

SPOUSES JESUS DYCOCO and JOELA E. DYCOCO, Petitioners, vs. THE HONORABLE COURT OF APPEALS, NELLY SIAPNO-SANCHEZ and INOCENCIO BERMA, Respondents.

G.R. No. 147257. July 31, 2013

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This Petition for Certiorari under Rule 65 of the Rules of Court questions, for having been rendered with grave abuse of discretion, the Resolution[2] dated June 2, 2000 of the Court of Appeals dismissing the appeal of petitioner-spouses Jesus and Joela Dycoco in CA-G.R. SP No. 58504, and the Resolution[3] dated January 10, 2001 denying reconsideration.

On November 23, 1994, petitioner-spouses filed a complaint for ejectment, cancellation of certificates of land transfer, damages and injunction against private respondents Nelly Siapno-Sanchez and Inocencio Berma in the Office of the Provincial Adjudicator of the Department of Agrarian Reform Adjudication Board (DARAB) in Albay. Eusebio Siapno, Rogelio Siapno, Felix Sepato, Sr., Leonora Talagtag and Pablo Bonde, Sr. were also named respondents in the complaint.[4]

In their complaint, petitioner-spouses alleged that they are the absolute and registered owners of Lot No. 216, a 38,157 sq.m.-parcel of land situated at Bonbon, Libon, Albay, covered by Original Certificate of Title (OCT) No. VH-5187 of the Register of Deeds of Albay. According to them, the respondents named in the complaint took advantage of the liberality of petitioner-spouses, entered the subject property, successfully registered themselves as tenants for agrarian reform purposes, and occupied and cultivated the property to the prejudice of petitioner-spouses. Said respondents deprived petitioner-spouses of the enjoyment and possession of the property without paying petitioner-spouses or the Land Bank the rentals due thereon. Moreover, in violation of agrarian reform laws, said respondents subleased their respective landholdings to other persons.[5]

Petitioner-spouses reiterated these matters in their position paper.[6]

All seven respondents named in the complaint were summoned but only Bonde and Rogelio submitted their answer and position paper.[7] Bonde and Rogelio showed that they already own their portions of the property through Operation Land Transfer under Presidential Decree No. 27. Pursuant to the said law, petitioner-spouses executed deeds of transfer in their favor which resulted in the issuance to them of emancipation patents and, subsequently, OCT No. E-2333 and OCT No. E-2334, respectively.[8]

Thereafter, the Provincial Adjudicator rendered a decision dated June 27, 1995 finding private respondents “not worthy to become beneficiaries” under Presidential Decree No. 27.[9] The dispositive portion of the decision reads:

WHEREFORE, finding for the complainants, respondents Nelly Siapno-Sanchez, Leonora Talagtag and Inocencio Berma are hereby adjudged not worthy to

become beneficiaries under PD 27[;] hence[,] judgment is hereby issued:

- Ordering the ejectment of Nelly Siapno-Sanchez, Leonora Talagtag, and Inocencio Berma from their respective tillage;
- Ordering Rogelio Siapno and Pablo Bonde, Sr. to comply with their obligation under the Deed[s] of Transfer in their favor;
- Ordering the dismissal of the case against Eusebio Siapno, for lack of evidence; and
- Ordering the respondents under paragraph 1 to pay complainants jointly and severally nominal damages in the amount of P10,000.00 and attorney's fee[s] in the amount of P10,000.00.[10]

On motion of petitioner-spouses, the Provincial Adjudicator issued a writ of execution dated November 22, 1995 ordering, among others, the ejectment of private respondents from their respective tillage.[11] Subsequently, petitioner-spouses filed a Motion for Issuance of Alias Writ of Execution and to Cite Respondents in Contempt, claiming that private respondents returned to the subject property although they have already been ordered ejected.[12] Private respondents filed a Motion to Quash or Suspend Implementation of the Writ of Execution. They explained that they are already the owners of their respective portions of the property in question by virtue of the Operation Land Transfer under Presidential Decree No. 27. According to private respondents, petitioner-spouses executed deeds of transfer in their favor which resulted to the issuance to them of emancipation patents and, afterwards, OCT No. E-2332 in the name of private respondent Siapno-Sanchez and OCT Nos. E-2335 and E-2336 in the name of private respondent Berma. Private respondents further asserted that the decision ordering their ejectment from their tillage is not yet executory as they have filed a notice of appeal on August 29, 1996.[13]

