NATIONAL POWER CORPORATION, PETITIONER, VS. SPOUSES LORENZO L. LAOHOO AND VISITACION LIM-LAOHOO; AND LUZ LOMUNTAD-MIEL, RESPONDENTS.

G.R. NO. 151973. July 23, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[1] of the Court of Appeals (CA) dated January 25, 2002 in CA-G.R. SP No. 49383.

Petitioner National Power Corporation (NAPOCOR) is a government-owned and controlled corporation created under Republic Act (RA) No. 6395, as amended, with the mandate to undertake the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources, as well as the transmission of electric power on a nationwide basis.[2] Petitioner decided to acquire an easement of right-of-way over respondents' properties located at Barangay San Andres and Poblacion, Municipality of Catbalogan, Samar for its proposed 350 KV LEYTE-LUZON HVDC POWER TL PROJECT.

On October 2, 1996, petitioner filed two complaints before the Regional Trial Court (RTC) of Catbalogan, Samar, docketed as Civil Case No. 6890,[3] entitled National Power Corporation v. Sps. Lorenzo L. Laohoo and Visitacion Lim and Civil Case No. 6891,[4] entitled National Power Corporation v. Sps. Ernesto Miel and Luz Lomuntad. Both actions seek to acquire an easement of right-of-way over portions of respondents' properties consisting of 3,258 square meters for the properties of spouses Lorenzo Laohoo and Visitacion Lim-Laohoo (the Spouses Laohoo) and 4,738 square meters for the properties of spouses Ernesto Miel and Luz Lomuntad-Miel (the Spouses Miel).

Petitioner then filed an Urgent Ex-Parte Motion for the Issuance of a Writ of Possession[5] in both cases.

On November 5, 1996, the Spouses Laohoo in Civil Case No. 6890 filed their Answer to the complaint acknowledging petitioner's right to expropriate their property, but prayed for payment of just compensation, damages and attorney's fees.[6]

The RTC issued two Orders,[7] both dated November 13, 1996, directing the Sheriff of the RTC to place petitioner in possession of the premises upon deposit with the Philippine National Bank (PNB) of the amount of P8,000,000.00, as provisional value fixed by the trial court in Civil Case No. 6891 and the amount of P6,000,000.00, as provisional value fixed by the trial court in Civil Case No. 6890.

On November 27, 1996, the Spouses Miel filed a Motion to Dismiss the complaint. They alleged that petitioner could ignore their property and use another land instead. However, in case their property was condemned, they prayed for payment for the improvements on their land, just compensation, damages and attorney's fees.[8]

On January 31, 1997, petitioner filed an Urgent Joint Motion to Reduce Amount of Report,[9] praying that the provisional deposit fixed in both cases be reduced to a reasonable amount, as determined by the trial court. During

the hearing on the motion to reduce amount of report, the Spouses Laohoo manifested their willingness to reduce the amount of provisional deposit to P5,500,000.00. The trial court set the case for further hearing to give the petitioner time to consider the proposal of the Spouses Laohoo. Eventually, the provisional amounts of deposit were reduced to P2,500,000.00 in Civil Case No. 6890 and P3,000,000.00 in Civil Case No. 6891. Petitioner deposited the aforementioned amounts with the PNB Catbalogan, Samar Branch. Thus, on February 28, 1997, the RTC issued an Order[10] allowing the petitioner to enter the subject properties.

On February 13, 1997, the RTC appointed three (3) commissioners, namely: Provincial Assessor Engineer Leo N. Dacaynos, Architect Gilbert C. Cinco, and Mr. Eulalio C. Yboa for the purpose of determining the fair and just compensation due the respondents relative to petitioner's installation of its electric transmission lines on their properties. On April 2, 1997, the Commissioners submitted their appraisal report[11] and recommended an amount not lower than P1,900.00 per square meter as the fair market value of the properties in controversy.

During the hearing on April 3, 1997, respondents moved that the market value of P1,900.00 per square meter recommended by the commissioners be increased to P2,200.00 per square meter in Civil Case No. 6890 and to P2,500.00 per square meter in Civil Case No. 6891. The trial court set the case for further hearing to give petitioner the opportunity to be heard on the matter. In the meantime, upon motion of the Spouses Laohoo in Civil Case No. 6890, the RTC, on April 8, 1997, issued an Order[12] allowing them to withdraw P2,000,000.00 from the amount deposited by petitioner at PNB. Upon a similar motion of the Spouses Miel in Civil Case No. 6891, the RTC issued an Order[13] dated April 8, 1997 allowing the Spouses Miel to withdraw P2,500,000.00 from the amount deposited by petitioner at PNB.

