

HEIRS OF LOURDES POTENCIANO PADILLA REPRESENTED BY NICANOR P. PADILLA III, PETITIONERS, VS. COURT OF APPEALS AND ERNESTO S. AURE, RESPONDENTS.

G.R. No. 147205. March 10, 2004

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before the Court is a petition for review on certiorari assailing the Decision dated January 9, 2001 and the Resolution dated February 28, 2001 of the Court of Appeals in C.A.–G.R. SP No. 60636 which reversed the Decision and Resolution of the Office of the President rendered in OP Case No. 20-A-8913.

The antecedents follow.

At the core of the controversy is a parcel of land identified as Lot 9098, Cad. 455-D, situated at Brgy. Pulo, Cabuyao, Laguna, with an approximate area of 34,932 square meters. Dr. Conrado Potenciano was the recognized occupant of the property which, through the years and even long after his death in 1954, remained for tax purposes under his name.

In 1982, pending the settlement of Dr. Conrado Potenciano's estate before the Regional Trial Court of Manila, the judicial administrator, Victor Potenciano, sold the disputed property to spouses Chito and Nenita Coson. On November 12, 1989, the Cosons sold the lot to Catherine Tuazon, who, in turn, sold the same to E.S. Aure Lending Investor, Inc. (ESALI), represented by Ernesto S. Aure, respondent herein. All the deeds of sale covering these transactions uniformly provided that the vendor shall execute the final deed of sale after survey, segregation and filing of an application in the proper court for authority and approval of the final deed of sale.

On September 10, 1996, respondent Aure filed a free patent application for the said property with the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR), Los Baños, Laguna. He based his claim of ownership on a deed of sale dated September 11, 1996 executed by ESALI conveying the property to him.

Subsequently, the heirs of Lourdes Potenciano Padilla, petitioners herein who are the legal heirs of Dr. Conrado Potenciano, protested respondent's application. They claimed that the property has been adjudicated to them by virtue of an extra-judicial partition approved by the Regional Trial Court of Manila, Branch 4, sometime in 1986. Petitioners also manifested that on March 11, 1997, they applied for the original titling of the disputed lot before the Regional Trial Court of Biñan, Laguna, Branch 24.

After an investigation, finding the protest unfounded, DENR Regional Executive Director Antonio G. Principe issued an Order dated April 24, 1998, dismissing petitioners' protest, thus:

WHEREFORE, PREMISES CONSIDERED, [the] instant protest of Nicanor Padilla III, representing the Hrs. of Lourdes Potenciano Padilla, is hereby ordered dismissed for lack of merit. Eventually, the Office of the Community Environment and Natural Resources is hereby directed to proceed with the processing of the Free

Patent Application No. 043404-132 of Ernesto S. Aure covering Lot 9098, Cad. 455-D situated at Brgy. Pulo, Cabuyao, Laguna.

SO ORDERED. [1]

On August 12, 1998, Regional Executive Director Principe issued a Resolution denying the Motion for Reconsideration of the said Order filed by petitioners.

Petitioners thereafter appealed the case to the Office of the DENR Secretary, which affirmed the assailed Order and Resolution. Thus, on April 30, 1999, then DENR Secretary Antonio H. Cerilles rendered a Decision that ruled:

WHEREFORE, in the light of all the foregoing, the appeal of the Heirs of Lourdes P. Padilla, represented by Nicanor Padilla III is hereby DISMISSED for lack of merit and the Order and Resolution, dated April 24, 1998 and August 12, 1998, respectively, are hereby AFFIRMED.

SO ORDERED.[2]

Petitioners filed a Motion for Reconsideration and the same was denied in an Order dated September 2, 1999, thus:

Viewed in the light of the foregoing, the instant motion for reconsideration should be, as it is hereby DISMISSED, and the Decision, dated April 30, 1999 is hereby AFFIRMED.

SO ORDERED.[3]

Petitioners thereafter sought relief from the Office of the President.

Departing from the preceding rulings, the Office of the President, through then Executive Secretary Ronaldo B. Zamora, reversed the Decision and Order of the DENR. The dispositive portion of its June 5, 2000 Decision states:

WHEREFORE, the appealed decision and order of the Department of Environment and Natural Resources dated April 30, 1999, and September 2, 1999, respectively, are hereby REVERSED and SET ASIDE. Accordingly, the protest filed by the heirs of Lourdes P. Padilla dated September 16, 1998 against FPA No. 043404-132 of Ernesto S. Aura is hereby GIVEN DUE COURSE.

