

PROVINCE OF CAMARINES SUR, REPRESENTED BY GOVERNOR LUIS R. VILLAFUERTE, PETITIONER, VS. HEIRS OF AGUSTIN PATO, ADOLFO DEL VALLE BRUSAS AND ZENAIDA BRUSAS; TRIFONA FEDERIS, MAURI...

G.R. No. 151084. July 02, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for review on certiorari,[1] under Rule 45 of the Rules of Court, seeking to set aside the Resolutions of the Court of Appeals (CA) dated May 31, 2001[2] and November 19, 2001[3] in CA-G.R. CV No. 69735.

The facts of the case are as follows:

Expropriation proceedings were initiated by petitioner Province of Camarines Sur against respondents Heirs of Agustin Pato, Adolfo del Valle Brusas & Zenaida Brusas, Trifona Federis, Mauricio Medialdea & Nelson Tongco, Mariano de los Angeles, Heirs of Miguel Pato, Araceli Barrameda Aclan and Ponciano Iraola sometime in 1989 in the Regional Trial Court (RTC) of Pili, Camarines, Sur, Fifth Judicial Region, Branch 32. In the proceedings which was docketed as Special Civil Action No. P-2-'89, petitioner proposed to pay respondents P20,000.00 per hectare, or P2.00 per square meter, as just compensation for their lands. Respondents resisted the attempt of petitioner to expropriate their properties arguing, among others, that there was no public necessity. Motions to Dismiss filed by respondents were, however, denied by the RTC. After a protracted litigation that led to the appointment of Commissioners to determine the proper value of the properties, the RTC rendered a Decision,[4] the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, judgment is hereby rendered:

1. Expropriating, in favor of plaintiff Province, for the public use detailed in its complaint, and in Res. No. 129, S. of 1998, the lands described in its pars. 1 and 4, consolidated complaint, as further described its sketch plan, p. 361 records;
2. Condemning plaintiff to pay defendants as just compensation for the land, owned by defendants named in the consolidated complaint and enumerated in Annex A as well as the improvements standing thereon, at the time this decision is executed, and set forth in Annex C hereof, which is made an integral part of this decision, with 6% interest per annum from the date cases were individually filed until paid; and
3. Condemning plaintiff to pay Financial Assistance per E.O. 1035, Sec. 18 to the tenants mentioned in the summary of the commissioner's report and enumerated in Annex A; and to pay Commissioners Co, Altar and Malali, P5,000.00 each, immediately.

NO COSTS.

SO ORDERED.[5]

The RTC ruled that the reasonable value of the lands to be expropriated were as follows:

- Irrigated riceland - P9.00 per sq. m.
- Unirrigated riceland, coconut land, orchard - P8.00 per sq. m.
- Residential land - P120.00 per sq. m.[6]

Petitioner filed a Motion for Reconsideration[7] to the RTC Decision, specifically arguing that the value of just compensation should only be P20,000.00 per hectare, or P2.00 per square meter. Petitioner argued that such value was the amount awarded by other RTCs in the area, which involved landholdings of the same condition as that of the subject properties.

On June 9, 2000, the RTC issued an Omnibus Order[8] denying petitioner's motion to reduce the valuations it made.

On June 15, 2000, petitioner filed with the RTC a Notice of Appeal.[9]

On May 31, 2001, the CA issued a Resolution[10] dismissing the appeal of petitioner for failure to pay the docket fees, thus:

x x x x

The Court RESOLVES to:

x x x x

(d) DISMISS the appeal of plaintiff-appellant Province of Camarines Sur for failure to pay the jurisdictional requirement of payment of the docket fee pursuant to Sec. 1 (c) of the 1997 Rules of Civil Procedure.[11]

Aggrieved, petitioner filed a Motion for Reconsideration,[12] which was, however, denied by the CA in a Resolution[13] dated November 19, 2001.

Hence, herein petition, with petitioner raising the following errors committed by the CA, to wit:

i.

THE COURT OF APPEALS GRAVELY ERRED AND GROSSLY ABUSED ITS DISCRETION IN DISMISSING THE APPEAL OF HEREIN PETITIONER PROVINCE OF CAMARINES SUR AND IN DENYING ITS MOTION FOR RECONSIDERATION SUCH DISMISSAL AND DENIAL BEING ENTIRELY NOT IN ACCORD AND DIRECTLY IN CONTRAVENTION WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT IN THE INSTANT CASE, CONSIDERING THE ATTENDANT CIRCUMSTANCES HEREIN WHICH JUSTIFY THE LIBERAL INTERPRETATION AND APPLICATION OF THE RULES OF COURT.

ii.