On July 2, 1997, petitioner, through Atty. Neon Cinco, filed its Comment and/or Opposition[14] to the commissioner's report. The petitioner prayed that the amount of just compensation be based on the average of the prices as recommended by the Provincial Appraisal Committee of the Province of Samar and as certified by the Provincial Assessor, the average of which was much lower than the amount determined by the commissioners.

On September 15, 1997, the trial court issued two Orders[15] requiring the petitioner to pay the amount fixed as just compensation at P2,000.00 per square meter or the total amount of P6,616,000.00 for Civil Case No. 6890 and P9,476,000.00 for Civil Case No. 6891.

On October 2, 1997, petitioner filed Motions for Reconsideration[16] in both cases, which the RTC denied in an Order[17] dated October 14, 1997.

Petitioner filed Notices of Appeal,[18] which were dismissed by the trial court in an Order[19] dated December 10, 1997, for being filed out of time.

On March 13, 1998, the trial court issued two Orders[20] directing petitioner to deposit with PNB the balance of the just compensation for the properties of the respondents in the amounts of P4,116,000.00 in Civil Case No.6890 and P6,476,000.00 in Civil Case No. 6891. Petitioner filed a Motion for Reconsideration[21] of the Orders dated December 10, 1997 and March 13, 1998, praying that its notices of appeal be admitted. The said Motion was denied in a Resolution[22] dated July 2, 1998.

On August 27, 1998, the trial court issued two separate Orders[23] reiterating its previous orders for petitioner to deposit with PNB the amounts adjudged as just compensation on or before September 16, 1998.

During the hearing on September 29, 1998,[24] the trial court was informed by the manager of PNB, Catbalogan, Samar Branch, that petitioner had not yet deposited the prescribed amounts with the PNB. On October 1, 1998, the RTC directed the issuance of the writs of execution for the enforcement of the court's judgment dated September 15, 1997,[25] on the premise that the judgment of the RTC ordering petitioner to pay respondents the

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amounts due them, as payment for their expropriated property, had become final and executory. On October 2, 1998, the RTC issued the Writs of Execution[26] in Civil Case Nos. 6890 and 6891, and also issued Notices of Garnishment[27] on the petitioner's accounts with the Land Bank of the Philippines (LBP). On October 13, 1998, petitioner received copies of the RTC Orders dated October 1, 1998.

On October 27, 1998, petitioner filed a Petition for Certiorari, Prohibition and Preliminary Injunction with Prayer for a Temporary Restraining Order with the CA, docketed as CA-G.R. SP No. 49383.[28] In a Decision[29] dated January 25, 2002, the CA dismissed the petition for late filing. It ruled that:

> It appears from the records of this case that Petitioner's Notice of Appeal was denied by Respondent Court in an Order dated December 10, 1997, a copy of which was received by Petitioner on December 23, 1997 (Annex "2" of Private Respondents' Consolidated Comments on the Petition). Accordingly, pursuant to Section 4, Rule 65 of the 1997 Rules on Civil Procedure, Petitioner had sixty (60) days from December 23, 1997 within which to assail the Respondents Court's denial of its Notice of Appeal via Petition for certiorari as in the present recourse. Petitioner, however, instituted the present recourse only on October 27, 1998, which is way beyond the sixty (60)-day reglementary period provided by law.
>
> From the foregoing disquisitions, the instant petition must perforce be denied due course for having been filed out of time.

Hence, the instant petition assigning the following errors:

> THE COURT OF APPEALS' QUESTIONED DECISION DATED JANUARY 25, 2002 IS NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE CONSIDERING THAT:
>
> I
>
> THE DETERMINATION OF THE AMOUNT OF JUST COMPENSATION WAS SPECULATIVE, ARBITRARY AND DEVOID OF ANY FACTUAL OR LEGAL BASIS.
>
> II
>
> THE DISMISSAL OF THE PETITION FOR CERTIORARI ON A MERE TECHNICALITY IS CONTRARY TO THE TIME HONORED DOCTRINE THAT LITIGATION IS NOT A GAME OF TECHNICALITIES AND THERE IS NO VESTED RIGHT IN IT BECAUSE THE GENERAL AIM OF PROCEDURAL LAW IS TO FACILITATE THE APPLICATION OF JUSTICE TO THE PARTY- LITIGANTS.

