hence, all copies of the trial court's orders, as well as its decision, should be served on the petitioner through the OGCC and not through the Legal Services Department. The petitioner asserts that since the OGCC was not served with a copy of the decision of the trial court, the period for it to appeal the decision had not commenced; as such, the appeal from the said decision was made within the reglementary period therefor.

The Ruling of the Court

We rule against the petitioner.

The petitioner's contention that the OGCC was its lead counsel in the trial court is belied by the records. The records show that the petitioner was represented in the trial court by the OGCC in collaboration with its Legal Services Department, through Atty. Francisquiel O. Mancile. The petitioner, through its General Manager, executed a Special Power of Attorney appointing the OGCC and its Legal Services Department, through any of their lawyers, as its counsel, not only during the pre-trial but throughout the entire proceedings.[21] Hence, the copies of the orders and decision of the trial court may be served on the petitioner, either through its Legal Services Department or through the OGCC, following Rule 13, Section 2 of the Revised Rules of Court, as amended. Indeed, in *Albano v. Court of Appeals*,[22] we held that:

With regard to their first assignment of error, petitioners are on extremely shaky grounds when they argue that counsel on record are entitled to separate notices of the court's decision. This argument is obviously inconsistent with Sec. 2, Rule 13 of the Rules of Court which explicitly provides that if a party has appeared by counsel, "service upon him shall be made upon his counsel or one of them" (italics supplied). Clearly, notice to any one of the several counsel on record is equivalent to notice to all and such notice starts the time running for appeal notwithstanding that the other counsel on record has not received a copy of the decision.[23]

It is true that, under Section 10, Chapter 3, Title III, Book IV of the Revised Administrative Code of 1987,[24] the OGCC shall act as the principal law office of all government-owned or controlled corporations and shall exercise control and supervision over all legal departments or divisions maintained separately; hence, is entitled to copies of all orders of the trial court and a copy of its decision. The records also show that the OGCC was not served with a copy of the decision of the trial court. However, the petitioner, through the OGCC, admitted in its Brief in the Court of Appeals that it was served, on June 22, 1998, with a copy of said decision of the trial court, thus:

This is an appeal from the decision rendered by the Regional Trial Court of Manila, Branch 14, on June 8, 1998, the dispositive portion of which states as follows: "WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered ordering the defendant to execute a contract in favor of the plaintiff for the reclamation area between the Timber Pier and Pier 2 located at San Fernando Port, La Union for the price of P30,794,230.89 and to pay the costs.

"The counterclaim is hereby dismissed for lack of merit.

"SO ORDERED."

On June 22, 1998, defendant-appellant Philippine Ports Authority (PPA) received the above decision.

Defendant-appellant filed a Motion for Reconsideration of the decision on July 3, 1998. However, the same was denied for lack of merit in an Order dated January 26, 1999. Thereafter, defendant-appellant seasonably filed its Notice of Appeal.[25]

Based on the admission of the petitioner, it is evident that the copy of the trial court's decision which was intended for it and served on Atty. Mancile was transmitted to the OGCC on the same day. The admission of the

petitioner is conclusive on it and cannot be contradicted unless there is a showing of a palpable mistake or that, it made no such admission:

SEC. 4. Judicial admissions. – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.[26]

Despite its receipt of the said decision on June 22, 1998, the petitioner, through the OGCC, filed, on July 3, 1999, a motion for the reconsideration of the said decision. The petitioner, through the OGCC, never alleged in its motion for reconsideration that the service of a copy of the trial court's decision on its Legal Services Department, through Atty. Mancile, was not binding on it. Nor did it allege in the same motion the date when the OGCC received the copy of the decision served on Atty. Mancile. It was only when the respondents filed their motion to dismiss the appeal of the petitioner in the Court of Appeals that the petitioner alleged, for the first time, that the service of the copy of the trial court's decision on Atty. Mancile of its Legal Services Department was not effective and binding on it, and, as such, the period for it to appeal the assailed decision never commenced to run.