SO ORDERED.[4]

From the aforesaid Decision, respondent filed a Motion for Reconsideration, which the same office denied in a Resolution dated July 25, 2000.[5]

Under Rule 43 of the 1997 Rules of Civil Procedure, respondent had until August 19, 2000 to appeal from the aforesaid decision and resolution. However, instead of perfecting an appeal, he opted to file with the Court of Appeals on September 8, 2000 a special civil action for certiorari. In that petition, docketed as CA-G.R. SP No. 60636, respondent alleged that the Office of the President committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled on the validity of the sale executed by the judicial administrator of the late Dr. Conrado Potenciano, and in declaring that the case should be tried before the land registration court in order to settle the question of ownership.[6]

On January 9, 2001, the Court of Appeals rendered a Decision reversing the Decision and Resolution of the Office of the President, thus:

WHEREFORE, premises considered, the Decision and Resolution of public respondent, dated 5 June 2000 and 25 July 2000, respectively, are hereby REVERSED and SET ASIDE. In lieu thereof, the Decision and Order of

the Department of Environment and Natural Resources, dated 30 April 1999 and 2 September 1999, respectively, are hereby AFFIRMED and REINSTATED.

SO ORDERED.[7]

Petitioners moved to reconsider. However, the Court of Appeals maintained its Decision in a Resolution dated February 28, 2001.[8]

Hence, the instant petition anchored on the following assigned errors:

I

THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR IN GIVING DUE COURSE TO THE PETITION FOR CERTIORARI AS A SPECIAL CIVIL ACTION [,] [THE SAME] HAVING BEEN RESORTED TO AS A SUBSTITUTE FOR A LOST APPEAL AND [IT] BEING AN ERRONEOUS REMEDY.

II

THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS IN RESOLVING A PETITION [FOR] CERTIORARI UNDER RULE 65 OF THE 1997 RULES OF CIVIL PROCEDURE AS THOUGH IT WAS AN ORDINARY APPEAL UNDER RULE 43.

III

GRANTING IN GRATIA ARGUMENTI THAT THE PETITION IS PROPER AND COULD BE VALIDLY ENTERTAINED, THE COURT OF APPEALS COMMITTED GRAVE AND REVERSIBLE ERRORS IN ASCRIBING THE FALSE ENTRIES OF THE RESPONDENT IN HIS FREE PATENT APPLICATION AS “MINISCULE INACCURACY”; IN FINDING THE PETITIONERS TO HAVE GIVEN THE RESPONDENT A REASON TO BELIEVE THAT PETITIONERS HAVE TRANSFERRED VALID TITLE TO HIM; AND IN FINDING THE PETITIONERS, BY LACHES, TO HAVE WAIVED THEIR OPPOSITION TO THE FREE PATENT APPLICATION.[9]

The main question being raised by petitioners is whether or not the Court of Appeals erred in giving due course to and in granting the petition for certiorari filed by respondent.

Petitioners contend that the Court of Appeals erred in entertaining the special civil action for certiorari filed by respondent under Rule 65 of the Rules of Court, the same being actually a substitute for lost appeal. Records show that respondent received the Resolution of the Office of the President denying the motion for reconsideration on August 4, 2000. The 15-day reglementary period to appeal under Rule 43 of the Rules of Court, therefore, lapsed on August 19, 2000. On September 8, 2000, more than a month after receipt of the Resolution denying the motion for reconsideration, respondent filed with the Court of Appeals a petition for certiorari to nullify the Decision and Resolution issued by the Office of the President. Petitioners, therefore, argue that the Court of Appeals erred in taking cognizance of the petition filed before it, as it was an obvious move to revive a lost appeal.

The petition is meritorious.