The petition is not meritorious.

Although the dismissal of the petition by the CA was based on the failure to timely file the petition, such dismissal was not merely based on technicality, but on petitioner's failure to perfect its appeal on time with the RTC.

Records show that, on September 15, 1997, the RTC, in both civil cases, issued orders directing the petitioner to pay the amount fixed as just compensation. Petitioner, through its counsel, received the said Orders on September 25, 1997. On October 2, 1997, petitioner filed by registered mail, a Motion for Reconsideration of the said Orders which the RTC denied in an Order dated October 14, 1997.

On October 30, 1997, petitioner filed a Notice of Appeal by registered mail for the two civil cases. Respondent Spouses Laohoo filed their Comment and Opposition to the notice of appeal, contending that the said appeal was filed six days late.

Petitioner argued that it was only on October 23, 1997 that the Office of the Regional Legal Counsel, NPC-Visayas Region in Cebu City, received a copy of the Order of October 14, 1997 denying its motion for

reconsideration. By computing the remaining eight days reckoned from the date of receipt on October 23, 1997 of the RTC's Order dated October 14, 1997, petitioner insisted that it had until October 31, 1997 within which to file the notice of appeal and, thus, the filing thereof on October 30, 1997 was well within the 15-day reglementary period for taking an appeal as provided by the rules.

In an Order dated December 10, 1997, the RTC dismissed the petitioner's appeal and ruled that:

> It appears from the record that the National Power Corporation received the resolution of this court dated October 14, 1997 denying their motion for reconsideration through their lawyer, Atty. Neon Cinco, on October 15, 1997. It is not, therefore, true that NAPOCOR received the order of denial of said motion for reconsideration on October 23, 1997 as alleged by Atty. Marianito delos Santos.
>
> WHEREFORE, and it appearing that plaintiff's notice of appeal was filed six (6) days beyond the reglementary period, it is ordered that plaintiff's appeal be, and is hereby, dismissed.

There appears to be a controversy between the petitioner and the respondents as to when the petitioner received the RTC Order dated October 14, 1997 denying the petitioner's motion for reconsideration. This issue needs to be settled, because the remaining period (i.e., eight days) within which to appeal is reckoned from the actual date of receipt of the RTC's Order of denial. The determination as to whether petitioner's notice of appeal was filed on time crucial, because if it was seasonably filed, then the RTC gravely abused its discretion in dismissing the same. On the contrary, if it was filed out of time, then the RTC correctly dismissed the notice of appeal and the RTC's Order dated September 15, 1997 had already become final and executory.

This Court finds that the petitioner's appeal before the RTC was filed out of time.

In the Order dated December 10, 1997 dismissing the petitioner's appeal, the RTC made a finding that its counsel, Atty. Neon Cinco, received the Order denying its motion for reconsideration on October 15, 1997. The date of receipt by petitioner, as found by the RTC, was based on the records of the case. Petitioner failed to disprove what was reflected in the records of the RTC that Atty. Cinco received the Order dated October 14, 1997 on October 15, 1997. If the records of the RTC do not show that Atty. Cinco received the same on October 15, 1997, the petitioner could have presented certified true copies of the records of the case in order to disprove the trial court's finding. In the absence of such evidence, the trial court's declaration should be taken as true on its face, as it enjoys the presumption of regularity in the performance of its official duties.[30] Because of the foregoing, We are inclined to rule that petitioner's counsel, Atty. Neon Cinco, received the Order on October 15, 1997.

The trial court's Order dated September 15, 1997 was a final order fixing the just compensation for the expropriated lots of the respondents and, thus, completely disposed of the controversy between the party litigants. Petitioner should have timely appealed the assailed RTC Order under Section 1, Rule 41 of the Rules of Court. In this case, petitioner received on September 25, 1997 a copy of the Order of the trial court dated September 15, 1997 fixing the amount of just compensation on the respondents' properties. On October 2, 1997, or on the seventh day from receipt of the Order dated September 15, 1997, petitioner filed a motion for reconsideration. The RTC denied the motion in an Order dated October 14, 1997, which was received by petitioner's counsel on October 15, 1997. Therefore, petitioner had the remaining period of eight days, or until October 23, 1997, within which to appeal. Perforce, the filing of the Notice of Appeal on October 30, 1997 was already late.