Even in its petition at bar, the petitioner concedes that the Court of Appeals cannot be faulted for dismissing its appeal on account of its failure to appeal within the period therefor, and the reliance by the Court of Appeals on the ruling of this Court in *Republic vs. Court of Appeals*.[27] Thus, the petitioner averred:

Petitioner cannot fault the Honorable Court of Appeals if it has relied heavily in the recent case of *Republic of the Philippines vs. Court of Appeals*, G.R. No. 132425, August 31, 1999 to support its resolution of dismissing the appeal. However, petitioner prays to this Honorable Supreme Court in the higher interest of substantial justice to assess and weigh the circumstances that led to the present situation for it to see the justification of allowing a liberal interpretation of the rules of procedure just like what it ruled in the case of *Ramos vs. Court of Appeals*, G.R. No. 124354, December 29, 1999, where it ruled:

"It is elementary that when a party is represented by counsel, all notices should be sent to the party's lawyer at his given address. With a few exceptions, notice to a litigant without notice to his counsel on record is no notice at all. In the present case, since a copy of the decision of the appellate court was not sent to the counsel on record of petitioner, there can be no sufficient notice to speak of. Hence, the delay in the filing of the motion for reconsideration cannot be taken against petitioner." (underscoring supplied)[28]

The blame for the belated filing of the petitioner's notice of appeal must be laid on the OGCC, and not on the petitioner's Legal Services Department. The records show that the petitioner's copy of the Order of the trial court dated January 21, 1999 denying its motion for reconsideration was served on Atty. Ramiro Madarang, the Assistant Government Corporate Counsel. He had five (5) days from February 16, 1999 within which to file the notice of appeal, but the OGCC, through the Government Corporate Counsel and Atty. Madarang, filed the said notice only on February 26, 1999. Evidently then, the Government Corporate Counsel and the Assistant Government Corporate Counsel were remiss in their duties, to the prejudice of the petitioner.

The petitioner cannot evade the effects of its folly simply because the respondents sought the dismissal of their appeal only in the Court of Appeals. This is so because under Rule 50, Section 1(b)[29] of the Rules of Court, the CA may dismiss an appeal *motu proprio* or on motion of any party, for failure to file a notice of appeal within the period therefor.

The failure of the petitioner, through the OGCC's negligence, to perfect its appeal from the decision of the trial court, is proof that the OGCC failed in its mandate, as the petitioner's legal counsel, to protect fully the interests of its client, and provide "prompt, efficient, adequate, competent and developmental legal services" to it.[30] The OGCC should take immediate remedial and administrative measures to avoid the recurrence thereof to the gross

prejudice of its clients.

In sum, the petitioner failed to perfect its appeal in the manner and within the period provided for by law. Time and again, we have stressed that the right of appeal is merely a statutory right, and not a natural right. The perfection of an appeal within the reglementary period therefor is mandatory and jurisdictional. The failure of a party, entitled to appeal, to perfect the same in the manner and within the period fixed by law renders the decision appealed from final and executory, beyond the competence of the appellate court to review.[31]

The petitioner, however, pleads for the relaxation of the mandatory period to appeal, and for its appeal to be resolved on its merits to subserve substantial justice, taking into account the nature of the core issue: whether the award of the reclamation project to the respondents by the petitioner's General Manager, without any public bidding and the corresponding approval of the petitioner's Board of Directors for no less than P30,794,230.89 is contrary to law. We note that in its Comment on the petition, the respondents offered no objection to the petitioner's plea, and ex-postulated its position on the merits of the petition.

We have assiduously reviewed the records and resolved to give due course to the petitioner's appeal and set aside the assailed resolutions of the Court of Appeals.

In *Orata vs. Intermediate Appellate Court*,[32] we held that where strong considerations of substantive justice are manifest in the petition, this Court may relax the strict application of the rules of procedure in the exercise of its legal jurisdiction. In addition to the basic merits of the main case, such a petition usually embodies justifying circumstance which warrants our heeding to the petitioner's cry for justice in spite of the earlier negligence of counsel. As we held in *Obut vs. Court of Appeals*: [33]

...[W]e cannot look with favor on a course of action which would place the administration of justice in a straight jacket for then the result would be a poor kind of justice if there would be justice at all. Verily, judicial orders, such as the one subject of this petition, are issued to be obeyed, nonetheless a non-compliance is to be dealt with as the circumstances attending the case may warrant. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities.[34]

The rules of procedure are used only to secure and not override or frustrate justice.[35] A six-day delay in the perfection of the appeal, as in this case, does not warrant the outright dismissal of the appeal. In *Development Bank of the Philippines vs. Court of Appeals*,[36] we gave due course to the petitioner's appeal despite the late filing of its brief in the appellate court because such appeal involved public interest. We stated in the said case that the Court may exempt a particular case from a strict application of the rules of procedure where the appellant failed to perfect its appeal within the reglementary period, resulting in the appellate court's failure to obtain jurisdiction over the case. In *Republic vs. Imperial, Jr.*,[37] we also held that there is more leeway to exempt a case from the strictness of procedural rules when the appellate court has already obtained jurisdiction over the appealed case. We emphasize that:

