

MARCOS V. PRIETO, PETITIONER, VS. THE HON. COURT OF APPEALS (FORMER NINTH DIVISION), HON. ROSE MARY R. MOLINA-ALIM, IN HER CAPACITY AS PAIRING JUDGE OF BRANCH 67 OF THE RTC, FIR...*G.R. No. 158597. June 18, 2012*

Ponente: BERSAMIN, J.

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Ratification or confirmation may validate an act done in behalf of another without authority from the latter. The effect is as if the latter did the act himself.

Antecedents

On October 27, 1997, the Spouses Marcos V. Prieto (Marcos) and Susan M. Prieto filed in the Regional Trial Court (RTC) in Bauang, La Union a complaint against Far East Bank and Trust Company (FEBTC) and the Spouses Antonio Prieto (Antonio) and Monette Prieto to declare the nullity of several real estate mortgage contracts.[1] The plaintiffs narrated that in January 1996, they had executed a special power of attorney (SPA) to authorize Antonio to borrow money from FEBTC, using as collateral their real property consisting of a parcel of land located in Calumbaya, Bauang, La Union (the property) and covered by Transfer Certificate of Title (TCT) No. T-40223 of the Registry of Deeds of La Union; that defendant spouses, using the property as collateral, had thereafter obtained from FEBTC a series of loans totaling P5,000,000.00, evidenced by promissory notes, and secured by separate real estate mortgage contracts; that defendant spouses had failed to pay the loans, leading FEBTC to initiate the extra-judicial foreclosure of the mortgages; that the foreclosure sale had been scheduled on October 31, 1997; and that the promissory notes and the real estate mortgage contracts were in the name of defendant spouses for themselves alone, who had incurred the obligations, rendering the promissory notes and the mortgage contracts null and void ab initio.

The RTC issued a temporary restraining order (TRO), and set a preliminary hearing on the application for the issuance of a writ of preliminary injunction.[2] The RTC eventually denied the application for the writ of preliminary injunction on March 24, 1998;[3] it later denied as well the plaintiffs' motion for reconsideration of the denial of the application.[4]

On July 31, 2001 the RTC rendered its decision dismissing the complaint,[5] ruling that although the name of plaintiff Marcos (as registered owner) did not appear in the real estate mortgage contracts, Marcos could not be absolved of liability because he had no right of action against the person with whom his agent had contracted; that the mortgage contracts, even if entered into in the name of the agent, should be deemed made in his behalf as the principal because the things involved belonged to the principal; and that even assuming that Antonio had exceeded his authority as agent, Marcos had ratified Antonio's action by executing the letter of acknowledgement dated September 12, 1996, making himself liable under the premises.

Marcos received the decision on August 28, 2001, and filed a motion for reconsideration on September 12, 2001, the last day for him to do so under the Rules of Court.[6] On November 19, 2001, the RTC denied the motion for

reconsideration.[7] Marcos received the denial of the motion on November 21, 2001, but he filed his notice of appeal only on November 26, 2001.[8]

On December 11, 2001, the RTC denied due course to the notice of appeal for having been filed four days beyond the reglementary period for perfecting the appeal.[9]

Marcos sought the reconsideration of the denial of due course to the notice of appeal, but the RTC still denied his motion, reiterating that the failure to perfect an appeal rendered the decision final and executory.[10]

On April 16, 2002, Marcos filed a petition for certiorari in the Court of Appeals (CA), imputing grave abuse of discretion to the RTC in disallowing his notice of appeal.[11] He argued that his notice of appeal had been filed only two days late, and that the delay should be treated only as excusable negligence because at that time, he had been deprived of clear thinking due to the pain and disappointment he and his wife had suffered over the failure of the recent medical procedures they had undergone.[12]

On April 24, 2002, the CA Ninth Division, then composed of Associate Justice Conrado M. Vasquez, Jr. as Chairman, and Associate Justice Andres B. Reyes, Jr. and Associate Justice Mario L. Guariña III as Members, dismissed the petition for certiorari, holding that Marcos had failed to perfect his appeal on time, and that, consequently, the RTC did not commit any error or grave abuse of discretion in issuing the challenged orders.[13]

Marcos sought reconsideration, but the CA denied the motion for reconsideration on April 9, 2003.[14]

Hence, this appeal on certiorari.

The petition for review lacks merit.