Since the appeal was not filed within the reglementary period of 15 days as provided by the Rules,[31] the appeal is dismissible[32] for having been filed out of time. The approval of a notice of appeal becomes the ministerial duty of the lower court, provided the appeal is filed on time. If the notice of appeal is, however, filed beyond the reglementary period, the trial court may exercise its power to refuse or disallow the same in accordance with Section 13 of Rule 41 of the Rules.[33] Let it not be overlooked that the timeliness of an appeal is a jurisdictional

caveat that not even this Court can trifle with.[34] Consequently, the trial court committed no error in dismissing the appeal.

The failure of the petitioner to perfect an appeal within the period fixed by law renders final the decision sought to be appealed. As a result, no court could exercise appellate jurisdiction to review the decision.[35] It is settled that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.[36] Otherwise, there will be no end to litigation and this will set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.[37]

Once a judgment becomes final and executory, all the issues between the parties are deemed resolved and laid to rest. All that remains is the execution of the decision which is a matter of right.[38] The prevailing party is entitled to a writ of execution, the issuance of which is the trial court's ministerial duty.[39]

In addition to the non-perfection of the appeal on time, records show that the notice of appeal failed to indicate the date when the petitioner received the Order denying its motion for reconsideration. The rules require that the notice of appeal shall state the material dates showing the timeliness of the appeal.[40] The indication of date is important in order for the trial court to determine the timeliness of the petitioner's appeal.

Likewise, petitioner did not pay the appellate court's docket and other lawful fees on time. Respondents pointed out that the payment of the fees, as reflected by the official receipts,[41] was made only after five months from the filing of the notice of appeal.

It is a rule that within the period for taking an appeal, the appellant shall pay the full amount of the appellate court's docket and other lawful fees.[42] In the absence of such payment, the trial court may, motu proprio or on motion, dismiss the appeal for non-payment of the docket fees and other lawful fees within the reglementary period.[43] Since petitioner failed to pay the docket fees and other lawful fees within the reglementary period, it is apparent that the dismissal of the appeal by the trial court was in order. In Fil-Estate Properties, Inc. v. Homena-Valencia,[44] this Court upheld the dismissal of an appeal or notice of appeal for failure to pay the full docket fees within the period for taking the appeal. The payment of docket fees within the prescribed period is mandatory for the perfection of the 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. In the present case, petitioner failed to offer any explanation for the belated payment of the required fees.

Furthermore, as pointed out by the respondents, and as proven by the records of the case, the Order of the trial court dated September 15, 1997 was already fully executed. The Sheriff's Report[45] relative to the satisfaction of judgment in Civil Case Nos. 6890 and 6891, dated November 17, 1998, provided that the writ of garnishment was duly satisfied. The PNB had already delivered the money under garnishment by issuing certified checks in the amount of P4,616,000.00 in favor of the Spouses Laohoo and in the amount of P6,476,000.00 in favor of the Spouses Miel.

In an effort to justify its belated filing of the notice of appeal within the reglementary period of fifteen days, petitioner, in its Reply,[46] cited Municipality of Biñan v. Garcia[47] which explained that since no less than two appeals are allowed in an action for eminent domain, as in actions for partition, the period of appeal from an order of condemnation is thirty days counted from notice of said Order, a record of appeal being required, and not the ordinary period of fifteen days prescribed for actions in general.

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Petitioner's argument is self-defeating, considering that it did not file any record on appeal within the reglementary period provided by the Rules after its receipt of the trial court's order. Further, the filing of a record on appeal is no longer necessary, as the RTC has fully resolved all the issues in the present case. In the recent case of Marinduque Mining and Industrial Corporation and Industrial Enterprises, Inc. v. Court of Appeals and National Power Corporation,[48] the Court held that no record on appeal shall be required, except in special proceedings and other cases of multiple or separate appeals where the law or the rules so require. The reason for multiple appeals in the same case is to enable the rest of the case to proceed in the event that a separate and distinct issue is resolved by the trial court and held to be final. In such case, the filing of a record on appeal becomes indispensable only when a particular incident of the case is brought to the appellate court for resolution with the rest of the proceedings remaining within the jurisdiction of the trial court. Hence, if the trial court has already fully and finally resolved all conceivable issues in the complaint for expropriation, then there is no reason why the original records of the case must remain with the trial court. Therefore, there was no need to file a record on appeal because the original records would already be sent to the appellate court.