THE COURT OF APPEALS SERIOUSLY ERRED IN DISMISSING THE APPEAL OF HEREIN PETITIONER PROVINCE OF CAMARINES SUR SINCE SAID APPEAL IS EXCEPTIONALLY MERITORIOUS AS THE APPEALED DECISION COMPLETELY DEPARTED FROM THE APPLICABLE RULES AND DULY ESTABLISHED JURISPRUDENCE IN THE DETERMINATION OF JUST COMPENSATION IN EXPROPRIATION CASES AND INSTEAD THE JUDGE IN THE LOWER COURT USED HIS OWN PERSONAL VIEW AND BELIEF IN COMING UP WITH THE VALUATION OF THE PROPERTY AS TO URGENTLY REQUIRE THE EXERCISE OF THE POWER OF JUDICIAL INTERVENTION AND SUPERVISION BY THE COURT OF APPEALS.

iii.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT DENIED THE MOTION FOR RECONSIDERATION FILED BY HEREIN PETITIONER AND AFFIRMED ITS RESOLUTION DISMISSING THE APPEAL OF HEREIN PETITIONER PROVINCE BY CITING ONE CASE WHICH IS NOT APPLICABLE IN THIS INSTANT CASE AND CITING ANOTHER WHICH IS, IN FACT, SUPPORT OF THE APPEAL OF HEREIN PETITIONER.[14]

At the crux of the controversy is a determination of the propriety of the CA's resolution dismissing petitioner's appeal for failure to pay the docket fees. In its Motion for Reconsideration[15] before the CA, petitioner argued that its failure to pay the docket fees was due to the honest inadvertence and excusable negligence of its former counsel, Atty. Victor D.R. Catangui, to wit:

x x x x

1. The failure of the former counsel of herein Plaintiff-Appellant Province of Camarines Sur (the late Atty. Victor D.R. Catangui) to pay or caused to be paid the appellate court docket fees was committed through honest inadvertence and excusable negligence, since during the time that the notice of appeal was filed, said counsel was already having health problems affecting his heart that substantially distracted him from faithfully performing his duties and functions as Provincial Legal Officer, including that as counsel of herein Plaintiff-Appellant Province of Camarines Sur in the above-entitled case;
2. That it was the same physical condition that forced him to resign as Provincial Legal Officer effective January 2, 2001 as the distance between his office in Provincial Capitol Complex, Cadlan, Pili, Camarines Sur and that of his residence in San Roque, Iriga City, which is, more or less than 27 kilometers is too much for him to physically endure;
3. That, notwithstanding his resignation from the Provincial Government of Camarines Sur and subsequent transfer to a much nearer office in Iriga City, he nevertheless, sad to tell, unexpectedly succumbed on March 2, 2001 at the age of 47. x x x[16]

This Court is not convinced. Time and time again, this Court has consistently held that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal. Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the action and the decision sought to be appealed from becomes final and executory.[17]

Records disclose that petitioner's former counsel Atty. Catangui filed a Notice of Appeal on June 15, 2000. On January 15, 2001, Atty. Catangui filed a Motion with the CA notifying the same that he was withdrawing as counsel for petitioner. On May 31, 2001, the CA issued the first assailed Resolution, which noted the motion of Atty. Catangui to withdraw as counsel and which also dismissed petitioner's appeal for failure to pay the docket fees. Said resolution was sent to petitioner via registered mail and was received by petitioner's agent, a certain Loningning Noora-Papa, as evidenced by the Registry Return Receipt.[18] It was only on August 2, 2001 that the CA received the Entry of Appearance[19] of petitioner's new counsel, Atty. Elias A. Torallo, Jr. With the appearance of Atty. Torallo, the CA resent the May 31, 2001 Resolution informing him of the dismissal of the petition. On September 11, 2001, a day after receiving said Resolution, Atty. Torallo paid the corresponding docket fees.

From the time Atty. Torallo paid the corresponding docket fees, approximately 15 months had already lapsed from the time the notice of appeal was filed by petitioner's former counsel Atty. Catangui. This is to this Court's mind, already too late in the day.

While the strict application of the jurisdictional nature of the rule on payment of appellate docket fees may be mitigated under exceptional circumstances to better serve the interest of justice,[20] such circumstances are not

present in the case at bar.