First of all, Marcos submits that the CA's assailed resolution promulgated on April 9, 2003 was signed only by Associate Justices Vasquez and Reyes, Jr.; that Associate Justice Guariña III as the third Member did not sign the resolution; that the absence of Associate Justice Guariña III's signature revealed the lack of unanimity in the voting, rendering the resolution null and void pursuant to Section 4 of the 1999 Internal Rules of the Court of Appeals;[15] and that the CA should then have constituted a new Division of five Members by selecting two additional Associate Justices by raffle.[16]

We find the submission of Marcos to be without basis. Contrary to his submission, Associate Justice Guariña III expressly concurred in the resolution in question, as borne out by the copy itself of the assailed resolution promulgated on April 9, 2003 attached to the petition for review as "Enclosure A." [17] Marcos could not have missed the signature of Associate Justice Guariña III because it prominently appeared on the copy of the assailed resolution beneath that of Associate Justice Vasquez and beside that of Associate Justice Reyes, Jr.

Secondly, Marcos contends that the CA erred in rejecting his petition for certiorari because his notice of appeal in the RTC had been tardy by only two days, but his tardiness could be excused.

We cannot sustain the contention of petitioner. He himself conceded that his filing of the notice of appeal had been tardy by two days. Thereby, he was aware that he had lost his right to appeal the RTC's decision. As such, the petition for certiorari he thereafter filed in the CA was designed to substitute his loss of the right to appeal.

The CA justified its rejection of the petition for certiorari in the following manner:

Admittedly, petitioner received the Decision in Civil Case No. 1114-BG dated July 31, 2001 on August 28, 2001 and filed his motion for reconsideration on the 15[th] day, or on September 12, 2001. Petitioner received the denial of his motion for reconsideration on November 21, 2001, thereby leaving him with only one (1) day to perfect an appeal. Unfortunately, the notice of appeal was submitted only on November 26, 2001, or four (4)

days beyond the reglementary period.

To justify the late filing of his appeal, petitioner ratiocinated that on November 22, 2001, the last day of appeal, he brought his wife to Manila for an embryo transfer and returned to San Fernando, Pampanga, on November 25, 2001. Other than the bare allegations of the petitioner, however, the pretended excusable neglect remained unsupported and uncorroborated. Worthy of note still is that the notice of appeal submitted mentioned nothing about the embryo transplant. Worse, the notice of appeal misleadingly averred that petitioner is giving notice of his intention to appeal to this Court “from the judgment entered therein by this Court on 19[th] November 2001, which was received by plaintiffs on 21[st] day of November 2001,” thereby making it appear that the notice of appeal was indeed filed on time, stating that what he received on November 21, 2001 was the Decision dated July 31, 2001, not the denial of the reconsideration.

Apropos, when the trial court denied the notice of appeal, it did not commit any error nor grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the challenged orders. No capricious or whimsical exercise of judgment nor arbitrary or despotic manner exists in the issuance of the assailed orders.

Not only that, petition for certiorari presupposes that petitioner is left with no other plain, speedy and adequate remedy in the ordinary course of law like an appeal or a petition from relief of judgment. Notably, petitioner failed to avail of the petition for relief of judgment under Rule 38 of the Rules of Court, and just like in an appeal, certiorari cannot be made a substitute for such remedy.

On the plea for application for the liberality rule, it must be stressed that there are certain procedural rules that must remain inviolable, like those setting the period for perfecting an appeal. Doctrinally entrenched is that the right of appeal is a statutory right and the one who seeks to avail that right must comply with the statute or rules. The Rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed as they are considered indispensable interdictions against needless delays and appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional and the failure to perfect an appeal renders the judgment of the court final and executory. Just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his or her case. (*Videogram Regulatory Board vs. Court of Appeals* 265 SCRA 373 [1996]; *Cabellan vs. Court of Appeals* 304, SCRA 119 [1999]; *Demata vs. Court of Appeals*, 303 SCRA 690 [1999]).

Consequently, failing to perfect an appeal within the time and manner specified by law, deprives the appellate court of jurisdiction to alter the final judgment much less entertain the appeal (*Pedrosa vs. Hill*, 257 SCRA 373 [1996]). Timeliness of an appeal is a jurisdictional caveat that not even the Supreme Court can trifle with. (*Bank of America, NT & SA vs. Gerochi, Jr.*, 230 SCRA 9 [1994]).[18]

We can only sustain the CA’s dismissal of the petition for certiorari. The general rule is that a timely appeal is the remedy to obtain reversal or modification of the judgment on the merits. This is true even if one of the errors to be assigned on appeal is the lack of jurisdiction on the part of the court rendering the judgment over the subject matter, or the exercise of power by said court is in excess of its jurisdiction, or the making of its findings of fact or of law set out in the decision is attended by grave abuse of discretion.[19] In other words, the perfection of an appeal within the reglementary period is mandatory because the failure to perfect the appeal within the time prescribed by the Rules of Court unavoidably renders the judgment final as to preclude the appellate court from acquiring the jurisdiction to review the judgment.[20] We stress, too, that the statutory nature of the right to appeal requires the appealing party to strictly comply with the statutes or rules governing the perfection of the appeal because such statutes or rules are considered indispensable interdictions against needless delays and are instituted in favor of an orderly discharge of judicial business. In the absence of highly exceptional circumstances warranting their relaxation, therefore, the statutes or rules should remain inviolable.[21]