Petitioner cannot take refuge in the "fresh period rule." In Neypes v. Court of Appeals,[49] the Court standardized the appeal periods provided in the rules in order to afford litigants a fair opportunity to appeal their cases. We allowed a fresh period of fifteen days within which to file a notice of appeal in the RTC, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration. Neypes is inapplicable to the present case, although procedural laws may be given retroactive effect to actions pending and undetermined at the time of their passage; there being no vested rights in the rules of procedure,[50] said retroactive application of procedural rule does not extend to actions that have already become final and executory,[51] like the Order of the trial court in the instant case.

Furthermore, petitioner's lame allegation that Atty. Cinco failed to inform petitioner of the denial of its motion for reconsideration cannot be used as a basis to defeat the rules of procedure relative to the timeliness of an appeal.

Petitioner was represented in the trial court by three lawyers, namely: Attys. Marianito delos Santos, Rosalito Castillo and Neon Cinco. These lawyers hold office at Martinez Bldg., Jones Ave., Cebu City. During the proceedings in the trial court, Atty. Cinco attended the hearings and even filed a pleading on behalf of the petitioner. Thus, he was one of the counsels of record in the case before the RTC.

The rules provide that if a party is appearing by counsel, service upon him shall be made upon his counsel or one of them unless service upon the party himself is ordered by the court.[52] In Ortega v. Pacho,[53] this Court ruled that service to one of plaintiff's several counsels is sufficient. It was further held that when the rule employs the words "his attorneys or one of them," it can only refer to those employed regardless of whether they belong to the same law firm or office, otherwise that meaning would have been expressed therein. The reason for the rule undoubtedly is that, when more than one attorney appears for a party, notice to one would suffice upon the theory that he would notify or relay the notice to his colleagues in the case. This is a rational and logical interpretation, and we find no plausible reason to rule otherwise. Accordingly, service of a copy of the decision or orders of the court on Atty. Cinco is deemed service upon the petitioner. The failure of Atty. Cinco to file the necessary notice of appeal on time binds the petitioner.

The general rule is that a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique. The exception to this rule is when the negligence of counsel is so gross, reckless and inexcusable that the client is deprived of his day in court.[54] The failure of a party's counsel to notify him on time of the adverse judgment to enable him to appeal therefrom is negligence, which is not excusable. Notice sent to counsel of record is binding upon the client, and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment valid and regular on its

face.[55]

To sustain petitioner's self-serving argument that it cannot be bound by its counsel's negligence would set a dangerous precedent, as it would enable every party-litigant to render inoperative any adverse order or decision of the courts, through the simple expedient of alleging gross negligence on the part of its counsel.

Petitioner contends that the Office of the Solicitor General (OSG) was not furnished with a copy of the Order dated December 10, 1997 in Civil Case Nos. 6890 and 6891, dismissing the notice of appeal, or the Order dated July 2, 1998, denying petitioner's motion for reconsideration. Hence, the period to appeal the decision to the CA did not even begin to run. It postulated that the period to file an appeal is to be counted from the receipt by the OSG of the order or decision and not from the receipt by the NAPOCOR lawyers, who were merely deputized as Special Attorneys. Such contention is equally bereft of merit.

In National Power Corporation v. Vine Development Corporation,[56] it was held that under Section 2(a), Rule 41[57] of the Revised Rules of Court, which pertains to ordinary appeals, the notice of appeal is filed in the very same court that rendered the assailed decision. Since the notice was filed before the RTC, the NAPOCOR lawyers acted clearly within their authority. Indeed, their action ensured that the appeal was filed within the reglementary period. Regardless of which mode of appeal is used, the appeal itself is presumed beneficial to the government; hence, it should be allowed. After all, the OSG may withdraw it, if it believes that the appeal will not advance the government's cause. This case affirmed the authority of National Power Corporation's lawyers to file notices of appeal of adverse decisions rendered by the trial courts.

It may be logically inferred in this case that NAPOCOR lawyers, who had been designated or deputized as special attorneys of the OSG, had the authority to represent the petitioner and file the notice of appeal. Additionally, in Republic v. Soriano,[58] We ruled that:

> The petitioner's contention that service of the questioned Orders to deputized special attorneys of the OSG would not bind the OSG so that the Orders did not attain their finality when the Motion was filed, does not have a leg to stand on. It is a well-settled principle that the acts of the authorized Deputy bind the principal counsel. Thus, service on the Deputy is service to the OSG.
>
> Moreover, the records will disclose that Atty. Fidel Evangelista, who is a deputized attorney, was the one who appeared for the petitioner in the lower court. It is not only lawful, but also in accordance with the normal and standard practice that notices be sent to said special Attorney to avoid delays and complications. Precisely, the OSG has no time and manpower to handle all the cases of multifarious government entities such that deputization is authorized by law to cope with such contingencies.