...[T]he rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. A strict and rigid application of the rules must always be eschewed when it would subvert the rules' primary objective of enhancing fair trials and expediting justice. Technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.[38]

In this case, if we sustain the ruling of the Court of Appeals dismissing the petitioner's appeal, the latter would no longer have a remedy to assail the decision of the trial court. The petitioner would then have to implement the award of the reclamation project to the respondents for the enhancement of the San Fernando, La Union port for

the price of P30,794,230.89 without the benefit of a public bidding, and sans the approval of its Board of Directors. Moreover, both parties had already filed their respective briefs before the appellate court. The remand of the case to the Court of Appeals for it to resolve the appeal of the petitioner on its merits is in order, considering that the issues raised by the parties in the Court of Appeals are legal and factual.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed resolutions are SET ASIDE. The records are REMANDED, and all pertinent records are FORWARDED to the Court of Appeals for further proceedings

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, and Chico-Nazario, JJ., concur.

Sandoval-Gutierrez, and Corona, JJ., on leave.

Tinga, J., in the result. See separate opinion.

[1] Penned by Associate Justice Jose L. Sabio, with Associate Justices Ramon Mabutas, Jr. (retired) and Demetrio G. Demetria, concurring.

[2] Rollo, p. 14.

[3] Exhibit "A;" Records, p. 7.

[4] Ibid.

[5] Id.

[6] Exhibit "B;" Records, p. 8.

[7] Ibid.

[8] Records, p. 30.

[9] Id. at 32.

[10] Records, p. 54.

[11] CA Rollo, p. 11.

[12] Penned by Judge Inocencio D. Maliaman, Regional Trial Court of Manila, Branch 14.

[13] Records, p. 175.

[14] Id. at 215-216.

[15] Id. at 226.

[16] CA Rollo, p. 29.

[17] Id. at 80-82.

[18] Annex "A", Rollo, p. 33.

[19] 313 SCRA 376 (1999).

[20] Annex “B”, Id. at 37.

[21] Records, p. 54.

[22] 362 SCRA 667 (2001).

[23] Id. at 674.

[24] Section 10. Office of the Government Corporate Counsel. – The Office of the Government Corporate Counsel (OGCC) shall act as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate offsprings and government acquired asset corporations and shall exercise control and supervision over all legal departments or divisions maintained separately and such powers and functions as are now or may hereafter be provided by law. In the exercise of such control and supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of the Office.

[25] CA Rollo, p. 29.

[26] Rule 129, Revised Rules of Court.

[27] Supra.

[28] Rollo, p. 23.

[29] SECTION 1. Grounds for dismissal of appeal.— An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

...

(b) Failure to file the notice of appeal or the record on appeal within the period prescribed by these Rules; ...

[30] Section 2, Article III of the Rules and Regulations Integrating and Implementing the Mandate of the Office of the Government Corporate Counsel.

[31] Secretary of Agrarian Reform vs. Tropical Homes, Inc., 362 SCRA 115 (2001).

[32] 185 SCRA 148 (1990).**[33] 70 SCRA 546 (1976).**

[34] Id. at 559.

[35] Republic of the Philippines vs. Court of Appeals, 83 SCRA 453 (1978).

[36] 358 SCRA 501 (2001).**[37] 303 SCRA 127 (1999).**

[38] Development Bank of the Philippines vs. Court of Appeals, supra.

SEPARATE OPINION

TINGA, J.:

I agree with the ponencia's ultimate ruling that the petition be granted and the records forwarded to the Court of Appeals for further proceedings. However, I disagree with the holding of the majority that the petitioner Philippine Ports Authority ("PPA") had lost the right to perfect its appeal before the Court of Appeals.[1] I maintain that the trial court grievously erred in failing to serve a copy of its assailed Decision on PPA's principal counsel, the Office of the Government Corporate Counsel ("OGCC"), and that the ponencia has regrettably overlooked the full ramifications of such failure.

There is no doubt that that the trial court Decision dated 8 June 1998 was not served on the OGCC. The majority admits just as much.[2] The Notice of Decision was served only on the Legal Services Department of the PPA, without any indication that service was made to the OGCC.[3] Still, the ponencia holds that the period within which the PPA could appeal the decision of the RTC should be reckoned from 22 June 1998, the date the Legal Services Department of the petitioner received the assailed decision, and not from when the "OGCC" received the decision. On this holding, I respectfully raise the succeeding points.

