

RUBEN HONGRIA, PETITIONER, VS. EPITACIA HONGRIA-JUARDE, RESPONDENT.

G.R. No. 155086. March 15, 2004

Ponente: VITUG, J.

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VITUG, J.:

In a dispute over the possession of a parcel of coconut land, with an area of 6.6138 hectares, situated in Cagtalaba, Magallanes, Sorsogon, herein respondent Epitacia Hongria-Juarde, in her action for forcible entry, averred that Ruben Hongria, Efren Boi, Efren Poche, Jose Poche alias Junior Poche, Roberto Poche, Zardo Maglaque and John Doe, through force, threats, intimidation and stealth, entered her property and deprived her of the actual possession, as well as the fruits, thereof. In his answer to the complaint, Ruben Hongria, herein petitioner, countered that he acquired the property in good faith and for value from his grandfather, Teodoro Hongria, and that Epitacia Hongria-Juarde, who resided in Quezon City, was never in possession nor the owner of the disputed property. In a decision,[1] dated 27 June 2000, the Municipal Trial Court of Magallanes, Sorsogon, ruled in favor of petitioner. Ruben Hongria, et al., filed an appeal with the Regional Trial Court, Branch 65, Bulan, Sorsogon, Sorsogon.[2] In its decision of 07 September 2001, the Regional Trial Court, reversing the decision of the Municipal Trial Court, held:

“PREMISES CONSIDERED, the Court hereby issues an ORDER REVERSING entirely the Decision of the Court a quo and declaring that –

“(a)

Defendants are the actual prior physical possessors of Lot No. 3361 with an area of 6.6 hectares;

“(b)

Plaintiff should VACATE the land in question and RELINQUISH POSSESSION thereof to Defendants, and to CEASE and DESIST from intruding in the lot in question and disturbing their possessory rights.

“(c)

Prayer for writ of injunction shall be acted upon only after the requirements of AFFIDAVITS and BOND in the amount of P50,000.00 had been complied with.

“No pronouncement as to costs.”[3]

Hongria-Juarde moved for a reconsideration of the decision. In an order, dated 14 January 2002, the Regional Trial Court “set aside” her motion for reconsideration, as well as her supplemental motion for reconsideration, for

lack of merit. In a motion, dated 24 January 2002, Hongria-Juarde through her “temporary counsel” moved for the inhibition of Judge Adolfo G. Fajardo and for the reconsideration of the order of 14 January 2002. In an order, dated 01 April 2002, Judge Fajardo “set aside” for lack of merit the motions for inhibition and reconsideration.

Hongria-Juarde, through her new counsel, Attorney Gil S. Gojol, filed a petition for review with the Court of Appeals, docketed CA-G.R. SP No. 70429, assailing the decision and orders of the Regional Trial Court. In a decision, promulgated on 20 August 2002, the Court of Appeals reversed and set aside the decision of the Regional Trial Court and reinstated that of the Municipal Trial Court. The reversal of the Regional Trial Court decision prompted Ruben Hongria to seek relief from this Court, contending principally that the appellate court should not have entertained the petition for review of Epitacia Hongria-Juarde for having been filed out of time.

Petitioner points out that the decision, dated 07 September 2001, of the Regional Trial Court, has already become final and executory when appealed to the appellate court.

There is merit in the petition.

Respondent Epitacia Hongria-Juarde concededly received the 07[th] September 2001 decision of the Regional Trial Court on 10 September 2001. Two days later, or on 12 September 2001, respondent filed a motion for the reconsideration of the decision. Petitioner opposed the motion. Respondent then filed a “Supplemental Motion for Reconsideration and Reply to Defendants’ Opposition.” On 29 November 2001, Attorney Antonio B. Hibo, Sr., filed a motion to withdraw as counsel for respondent Hongria-Juarde, claiming that he was “already old and does not enjoy a stable blood pressure” and that he would want “to live longer (which could) be achieved only by less tension and hard work.”

The records would indicate that the motion to withdraw as counsel filed by Atty. Hibo was not acted upon; that the conformity of the client to the motion was not obtained, and that there was no entry made by another counsel to substitute for him. Meanwhile, on 22 January 2002, respondent, through Attorney Hibo, received a copy of the order, dated 14 January 2001, of the Regional Trial Court denying the motion for reconsideration and supplemental motion for reconsideration. On 24 January 2002, Hongria-Juarde, through Atty. Hibo as “temporary counsel,” filed a “Motion for Inhibition (and) Reconsideration of the Order Dated 14th January 2002 Received 22 January 2002.” The motion was denied in an order dated 01 April 2002, a copy of which was received by Hongria-Juarde’s new counsel on 10 April 2002. On 18 April 2002, the petition for review before the Court of Appeals was posted by registered mail.

Given the foregoing, the petition for review before the Court of Appeals by herein respondent Epitacia Hongria-Juarde was indeed filed beyond the reglementary period. The reckoning date for filing the petition for review with the appellate court was on 22 January 2002 when herein respondent received the order of the denial of her motion for reconsideration pursuant to Section 1, Rule 42, of the 1997 Rules of Civil Procedure to the effect that “(a) party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals x x x within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner’s motion for new trial or reconsideration filed in due time after judgment.” The petition for review should have thus been instead filed on or before 06 February 2002. In fine, the assailed decision of the Regional Trial Court had long become final and executory when the petition for review was ultimately posted on 18 April 2002. The “Motion for Inhibition & Reconsideration of the Order Dated 14th January 2002 Received 22 January 2002” filed with the Regional Trial Court by respondent Hongria-Juarde was in the nature of a second motion for reconsideration, a prohibited pleading, the filing of which did not toll or interrupt the running of the reglementary period.

WHEREFORE, the decision of the Court of Appeals in CA-G.R. SP No. 70429, promulgated on 20 August 2002,

is REVERSED and SET ASIDE; the decision, dated 07 September 2001, of the Regional Trial Court is REINSTATED. No special pronouncement on costs.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Acting MTC Judge Jacinto G. Tagum

[2] Judge Adolfo G. Fajardo, Presiding.

[3] Rollo, pp. 125-126.

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