Petitioner-spouses submitted their Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents dated September 16, 1996 and Supplemental Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents dated October 3, 1996 where they countered private respondents' motion by arguing that both the motion to quash and the notice of appeal were filed beyond the prescribed period.[14]

In an order dated October 16, 1996, the Provincial Adjudicator found that the copy of the decision dated June 27, 1995 was sent by registered mail to and, on July 10, 1995, received by Crispina Berma Penaranda, daughter of private respondent Berma, who resided in a different barangay. Still, the Provincial Adjudicator ruled that private respondent Berma was bound by his daughter's receipt and the decision is already final and executory as against him. Thus, with respect to him, the notice of appeal was filed out of time. On the other hand, there was no showing that private respondent Siapno-Sanchez has been served a copy of the decision before she procured a copy of it from the Office of the Provincial Adjudicator on August 26, 1996. Hence, as regards her, the notice of appeal was filed on time. Therefore, the Provincial Adjudicator denied the Motion to Quash or Suspend Implementation of the Writ of Execution with respect to private respondent Berma, and approved and granted the same motion with respect to private respondent Siapno-Sanchez.[15]

Private respondent Berma moved for reconsideration but his motion was denied.[16] Nevertheless, he joined the appeal memorandum filed by private respondent Siapno-Sanchez in the DARAB.[17] On the other hand, petitioner-spouses filed a Counter-Memorandum With Motion to Dismiss Appeal dated February 9, 1997, reiterating that private respondents' appeal was filed out of time.[18]

In a decision dated March 20, 2000,[19] the DARAB found that both private respondents were beneficiaries of

Presidential Decree No. 27 and that they are no longer tenants but owners of their respective portions of the property as evidenced by OCT No. E-2332 in the name of private respondent Siapno-Sanchez and OCT Nos. E-2335 and E-2336 in the name of private respondent Berma. Ejectment would therefore not lie as against them as landholdings covered by the Operation Land Transfer under Presidential Decree No. 27 do not revert to the original owner. Thus, the DARAB reversed and set aside the decision dated June 27, 1995 in so far as private respondents were concerned. The immediate reinstatement of private respondents to their respective landholdings was ordered, as well as their restoration to their original status as owner-beneficiaries of the landholdings awarded to them pursuant to Presidential Decree No. 27.[20]

Petitioner-spouses received a copy of the DARAB decision on April 3, 2000 and had until April 18, 2000 to file an appeal. They filed a motion in the Court of Appeals praying for an extension of 30 days within which to file their intended petition.[21] The Court of Appeals granted them an extension of 15 days, with warning that no further extension will be given.[22] Thus, petitioner-spouses had until May 3, 2000 to file their petition.

Petitioner-spouses filed the petition by registered mail on May 8, 2000. The petition was denied due course and dismissed by the Court of Appeals in a Resolution dated June 2, 2000. In its entirety, the said resolution reads:

The petition (for review), filed under Rule 43 of the 1997 Rules of Civil Procedure is DENIED DUE COURSE and, as a consequence, DISMISSED, for late filing, as the petition was filed beyond the extended period of fifteen (15) days granted under Resolution dated May 5, 2000, which resolution was issued pursuant to Section 4 of Rule 43, as follows:

x x x x

“Sec. 4. Period of appeal. – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner’s motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days” x x x.[23]

Petitioner-spouses moved for reconsideration but it was denied in a resolution dated January 10, 2001.

Hence, this petition.

Petitioner-spouses invoke the rule of liberality in the construction of the provisions of the Rules of Court. The petition was filed after the period granted by the Court of Appeals because, on April 10, 2000, they secured the services of a new counsel who still had to study the voluminous records. They claim that the petition they filed with the Court of Appeals is supported by compelling reasons. According to petitioner-spouses, they were deprived of their property without just compensation either from the tenant- beneficiaries or from the government. They were also deprived of due process when the DARAB took cognizance of private respondents’ appeal although it was filed more than one year after the decision of the Provincial Adjudicator had become final and executory. In view of the said reasons, the Court of Appeals should have given their petition due course although it was filed five days after the lapse of the extended period.