And, thirdly, petitioner's appeal would still not succeed even if the Court now extends to him the retroactive application of the fresh period rule enunciated in *Neypes v. Court of Appeals*,^[22] and reckon the perfection of his appeal from the date of his receipt of the denial of his motion for reconsideration, thus rendering his notice of appeal timely.

The complaint was anchored on the supposed failure of FEBTC to duly investigate the authority of Antonio in contracting the "exceptionally and relatively immense"^[23] loans amounting to P5,000,000.00. Marcos alleged therein that his property had thereby become "unlawfully burdened by unauthorized real estate mortgage contracts,"^[24] because the loans and the mortgage contracts had been incurred by Antonio and his wife only for themselves, to the exclusion of petitioner.^[25] Yet, Marcos could not deny that under the express terms of the SPA,^[26] he had precisely granted to Antonio as his agent the authority to borrow money, and to transfer and convey the property by way of mortgage to FEBTC; to sign, execute and deliver promissory notes; and to receive the proceeds of the loans on the former's behalf. In other words, the mortgage contracts were valid and enforceable against petitioner, who was consequently fully bound by their terms.

Moreover, even if it was assumed that Antonio's obtaining the loans in his own name, and executing the mortgage contracts also in his own name had exceeded his express authority under the SPA, Marcos was still liable to FEBTC by virtue of his express ratification of Antonio's act. Under Article 1898 of the Civil Code, the acts of an agent done beyond the scope of his authority do not bind the principal unless the latter expressly or impliedly ratifies the same.^[27]

In agency, ratification is the adoption or confirmation by one person of an act performed on his behalf by another without authority. The substance of ratification is the confirmation after the act, amounting to a substitute for a prior authority.^[28] Here, there was such a ratification by Marcos, as borne out by his execution of the letter of acknowledgement on September 12, 1996,^[29] whose text is quoted in full, viz:

12 Sept. 1996
(handwritten)

FAR EAST BANK & TRUST COMPANY
San Fernando
La Union

Gentlemen:

It is my/our understanding that your Bank has granted a DISCOUNTING Line/Loan in favor of SPS. ANTONIO & MONETTE PRIETO over my/our real property located in Calumbayan, Bauang, La Union and covered by Transfer Certificate of Title No./s. 40223 of the Registry of Deeds for La Union. This confirms that the said property/ies was/were offered as collateral (illegible) SPS. ANTONIO & MONETTE PRIETO'S line/loan with my/our consent, and that I/we agree with all the terms and conditions of the mortgage executed on the same. I/we further confirm that the proceeds of the aforesaid Discounting Line line/loan was released to SPS. MONETTE & ANTONIO PRIETO for his/her its own benefit.

We thank you for your support to SPS. MONETTE & ANTONIO.

Very truly yours,

(signed)
ATTY. MARCOS PRIETO^[30]

But Marcos insists that the letter of acknowledgment was only a mere "letter (written) on a mimeographic paper ... a mere scrap of paper, a document by adhesion."^[31]

The Court is confounded by Marcos' dismissal of his own express written ratification of Antonio's act. Being himself a lawyer, Marcos was aware of the import and consequences of the letter of acknowledgment. The Court cannot agree with his insistence that the letter was worthless due to its being a contract of adhesion. The letter was not a contract, to begin with, because it was only a unilateral act of his. Secondly, his insistence was fallacious and insincere because he knew as a lawyer that even assuming that the letter could be treated as a contract of adhesion it was nonetheless effective and binding like any other contract. The Court has consistently held that a contract of adhesion was not prohibited for that reason. In *Pilipino Telephone Corporation v. Tecson*, [32] for instance, the Court said that contracts of adhesion were valid but might be occasionally struck down only if there was a showing that the dominant bargaining party left the weaker party without any choice as to be "completely deprived of an opportunity to bargain effectively." That exception did not apply here, for, verily, Marcos, being a lawyer, could not have been the weaker party. As the tenor of the of acknowledgment indicated, he was fully aware of the meaning and sense of every written word or phrase, as well as of the legal effect of his confirmation thereby of his agent's act. It is axiomatic that a man's act, conduct and declaration, wherever made, if voluntary, are admissible against him,[33] for the reason that it is fair to presume that they correspond with the truth, and it is his fault if they do not.[34]

WHEREFORE, the Court AFFIRMS the resolution promulgated by the Court of Appeals on April 24, 2002; and ORDERS petitioner to pay the costs of suit.