Since NAPOCOR lawyers had the authority to represent petitioner, the notice of appeal filed by these special attorneys was binding upon it, and so was their omission to file the same on time. Petitioner cannot now put the blame on its special attorneys in order to circumvent the rule on perfection of appeal.

National Power Corporation v. NLRC,[59] as cited by the petitioner insofar as the rule on mandatory service of orders and decisions to the OSG is concerned, cannot be applied to the present case. In the said case, the OSG entered its appearance as counsel for National Power Corporation at the first instance. The deputization of Atty. Restituto O. Mallo was made only after the entry of appearance of the OSG, thus, making it the primary counsel of record. The appearance of the deputized special attorney in the proceedings before the Labor Arbiter did not divest the OSG of control over the case and did not make the deputized special attorney the counsel of record. Ad contrarium, in the present case, the NAPOCOR lawyers had been the counsels of record from the very beginning of the case, and the OSG never made any formal entry of appearance.

Now we go to the propriety of the petitioner's choice of the remedy of a special civil action for certiorari which

questions the dismissal of the notice of appeal, and prays for the annulment of the writ of execution issued by the trial court.

Time and again, this Court has emphasized that a special civil action for certiorari under Rule 65 lies only when there is no appeal, nor plain, speedy and adequate remedy in the ordinary course of law. That action is not a substitute for a lost appeal in general; it is not allowed when a party to a case fails to appeal a judgment to the proper forum.[60] In Madrigal Transport Inc., v. Lapanday Holdings Corporation,[61] We held that where an appeal is available to the aggrieved party, the action for certiorari will not be entertained. Remedies of appeal and certiorari are mutually exclusive, not alternative or successive. Where an appeal is available, certiorari will not prosper, even if the ground therefor is grave abuse of discretion. Obviously, this remedy was resorted to by the petitioner due to the fact that its notice of appeal was dismissed by the RTC for having been filed out of time.

Petitioner went to the CA alleging grave abuse of discretion on the part of the trial court in dismissing its notice of appeal. However, no grave abuse of discretion can be attributed to the trial court in dismissing the appeal, as the same was filed beyond the period provided by the rules, more so because the issuance of the order of execution was in accordance with law, as the order to be implemented had already attained finality. Execution shall issue as a matter of right if no appeal has been duly perfected.[62]

The core issue in the petition for certiorari with the CA was the alleged exercise of grave abuse of discretion by the RTC in dismissing petitioner's notice of appeal. When the CA denied the said petition for being filed out of time, petitioner sought relief before this Court through the instant petition for review. However, a perusal of the petition before Us would readily show that the petitioner is now suddenly questioning not only the CA's order of dismissal, but also the determination of the amount of just compensation by the RTC, which is a question of fact. This requires a review of the evidence presented by the parties before the trial court. It is aphoristic that this kind of reexamination cannot be done through a petition for review on certiorari under Rule 45 of the Rules of Court, because this Court is not a trier of facts; it reviews only questions of law. The Court is not duty-bound to analyze and weigh again the evidence considered in the proceedings below.[63]

Assuming arguendo that the petition for certiorari under Rule 65 is the proper remedy of the petitioner to question the Order dismissing its notice of appeal, still, the same was filed beyond the period provided by the Rules. Petitioner received the Order dismissing its notice of appeal on December 23, 1997. Accordingly, petitioner had a period of 60 days[64] from its receipt to assail the trial court's dismissal of its notice of appeal via a petition for certiorari with the CA. Petitioner, however, instituted the petition for certiorari only on October 27, 1998, or after a period of 10 months, which was definitely beyond the 60-day reglementary period provided by the Rules.

The petitioner cannot invoke the doctrine that rules of technicality must yield to the broader interest of substantial justice to spare itself from the consequences of belatedly filing an appeal. While every litigant must be given the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities, the failure to perfect an appeal within the reglementary period is not a mere technicality. It raises a jurisdictional problem, as it deprives the appellate court of its jurisdiction over the appeal.[65] After a decision is declared final and executory, vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case.[66] After all, a denial of a petition for being time-barred is tantamount to a decision on the merits.[67]

In Peña v. Government Service Insurance System,[68] We held that there are certain procedural rules that must remain inviolable, like those setting the periods for perfecting an appeal, for it is doctrinally entrenched that the right to appeal is a statutory right, and one who seeks to avail oneself of that right must comply with the statute or rules. These rules, particularly the requirements for perfecting an appeal within the reglementary period specified

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in the law, must be strictly followed, as they are considered indispensable interdictions against needless delays and for an orderly discharge of judicial business.