The PPA is a government owned or controlled corporation ("GOCC").[4] As pointed out by the ponencia, it is the OGCC which shall act as the principal law office of all GOCCs.[5] In the case of *Phividec Industrial Authority v. Capitol Steel*,[6] the court upheld the prerogatives of the OGCC when it comes to representation of GOCCs, ruling that a private counsel who had not secured the proper authorization from the OGCC could not represent the eponymous GOCC. It noted that under Administrative Order No. 130,[7] all legal matters pertaining to government-owned or controlled corporations shall be exclusively referred to and handled by the OGCC.[8] The Administrative Code of 1987 likewise mandates that the OGCC exercise control and supervision over all legal departments or divisions maintained separately by these GOCCs such as the PPA.[9]

Phividec acknowledges the strong policy bias of tasking the OGCC as the primary legal counsel of GOCCs, to the exclusion of others. Any legal moves in the course of litigation by a GOCC will require the prior consent, if not initiation, by the GOCC. This is the principle recognized by statutes and jurisprudence.

I think that the trial court seriously erred in failing to serve a copy of its Decision on the OGCC. The trial court very well knew that the OGCC was the PPA's principal counsel of record. In fact, it was necessary that the RTC Decision be served on the OGCC. By force of the Administrative Code, the OGCC is the lead counsel of all GOCCs and no agreement or arrangement entered into by, or any act or omission of, the OGCC can alter the set-up. In fact, unlike in the case of the Office of the Solicitor General which may take a position contrary to the government office it represents, the OGCC is expected to advocate the interests of the GOCC it represents. It also exercises control and supervision over the legal offices of the respective GOCCs. The implication is clear – the participation of the OGCC in litigation involving GOCCs is indispensable; and its role in such litigation primary, to the exclusion of other collaborating counsels.

The reglementary period for appeal exists to afford counsel for a party sufficient time to prepare the appeal. The PPA Legal Services Department alone cannot initiate the appeal. It makes sense then that the period of appeal should commence upon receipt of the decision by the indispensable primary legal counsel, the OGCC, as it is the OGCC that would decide whether or not to interpose the appeal at all, what arguments to utilize if an appeal is taken, and generally exercise control or supervision over the preparation of the appeal.

The ponencia notes that the OGCC manifested in its appellant's brief in the Court of Appeals that it had received the RTC's decision on 22 June 1998, although the said copy was served on it through the PPA Legal Services

Department. The majority characterizes such admission as a “judicial admission”, citing Section 4, rule 129 of the Rules of Court. Still, the OGCC never asserted that it itself, as primary legal counsel, received the copy of the decision on 22 June 1998. In fact, it subsequently clarified that it was the PPA Legal Services Department which received the copy on such date, and that it had only relied on this copy in order to file the motion for reconsideration.[10]

It was clearly error for the OGCC to admit that 22 June 1998 was the reckoning date from which to commence the reglementary period to file the appeal, despite the fact that service of the decision was not properly perfected on that date. Still, such “judicial admission” should bear little relevance. It is a well known and settled rule in our jurisdiction that the Republic, or its government, is usually not estopped by mistake or error on the part of its officials or agents.[11]

Accordingly, the reglementary period for appeal by the PPA should be reckoned from the date the OGCC, and not the Legal Services Department of the PPA, received a copy of the assailed decision. Since in this case, the date when the OGCC actually received a copy of the trial court decision has not been duly established, I think it is premature to conclude that the PPA failed to interpose its appeal within the prescribed period. As such, I deem it unnecessary, as the ponencia has done, to invoke “substantive justice” as an excuse to relax the procedural rules and enable the grant of the petition.

For the reasons stated above, I vote to GRANT the petition.

[1]Decision, p. 14.

[2]See Decision, p. 10. “The records also show that the OGCC was not served a copy of the decision of the trial court.”

[3]RTC Records, p. 176.

[4]Established as a body corporate by Pres. Decree No. 857 (1975).

[5]Page 10, Decision, citing Section 10, Chapter 3, Title III, Book IV of the Revised Administration Code of 1987.

[6]G.R. No. 155692, 23 October 2003.

[7]Issued in 1994 by President Ramos.

[8]See Section 1, A.O. No. 130 (1994).

[9]Section 10, Book IV, Title III, Chapter 3, Revised Administrative Code of 1987.

[10] CA Records, p. 80.

[11] Luciano v. Estrella, 145 Phil. 454, 461 (1970); citing several cases. “Such a principle dates back to Aguinaldo de Romero v. Director of Lands, a 1919 decision.” Republic v. Hon. Marcos, 152 Phil. 204, 212 (1973).

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