Petitioner-spouses are wrong.

Firstly, petitioner-spouses are before this Court with a petition for certiorari under Rule 65 of the Rules of Court which is a wrong remedy.

A petition for certiorari under Rule 65 of the Rules of Court is a special civil action that may be resorted to only in the absence of appeal or any plain, speedy and adequate remedy in the ordinary course of law.[24]

Contrary to the claim of petitioner-spouses in the opening paragraph of their petition that there was no appeal or any other plain, speedy and adequate remedy in the ordinary course of law other than this petition, the right recourse was to appeal to this Court in the form of a petition for review on certiorari under Rule 45 of the Rules of Court.

Section 1. Filing of petition with Supreme Court. – A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

The Resolutions dated June 2, 2000 and January 1, 2001 of the Court of Appeals were final and appealable judgments. In particular, the Resolution dated June 2, 2000 denied due course to the petition and dismissed it, while the Resolution dated January 1, 2001 denied the motion for reconsideration of the former Resolution. The said Resolutions disposed of the appeal of petitioner-spouses in a manner that left nothing more to be done by the Court of Appeals in respect to the said appeal. Thus, petitioner-spouses should have filed an appeal by petition for review on certiorari under Rule 45, not a petition for certiorari under Rule 65, in this Court.

The proper remedy to obtain a reversal of judgment on the merits, final order or resolution is appeal. This holds true even if the error 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, order or resolution. The existence and availability of the right of appeal prohibits the resort to certiorari because one of the requirements for the latter remedy is the unavailability of appeal.[25]

The failure of petitioner-spouses to file an appeal by certiorari under Rule 45 of the Rules of Court cannot be remedied by the mere expedient of conjuring grave abuse of discretion to avail of a petition for certiorari under Rule 65. In *Balayan v. Acorda*[26] the Court ruled:

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. 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. Where an appeal is available, certiorari will not prosper, even if the ground therefor is grave abuse of discretion. x x x. (Citations omitted.)

Certiorari is not and cannot be made a substitute for an appeal where the latter remedy is available but was lost through fault or negligence. In this case, petitioner-spouses received the Resolution dated January 1, 2001 on January 19, 2001[27] and, under the rules,[28] had until February 5, 2001 to file an appeal by way of a petition for review on certiorari in this Court. Petitioner-spouses allowed this period to lapse without filing an appeal and, instead, filed this petition for certiorari on March 16, 2001.[29]

Secondly, petitioner-spouses claim that the Court of Appeals committed grave abuse of discretion in dismissing their appeal on the ground of late filing. This is also wrong.

The Court of Appeals granted petitioner-spouses a 15-day extension, within which to file their intended petition. The action of the Court of Appeals was in accordance with Section 4, Rule 43 of the Rules of Court. Thus, as the

original deadline of petitioner-spouses was April 18, 2000, they had until May 3, 2000 to file their intended petition. Petitioner-spouses, however, filed the petition on May 8, 2000. Petitioner-spouses even admit that their petition in the Court of Appeals was filed five days after the extended period.[30] It is therefore clear that the Court of Appeals simply applied the rules, while petitioner-spouses concededly failed to observe the very same rules. As such, the Court of Appeals' dismissal of the petition of petitioner-spouses was discretion duly exercised, not misused or abused.

Where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.[31] This is so because "grave abuse of discretion" is well-defined and not an amorphous concept that may easily be manipulated to suit one's purpose. In this connection, *Yu v. Judge Reyes-Carpio*[32] is instructive:

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x. (Citations omitted.)

In this case, nowhere in the petition did petitioner-spouses show that the issuance of the Resolutions dated June 2, 2000 and January 1, 2001 was patent and gross that would warrant striking them down through a petition for certiorari under Rule 65 of the Rules of Court. Petitioner-spouses simply framed the issue in this case as follows:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING DUE COURSE TO THE PETITION FOR REVIEW FILED BY PETITIONERS AND SUBSEQUENTLY DENYING PETITIONERS' MOTION FOR RECONSIDERATION.[33]

They did not, however, address the issue. It is noteworthy that aside from a cursory claim in the opening paragraph and paragraph 25 of the petition that the Resolutions dated June 2, 2000 and January 1, 2001 of the Court of Appeals were "unjust and arbitrary" and "issued in grave abuse of judicial discretion amounting to lack or excess of jurisdiction,"[34] petitioner-spouses failed to establish grave abuse of discretion on the part of the Court of Appeals. They have not advanced any argument to show that the Court of Appeals exercised its judgment capriciously, whimsically, arbitrarily or despotically by reason of passion and hostility. Thus, they failed in their duty to demonstrate with definiteness the grave abuse of discretion that would justify the proper availment of a petition for certiorari under Rule 65 of the Rules of Court.