Maunlad Savings & Loan Association, Inc. v. CA[69] and Samala v. Court of Appeals,[70] cited by the petitioner, cannot be applied on the present case. In Maunlad, We allowed the admission of the respondent's documentary exhibits, although its counsel had failed to formally offer them in evidence. We ruled that the failure of the respondent's counsel was excusable since the documents were in the possession of the petitioner. Since the documents were never in the possession of the respondent, and considering the amount of time that had passed since their presentation, it was understandable that they were overlooked when the time came to formally offer the evidence. We likewise ruled that a judgment based on the merits should prevail over the primordial interest of strict enforcement of matters of technicalities.

In Samala, We granted the petition because petitioner Jose Samala, who was entrusted with the filing of the notice of appeal, suffered stomach pains, which lasted for several days. As a result, the notice of appeal was filed one day late. In this case, We held that the failure to appeal in due time amounted to excusable negligence.

The foregoing rulings cannot be applied to the present case, as Atty. Neon Cinco's failure to file the appeal in due time does not amount to excusable negligence. Accordingly, the non-perfection of the appeal on time is not a mere technicality. Besides, to grant the petitioner's plea for the relaxation of the rule on technicality would disturb a well-entrenched ruling that could make uncertain when a judgment attains finality, leaving the same to depend upon the resourcefulness of a party in concocting implausible excuses to justify an unwarranted departure from the time-honored policy of the law that the period for the perfection of an appeal is mandatory and jurisdictional.[71]

Attention should also be called to the fact that petitioner failed to act promptly to protect its rights after the RTC dismissed its notice of appeal. It did not even offer an explanation of why it took so many months before it filed its petition for certiorari with the CA.

We also note that, during the proceedings before the RTC relative to the fixing of the amount of provisional deposit, the petitioner disagreed with the amount fixed by the trial court. Despite its objection, however, petitioner did not contest the fixing of the amount before the proper forum. Thus, it is now too late to question the Order of the RTC fixing the amount of provisional deposits, which petitioner had already deposited[72] and which had already been deducted from the amount of just compensation finally adjudged by the trial court.

In sum, petitioner disregarded the rules on the perfection of appeal and the requisites for an appeal to be valid, like the indication of material dates showing the timeliness of the appeal and the payment of the appellate court docket fees and other lawful fees. Petitioner failed to question on time the dismissal of the notice of appeal, and instead availed itself of the remedy of a petition for certiorari as a substitute for a lost appeal to assail the RTC's Order which had already attained finality and had been fully executed.

WHEREFORE, the petition is DENIED. The Decision dated January 25, 2002 of the Court of Appeals in CA-G.R. SP No. 49383 is AFFIRMED.

SO ORDERED.

Quisumbing,[*] Ynares-Santiago, (Chairperson), Chico-Nazario, and Velasco, Jr., JJ., concur.

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[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per raffle dated July 13, 2009.

[1] Penned by Associate Justice Candido V. Rivera, with Associate Justices Delilah Vidallon-Magtolis and Juan Q. Enriquez, Jr., concurring; rollo, pp. 70-74.

[2] Republic Act No. 6395, Sec.2.

[3] Rollo, pp. 110-120.

[4] Id. at 121-137.

[5] Id. at 138-140.

[6] Id. at 165.

[7] Id. at 144-147.

[8] Id. at 175-177.

[9] Id. at 148-151.

[10] Id. at 166-178.

[11] Id. at 264-269.

[12] Id. at 161-162.

[13] Id. at 163-164.

[14] Id. at 308-309.

[15] Id. at 165-174 and 175-185.

[16] Id. at 186-193.

[17] Id. at 194-197.

[18] Id. at 198-199.

[19] Id. at 201-202.

[20] Id. at 203-206.

[21] Id. at 207-210.

[22] Id. at 211-214.

[23] Id. at 96-99.

[24] Id. at 215.

[25] Id. at 96-99.

[26] Id. at 220 and 223, respectively.

[27] Id. at 219 and 222.

[28] Id. at 75-94.

[29] Id. at 70-74.

[30] Rules on Evidence, Rule 131, Sec. 2(m) - That official duty has been regularly performed.