Petitioner's attempt to pass the buck on the sickness of its former counsel, Atty. Catangui, is not a compelling reason for this Court to relax the strict requirement for the timely payment of appellate docket fees. While this Court expresses grief over the death of Atty. Catangui, his sickness[21] was not of such a nature which would have impaired his mental faculties and one which would have prevented him from filing the docket fees. From the time he filed a notice of appeal assailing the RTC Decision, Atty. Catangui was still the Provincial Legal Officer for 6 months prior to his transfer to his new post at the National Commission on Indigenous Peoples. Even if the corresponding docket fees were not paid upon the filing of the notice of appeal, still, Atty. Catangui could have rectified the situation by paying the fees within the 15-day reglementary period to file an appeal. As manifested by petitioner, Atty. Catangui was in the practice of law for 10 years, he should have, therefore, seen to it that the stringent requirements for an appeal were complied with.

M. A. Santander Construction Inc. v. Villanueva[22] is instructive, thus:

In the instant case, petitioner received a copy of the Decision of the trial court on March 3, 1998. Accordingly, it had, pursuant to Section 3, Rule 41, until March 18, 1998 within which to perfect its appeal by filing within that period the Notice of Appeal and paying the appellate docket and other legal fees. While petitioner filed the Notice of Appeal on March 9, 1998, or within the reglementary period, however, it paid the required docket fees only on November 13, 1998, or late by 7 months and 25 days.

The mere filing of the Notice of Appeal is not enough, for it must be accompanied by the payment of the correct appellate docket fees. Payment in full of docket fees within the prescribed period is mandatory. It is an essential requirement without which the decision appealed from would become final and executory as if no appeal had been filed. Failure to perfect an appeal within the prescribed period is not a mere technicality but jurisdictional and failure to perfect an appeal renders the judgment final and executory.

In Guevarra vs. Court of Appeals, where the docket fees were not paid in full within the prescribed period of fifteen (15) days but were paid forty-one (41) days late due to "inadvertence, oversight, and pressure of work," we held that the Court of Appeals correctly dismissed the appeal. In Lee vs. Republic of the Philippines, where half of the appellate docket fee was paid within the prescribed period, while the other half was tendered after the period within which payment should have been made, we ruled that no appeal was perfected. Clearly, where the appellate docket fee is not paid in full within the reglementary period, the decision of the trial court becomes final and no longer susceptible to an appeal. For once a decision becomes final, the appellate court is without jurisdiction to entertain the appeal.[23]

Withal, it bears to stress that Appeal is not a constitutional right, but a mere statutory privilege. It must be exercised strictly in accordance with the provisions of the law and rules. Specifically, the payment of docket fees within the period for perfecting an appeal is mandatory. In the present case, petitioner has not given sufficient reason why it should be exempt from this stringent rule.

WHEREFORE, premises considered, the petition is DENIED. The Resolutions of the Court of Appeals, dated May 31, 2001 and November 19, 2001, in CA-G.R. CV No. 69735, are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[*] The Court approved the Extra-Judicial Settlement with Compromise Sale executed by the Heirs of San Joaquin per Resolution dated December 12, 2007.

[1] Rollo, pp. 10-43.

[2] Id.at 45-46.

[3] Penned by Associate Justice Jose L. Sabio, Jr., with Presiding Justice Ma. Alicia Austria-Martinez (retired member of this Court) and Associate Justice Hilarion L. Aquino, concurring; id. at 49-50.

[4] Rollo, pp. 63-68.

[5] Id. at 67-68.

[6] Id. at 66.

[7] Records, vol. 3, pp. 1493-1519.

[8] Id. at 1583-1585.

[9] Id. at 1586-1587.

[10] Rollo, pp. 45-46.

[11] Id.at 45.

[12] Id. at 52-58.

[13] Id. at 49-50.

[14] Id.at 20-21.

[15] Id.at 52-58.

[16] Id. at 52-53.

[17] Yambao v. Court of Appeals, 399 Phil. 712, 717-718 (2000).

[18] CA rollo, p. 64. (Dorsal side.)

[19] Id.at 66.

[20] Ayala Land, Inc. v. Spouses Carpo, 399 Phil. 327, 335 (2000).

[21] The medical history of Atty. Catangui reveals that he was suffering from diabetes mellitus type 2 and hypertensive cardiovascular disease; rollo, pp. 70-71.

[22] 484 Phil. 500 (2004).

[23] Id. at 504-505. (Emphasis supplied.)

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