Thirdly, petitioner-spouses make it appear that there are compelling reasons to support their petition -- deprivation of property without just compensation and denial of due process. The petitioner-spouses, however, belatedly raised these issues and failed to substantiate the same.

There is no question that petitioner-spouses are entitled under the law to receive just compensation for the property taken from them and transferred to private respondents by virtue of Presidential Decree No. 27.[35] Due process guarantees that taking of private property by the State for public use should be with payment of just compensation.[36] Unfortunately, petitioner-spouses themselves did not consider the issue of just compensation

as compelling enough because they did not raise it in the complaint or in the position paper which they filed in the Office of the Provincial Adjudicator.[37] They only claimed just compensation for the first time on appeal, that is, when they filed their petition for review with the Court of Appeals. The settled rule that issues not raised in the proceedings below cannot be raised for the first time on appeal bursts the bubble that is the alleged compelling nature of petitioner-spouses' claim. Petitioner-spouses ask for due process, but fairness and due process dictate that evidence and issues not presented below cannot be taken up for the first time on appeal.[38]

On jurisdictional grounds, petitioner-spouses could not validly present for the first time the issue of nonpayment of just compensation in the Court of Appeals. Under the law, the DARAB has primary, original and exclusive jurisdiction over cases involving payments for lands awarded under Presidential Decree No. 27.[39]

In any event, the right of petitioner-spouses to payment of just compensation does not include reacquisition of ownership and possession of the property transferred to private respondents pursuant to Presidential Decree No. 27. Lands acquired under Presidential Decree No. 27 do not revert to the landowner.[40]

The due process claim of petitioner-spouses has no leg to stand on. They have had ample opportunity to defend their interests in due course.[41] Stripped to its basic concept, due process is simply the opportunity to be heard or, as applied to administrative proceedings, the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of.[42] Petitioner-spouses were given the chance to sufficiently state their case concerning the timeliness of the notice of appeal filed by private respondents. In particular, they submitted to the Office of the Provincial Adjudicator their Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents dated September 16, 1996 and Supplemental Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents dated October 3, 1996 where they argued that both the motion to quash and the notice of appeal of private respondents were filed beyond the prescribed period.[43] In the DARAB level, petitioner-spouses filed a Counter-Memorandum With Motion to Dismiss Appeal dated February 9, 1997 where they again pointed out that the appeal of private respondents was filed out of time.[44] Thus, petitioner-spouses cannot correctly claim that they were not heard on the matter.

More importantly, it has already been found that the notice of appeal was filed on time, particularly with respect to private respondent Siapno-Sanchez.[45] To question such finding is to raise a question of fact. However, it is settled that questions of fact cannot be raised in an original action for certiorari.[46] Only established or admitted facts can be considered.[47] In this connection, it has been established that the copy of the Provincial Adjudicator's decision dated June 27, 1995 was sent by registered mail to and received by private respondent Berma's daughter who lived in another barangay.[48] Such receipt by Berma's daughter cannot be validly considered as service of the Provincial Adjudicator's decision on Berma. Sections 4 and 9, Rule V of the DARAB New Rules of Procedure, which became effective on June 22, 1994, provides:

SECTION 4. Service of Pleadings, Notices and Resolutions. – a) The party filing the pleading shall serve the opposing party with a copy thereof in the manner provided for in these Rules and proof of such service shall be filed with the records of the case; and

b) Summons, notices and copies of resolutions, orders or decisions shall be served personally as far as practicable, or by registered mail upon the party himself, his counsel, or his duly authorized representative. However, notice to the counsel is notice to the party himself whether he be a complainant or petitioner, or a defendant or respondent.

x x x x

SECTION 9. Proof of Completeness of Service. – The return is a prima facie proof of the facts indicated

therein. Service by registered mail is completed upon receipt by the addressee, his counsel, or by the duly authorized representative or agent. (Emphases supplied.)