The availability to respondent of the remedy of a petition for review under Rule 43 of the Rules of Court to appeal the Decision and Resolution of the Office of the President effectively foreclosed his right to resort to a special civil action for certiorari.[10] It bears emphasis that the special civil action for certiorari is a limited form of review and is a remedy of last recourse. The Court has often reminded members of the bench and bar that this extraordinary action lies only where there is no appeal nor plain, speedy and adequate remedy in the ordinary

course of law.[11] It cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, certiorari not being a substitute for a lapsed or lost appeal. To reiterate, a petition for review is a mode of appeal, while a special civil action for certiorari is an extraordinary process for the correction of errors of jurisdiction. The two remedies are distinct, mutually exclusive and not alternative or successive.[12]

Admittedly, there are instances where the extraordinary remedy of certiorari may be resorted to despite the availability of an appeal. It is to be noted, however, that the long line of decisions denying the special civil action for certiorari, either before appeal was availed of or in instances where the appeal period had lapsed, far outnumbers the instances where certiorari was given due course. The few significant exceptions were: when public welfare and the advancement of public policy dictates, or when the broader interests of justice so require, or when the writs issued are null, or when the questioned order amounts to an oppressive exercise of judicial authority.[13]

In the instant case, there was no urgency or need for respondent to resort to the extraordinary remedy of certiorari. The records are bereft of any showing that petitioners misled, prevented, or obstructed respondent from pursuing an appeal.[14] As borne out by the records, respondent still had ample time and opportunity to file an appeal under Rule 43 of the Rules of Court. It is, therefore, obvious that respondent interposed the special civil action for certiorari with the Court of Appeals not because it is the speedy and adequate remedy, but to make up for the loss, through omission or oversight, of the right of ordinary appeal.[15] There was thus no compelling reason for the Court of Appeals to have treated the petition for certiorari filed by respondent as an ordinary appeal. This is especially true considering that respondent filed the petition well beyond the reglementary period for filing a petition for review, without offering any reason therefor.[16] Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality at least to explain its failure to comply with the rules.[17]

Respondent seeks to justify his resort to a special civil action for certiorari by putting emphasis on the Office of the President's ruling on the validity of the contracts of sale and pronouncement on the appropriateness of the land registration court as venue to determine the ownership of the disputed property. Claiming that the Office of the President overstepped its jurisdiction in laying out these rulings, which he asserts to be falling under the exclusive jurisdiction of the civil courts, respondent insists that the special civil action for certiorari he filed with the Court of Appeals was the proper remedy.

The argument lacks merit. The Court has said that in determining whether the proper remedy is a special civil action for certiorari or a petition for review, the nature of the questions intended to be raised on appeal is of no consequence. It may well be that those questions will treat exclusively of whether or not the judgment or final order was rendered without or in excess of jurisdiction or with grave abuse of discretion, which questions are the peculiar targets of the extraordinary writ of certiorari. This is immaterial.[18] As recently stated in *Metropolitan Manila Development Authority v. JANCOM Environmental Corp.*: [19]

The remedy to obtain reversal or modification of the judgment on the merits is appeal. This is true even if the error, or one of the errors, ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision. The existence and availability of the right of appeal proscribes a resort to certiorari, because one of the requirements for availment of the latter remedy is that "there should be no appeal."

In the present case, the Court finds no reason why the question being raised by respondent, i.e., whether the Office of the President committed grave abuse of discretion or lacked or exceeded its jurisdiction in issuing its Decision, could not have been raised by him on appeal.[20]

Moreover, assuming that the nature of the questions raised are consequential, it must be pointed out that for the remedy of petition for certiorari to prosper, the burden is on the party filing the petition to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent.[21] Grave abuse of discretion is one that is so patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or to act in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and personal hostility.[22] While the Court of Appeals may not have agreed with the conclusions of the Office of the President, a perusal of the Decision and Resolution rendered by the latter shows that the findings therein were premised on factual and legal bases clearly stated in the aforesaid Decision and Resolution. These bases, even if subject to argument, cannot be dismissed as “despotic or arbitrary” or “as having been motivated by passion or personal hostility.”