[31] Rules of Court, Rule 41, Sect. 3. Period of ordinary appeal. - The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. x x x.

[32] Id., Rule 41, Sec. 13.- Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may motu proprio or on motion dismiss the appeal for having been taken out of time. (14a)

[33] Oro v. Diaz, G.R. No. 140974, July 11, 2001, 361 SCRA 108, 116.

[34] Bank of America, NT & SA v. Gerochi, Jr., G.R. No. 73210, February 10, 1994, 230 SCRA 9, 15.

[35] Supra note 33, at 117.

[36] Peña v. Government Service Insurance System, G.R..No.159520, September 19, 2006, 502 SCRA 383, 404.

[37] Estinozo v. Court of Appeals, G.R. No. 150276, February 12, 2008, 544 SCRA 422, 432.

[38] Rules of Court, Rule 39, Sec. 1. Execution upon judgments or final orders. - Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceedings upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. x x x

[39] Ulang v. Court of Appeals, G.R. No. 99299, August 26, 1993, 225 SCRA 637, 641

[40] Rules of Court, Rule 41, Sec. 6 - The notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal.(4a) (Emphasis supplied)

[41] Rollo, pp. 407-412.

[42] Rules of Court, Rule 41, Sec. 4. Appellate court docket and other fees. - Within the period for taking an appeal, the appellant shall pay to the clerk of court which rendered the judgment or final order appealed from the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal.

[43] Id., Rule 41, Sec. 13. Dismissal of Appeal. - Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may motu proprio or on motion dismiss the appeal for having been taken out of time, or for non-payment of the docket and other lawful fees within the reglementary period. (13a) (As amended by A.M. No. 00-2-10-SC, May 1, 2000.) (Emphasis supplied)

[44] G.R. No. 173942, October 15, 2007, 536 SCRA 252, 260.

[45] Rollo, p. 404.

[46] Id. at 451-457.

[47] G.R. No. 69260, December 22, 1989, 180 SCRA 576.

[48] G.R. No. 161219, October 6, 2008.

[49] G.R. No. 141524, September 14, 2005, 469 SCRA 633.

[50] Pfizer, Inc. v. Galan, 410 Phil. 483, 491 (2001).

[51] Borre v. Court of Appeals, No. L-57204, March 14, 1988, 158 SCRA 560.

[52] Rules of Court, Rule 13, Sec. 2, Par. 2. Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of

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them, unless service upon the party himself is ordered by the court. Where one counsel appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side. (Emphasis supplied.)

[53] 98 Phil. 618, 622 (1956). (Emphasis supplied.)

[54] Producers Bank of the Philippines v. Court of Appeals, G.R. No. 126620, April 17, 2002, 381 SCRA 185, 192.

[55] Mercury Drug Corporation v. Court of Appeals, G.R. No. 138571, July 13, 2000, 335 SCRA 567, 577.

[56] G.R. No. 137785, September 4, 2000, 339 SCRA 580, 589-590.

[57] Section 2. Modes of appeal. - (a) Ordinary appeal. -- The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner." (Emphasis ours.)

[58] L-76944, December 20, 1988, 168 SCRA 560, 567.

[59] G.R Nos. 90933-61, May 29, 1997, 272 SCRA 704.

[60] Leca Realty Corporation v. Republic, G.R. No. 155605, September 27, 2006, 503 SCRA 563, 571.

[61] G.R. No. 156067, August 11, 2004, 436 SCRA 123, 136, 137.

[62] Supra note 38.

[63] Umpoc v. Mercado, G.R. No. 158166, January 21, 2005, 449 SCRA 220, 235.

[64] Rules of Court, Rule 65, Sec. 4.

[65] Republic v. Court of Appeals, G.R. No. 129846, January 18, 2000, 322 SCRA 81, 90. (Emphasis supplied.)

[66] Bello v. National Labor Relations Commission, G.R. No. 146212, September 5, 2007, 532 SCRA 234, 242.

[67] Videogram Regulatory Board v. Court of Appeals, G.R. No. 106564, November 28, 1996, 265 SCRA 50, 56.

[68] G.R.No. 159520, September 19, 2006, 502 SCRA 383, 398.

[69] G.R. No. 114942, November 27, 2008, 346 SCRA 35.

[70] G.R. No. 128628, August 23, 2001, 363 SCRA 535.

[71] Trans International v. Court of Appeals, G.R.No. 128421, October 12, 1998, 297 SCRA 718, 725.

[72] Id. at 161-164.

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