At that time, private respondent Berma had neither counsel nor duly authorized representative. Therefore, the copy of the Provincial Adjudicator's decision should have been served on Berma personally or by registered mail. As it was sent by registered mail to private respondent Berma as the addressee, service thereof could only have been completed upon receipt by Berma. As it was not received by private respondent Berma but by his daughter who resided in another barangay, there was no proper and completed service of the Provincial Adjudicator's decision on Berma. Thus, with respect to him, the notice of appeal was also filed on time.

Petitioner-spouses primarily anchor this petition on an invocation of the rule on liberality in the construction of procedural rules. However, the "liberal construction rule" is not a license to disregard procedural requirements. Like all rules, procedural rules should be followed except only when, for the most persuasive of reasons, they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the prescribed procedure.[49]

Petitioner-spouses caused their own predicament when they decided to change horses in midstream and engaged the services of their present counsel on April 10, 2000 or just a week before the expiration of the period to appeal in the Court of Appeals, discharging the services of their former counsel who handled the case from the level of the Provincial Adjudicator to the DARAB. They cannot escape the consequences of a belated appeal caused by the need of their new counsel for more time to study voluminous records and familiarize himself with the case. Moreover, as shown above, petitioner-spouses not only failed to show any persuasive reason why they should be exempted from strictly abiding by the rules when they filed their petition for review in the Court of Appeals beyond the prescribed period. They again disregarded the rules in various ways absent any compelling reason when they filed this petition.

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

Sereno C.J., (Chairperson), Bersamin, Villarama, Jr., and Reyes, JJ., concur.

[1] Petitioner-spouses named seven private respondents in their petition, namely, Eusebio Siapno, Rogelio Siapno, Nelly Siapno-Sanchez, Felix Sepato, Sr., Leonora Talagtag, Pablo Bonde, Sr. and Inocencio Berma. A reading of the petition, however, shows that the petition is against Nelly Siapno-Sanchez and Inocencio Senna. In particular, only Nelly Siapno-Sanchez and Inocencio Benna were the appellants in DARAB Case No. 5573, which is the subject of the Court of Appeals case involved in this petition. Also, petitioner-spouses state that Eusebio Siapno has fully paid his obligation on June 27, 1996 (Exhibit "S" of petition, rollo, p. 104). On the other hand, in a Manifestation dated September 23, 2004 (rollo, pp. 256-257), petitioner-spouses have dropped Felix Sepato, Sr. and Leonora Talagtag as respondents in this case.

[2] Rollo, pp. 27-28; penned by Associate Justice Teodoro P. Regino with Associate Justices Conchita Carpio-Morales (subsequently, a member of this Court, now Ombudsman) and Mercedes Gozo- Dadole, concurring.

[3] Id. at 30-31.

[4] Id. at 53-55.

[5] Id. at 153.

[6] Id. at 72-74.

[7] Id.

[8] Id. at 68-71; Answer, Annex “C” of Petition; id. at 75-84, Position Paper, Annex “E” of Petition.

[9] Id. at 85-87; Decision of Provincial Adjudicator Isabel Florin, Annex “F” of Petition.

[10] Id. 87.

[11] Id. at 90-91, Annex “I” of Petition.

[12] Id. at 98; Motion for Issuance of Alias Writ of Execution and to Cite Respondents in Contempt, Annex “O” of Petition.

[13] Id. at 106-107; Motion to Quash or Suspend Implementation of the Writ of Execution, Annex “U” of Petition.

[14] Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents and Supplemental Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents, Annexes “W” and “Y” of Petition, id. at 110-111 and 114-116, respectively.

[15] Id. at 124-126; Provincial Adjudicator’s Order dated October 16, 1996, Annex “AA” of Petition.

[16] Id. at 130-131; Provincial Adjudicator’s Order dated November 6, 1996, Annex “CC” of Petition.

[17] Id. at 132-147; Appeal Memorandum for Nelly Siapno-Sanchez and Inocencio Berma dated November 13, 1996, Annex “DD” of Petition.

[18] Id. at 148-149.

[19] Id. at 152-159.

[20] Id.