SO ORDERED.

Leonardo-De Castro, (Acting Chairman), Del Castillo, Villarama, Jr, and Perlas-Bernabe, JJ., concur.

[1] Records, pp. 1-5.

[2] *Id.*, p. 31.

[3] *Id.*, pp. 93-94.

[4] *Id.*, pp. 129-133.

[5] *Id.*, pp. 236-246.

[6] *Id.*, pp. 247-261.

[7] *Id.*, p. 313.

[8] *Id.*, p. 314.

[9] *Id.*, p. 316.

[10] *Id.*, pp. 327-328.

[11] *Rollo*, pp. 197-216.

[12] *Id.*, pp. 211-214 (the petitioner's wife underwent in vitro fertilization and embryo transfer).

[13] *Id.*, pp. 243-246.

[14] *Id.*, p. 27.

[15] Section 4. Quorum and Voting in Sessions. —

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b. The presence of all members of a Division shall constitute a quorum and their unanimous vote shall be necessary for the pronouncement of a decision or resolution. In case failure to have a unanimous vote, a Special Division of five members shall be constituted in the manner provided in Section 6 hereof.

[16] Section 6. Division of Five. — Whenever the members of a Division fail to reach a unanimous vote, its chairman shall direct the Raffle Committee to designate by raffle two (2) additional members of the Court to constitute a Special Division of five (5). The selection of the two (2) additional members shall be on a rotation basis. The concurrence of a majority shall be necessary for the pronouncement of a decision or resolution. (n)

[17] *Supra*, note 11, p. 27.

[18] *Id.*, pp. 244-245.

[19] *Metropolitan Manila Development Authority v. JANCO Environmental Corp.*, G.R. No. 147465, January 30, 2002, 375 SCRA 320, 329.

[20] *Ko v. Philippine National Bank*, G. R. Nos. 169131-32, January 20, 2006, 479 SCRA 298; *Air France Philippines v. Leachon*, G.R. No. 134113, October 12, 2005, 472 SCRA 439; *Remulla v. Manlongat*, G.R. No. 148189, November 11, 2004, 442 SCRA 226, 233; *Philippine Commercial International Bank v. Court of Appeals*, G.R. No. 127275, June 20, 2003, 404 SCRA 442, 448; *Yao v. Court of Appeals*, G.R. No. 132428, October 24, 2000, 344 SCRA 202; *Dayrit v. Philippine Bank of Communications*, G.R. No. 140316, August 1, 2002, 386 SCRA 117, 125; *Roman Catholic Bishop of Tuguegarao v. Director of Lands*, 34 Phil 623; *Estate of Cordoba v. Alabado*, 34 Phil. 920; *Bermudez v. Director of Lands*, 36 Phil. 774.

[21] See, for instance, *Almeda v. Court of Appeals*, July 16, 1998, 292 SCRA 587, 593-595, where the Court emphasized that: “The timeliness of an appeal is a jurisdictional caveat that not even this Court can trifle with.”

[22] G.R. No. 141524, September 14, 2005, 469 SCRA 633. In this case, we ruled that aggrieved party wishing to appeal an adverse judgment or final order is allowed a fresh period of 15 days within which to file the notice of appeal in the RTC reckoned from the receipt of the order denying a motion for new trial or motion for reconsideration.

[23] *Supra*, note 11, p. 51.

[24] *Supra*, note 1, p. 3.

[25] *Id.*, p. 7.

[26] *Id.*, pp. 8-10.

[27] Article 1898. If the agent contracts in the name of the principal, exceeding the scope of his authority, and the principal does not ratify the contract, it shall be void if the party with whom the agent contracted is aware of the limits of the powers granted by the principal. In this case, however, the agent is liable if he undertook to secure the principal’s ratification. (n)

[28] *Manila Memorial Park Cemetery v. Linsangan*, G.R. No. 151319, November 22, 2004, 443 SCRA 377, 394.

[29] *Supra*, note 1, p. 48.

[30] *Id.*, p. 48.

[31] *Supra*, note 11, p. 214.

[32] G.R. No. 156966, May 7, 2004, 428 SCRA 378, 381.

[33] Rule 130, Rules of Court, provides:

Section 26. Admissions of a party. - The act, declaration or omission of a party as to a relevant fact may be given in evidence against him. (22)

[34] United States v. Ching Po, 23 Phil. 578.

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