Furthermore, as correctly pointed out by petitioners, a reading of the body of the assailed Decision of the Court of Appeals readily shows that the petition for certiorari was mistakenly treated as if it were a petition for review. Right at the start of the Decision, the Court of Appeals wrongly identified the case as an “appeal by petition for review.”[23] The same error may be found in that part of the Decision where the issues for review were introduced.[24] Moreover, the Decision’s ratio inaccurately commenced with: “The Court finds merit in the appeal.”[25] It is further noted that nowhere in the Decision was there a discussion of any jurisdictional error or grave abuse of discretion committed by the Office of the President that would have justified the granting of respondent’s petition. The Decision is silent on the main jurisdictional errors raised by respondent in his petition. Instead, it focused more on the merits of the case, as though the petition was brought on ordinary appeal. If any, the only mention of grave abuse of discretion was in the latter part, where the Decision barely concluded that: “All said, the Court finds that public respondent gravely abused its discretion in reversing the decisions of the agencies and tribunals preceding its own, meriting correction by this Court.”[26] Without doubt, such sweeping conclusion does not pass the standards set by jurisprudence and procedural law in qualifying what constitutes grave abuse of discretion. It is, lastly, observed that in the dispositive portion of the Decision the Court of Appeals “reversed and set aside” the Decision and Resolution of the Office of the President, instead of nullifying them, as would have been proper in a certiorari case.

The Court cannot countenance the foregoing error of blurring the distinction between a special civil action for certiorari and a petition for review. Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism or whimsicality in the settlement of disputes. The enforcement of procedural rules is not antithetical to the substantive rights of the litigants.[27] The policy of the courts is to give effect to both procedural and substantive laws, as complementing each other, in the just and speedy resolution of the dispute between the parties.[28]

The Court thus holds that the Court of Appeals erred in giving due course to and in granting respondent’s petition. The filing of the certiorari suit, therefore, did not prevent the Decision and Resolution of the Office of the President from becoming final.[29]

WHEREFORE, the petition is GRANTED. The Decision dated January 9, 2001 and the Resolution dated February 28, 2001 of the Court of Appeals are REVERSED and SET ASIDE. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, and Carpio, JJ., concur.
Panganiban, J., on official leave.

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- [1] Rollo, p. 118.
- [2] Id., at 191.
- [3] Rollo, p. 194.
- [4] Id., at 203.
- [5] Id., at 215-216.
- [6] CA Rollo, p. 14.
- [7] Id., at 68.
- [8] Id., at 71.
- [9] Id., at 32.
- [10] Banco Filipino Savings and Mortgage Bank v. CA, 334 SCRA 305 (2000).
- [11] Ibid.,; Barangay Blue Ridge “A” of Quezon City, 319 SCRA 48 (1999).
- [12] Sebastian v. Morales, G.R. No. 141116, February 17, 2003 citing Ligon v. CA, 294 SCRA 73 (1998); Republic v. CA, 322 SCRA 81 (2000).
- [13] Metropolitan Manila Development Authority v. JANCOM Environmental Corp., 375 SCRA 320 (2002), citing Ruiz, Jr. v. CA, 220 SCRA 490 (1993); Chua v. CA, 344 SCRA 136 (2000).
- [14] Oriental Media, Inc. v. CA, 250 SCRA 647 (1995).
- [15] National Irrigation Administration v. CA, 318 SCRA 255 (1999).
- [16] Banco Filipino Savings and Mortgage Bank v. CA, supra, note 7; Republic v. CA, supra, note 9.
- [17] Sebastian v. Morales, supra, note 9 citing Banco Filipino Savings and Mortgage Bank v. CA, supra, note 7.
- [18] Del Pozo v. Penaco, 167 SCRA 577 (1988).
- [19] Supra, note 10.
- [20] Republic v. CA, 345 SCRA 63 (2000).
- [21] People v. Chavez, 358 SCRA 810 (2001) citing Don Orestes Romualdez Electric Cooperative, Inc., v. NLRC, 319 SCRA 255 (1999).
- [22] Banco Filipino Savings and Mortgage Bank v. CA, supra, note 7 citing Sanchez v. NLRC, 312 SCRA 727 (1999), Toyota Autoparts, Phils., Inc. v. Bureau of Labor Relations, 304 SCRA 95 (1999); People v. Chavez, supra, note 18.
- [23] Rollo, p. 61.
- [24] Id., at 65.
- [25] Id., at 66.
- [26] Id., at 68.
- [27] Sebastian v. Morales, supra, note 9; Oriental Media, Inc. v. CA, supra, note 11.

[28] *Oriental Media, Inc. v. CA*, supra, note 11.

[29] *Del Rosario v. Balagot*, 166 SCRA 429 (1988).

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