[21] Id. at 160-164; Notice of Appearance with Motion for Extension of Time to File Petition, Annex “GG” of Petition.

[22] Id. at 33-34.

[23] Id. at 27-28.

[24] Rules of Court, Rule 65, Section 1.

[25] *Bugarin v. Palisoc*, 513 Phil. 59, 66 (2005).

[26] 523 Phil. 305, 309 (2006).

[27] *Rollo*, pp. 3-4.

[28] Rules of Court, Rule 45, Section 2 provides:

Section 2. Time for filing; extension. – The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner’s motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary

period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

The 15[th] day after petitioner's receipt of the Decision dated January 1, 2001 was February 3, 2001, a Saturday. Under Section 1, Rule 22, if the last day of the period "falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day." Hence, petitioner had until February 5, 2001, a Monday, to file the petition for review in this Court.

[29] Rollo, p. 3.

[30] Id. at 15. Petition, p. 13.

[31] *Abedes v. Court of Appeals*, 562 Phil. 262, 276 (2007).

[32] G.R. No. 189207, June 15, 2011, 652 SCRA 341, 348.

[33] Rollo, p. 334. This is how the issue, as framed by petitioner-spouses, is worded in their Memorandum. In their petition, the issue reads:

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING DUE COURSE THE PETITION FOR REVIEW FILED BY PETITION FOR REVIEW AND SUBSEQUENTLY DENYING PETIONERS' MOTION FOR RECONSIDERATION. (Id. at 15.)

[34] Id. at 4.

[35] See *Dr. Zurbano v. Hon. Estrella*, 221 Phil. 696, 702-703 (1985), where it was explained that Presidential Decree No. 27 itself requires that just compensation be paid to the landowner whose property was placed under the operation of that law.

[36] Section 1, Article III of the 1987 Constitution provides: "No person shall be deprived of life, liberty or property without due process of law x x x." Section 9, Article III of the 1987 Constitution further provides: "Private property shall not be taken for public use without just compensation."

[37] What petitioner-spouses alleged in their complaint and position paper was nonpayment of rentals due from private respondents as tenants. Rollo, pp. 53-55 (Complaint) and 72-74 (Position Paper).

[38] *Tan v. Commission on Elections*, 537 Phil. 510, 533 (2006).

[39] Paragraph (h), Section 1, Rule II, 2009 DARAB Rules of Procedure. This was also the rule under Paragraph (b), Section 1, Rule II of the 1994 DARAB New Rules of Procedure, the prevailing rule at the time petitioner-spouses filed their complaint on November 23, 1994. The DARAB rules of procedure have been issued pursuant to Section 49 and 50 of Republic Act No. 6657 as amended, and Section 34 of Executive Order No. 129-A in relation to Section 13 thereof.

[40] *Heirs of Lorenzo Buensuceso v. Perez*, G.R. No. 173926, March 6, 2013; *De la Cruz v. Quiazon*, G.R. No. 171961, November 28, 2008, 572 SCRA 681, 693.

[41] As long as a party was given the opportunity to defend his interests in due course, he was not denied due process (*Cayago v. Lina*, 489 Phil. 735, 751 [2005]).

[42] *Samalio v. Court of Appeals*, 494 Phil. 456, 466 (2005).

[43] Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice

of Appeal Filed by Respondents and Supplemental Comments [on]/Opposition to the Motion to Quash/Suspend Implementation of Writ of Execution and Notice of Appeal Filed by Respondents, Annexes “W” and “Y” of Petition, rollo, pp. 110-111 and 114-116, respectively.

[44] Rollo, pp. 148-149.

[45] *Id.* at 124-126; Provincial Adjudicator’s Order dated October 16, 1996, Annex “AA” of Petition.

[46] *Korea Technologies Co., Ltd. v. Lerma*, 566 Phil. 1, 35 (2008).

[47] *Ramcar, Inc. v. Hi-Power Marketing*, 527 Phil. 699, 708 (2006).

[48] Provincial Adjudicator’s Order dated September 25, 1996, rollo, pp. 112-113; Provincial Adjudicator’s Order dated October 16, 1996, *id.* at 124-126; DARAB Decision dated March 20, 2000, *id.* at 152-159.

[49] *Republic v. Kenrick Development Corporation*, 529 Phil. 876, 885-886 (2006).

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