

NATIONAL HOUSING AUTHORITY, PETITIONER, VS. HON. VICENTE Q. ROXAS (PRESIDING JUDGE OF REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 227,) REGISTER OF DEEDS OF QUEZON CITY, LAND REGI...*G.R. No. 161204. April 06, 2011*

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-161204/>**BERSAMIN, J.:**

Petitioner National Housing Authority (NHA) appeals the resolution promulgated on September 7, 2001 (dismissing its petition for certiorari "for failure to comply with Sec. 1, Rule 65 of the 1997 Rules of Civil Procedure")^[1] and the resolution promulgated on October 27, 2003 (denying its motion for reconsideration for lack of merit),^[2] both issued in C.A.-G.R. No. SP No. 66409 entitled *National Housing Authority v. Hon. Vicente Q. Roxas, et. al.*, a special civil action for certiorari.

Antecedents

People's Homesite and Housing Corporation (PHHC), NHA's predecessor,^[3] was the registered owner of two large parcels of land situated in the then Municipality of San Juan Del Monte, Province of Rizal, but now a part of Quezon City (QC), covered by Transfer Certificate of Title (TCT) No. 1356 of the QC Register of Deeds (QCRD), with an estimated area of 386,732.40 square meters and 15,555,534.60 square meters. The parcels of land, which encompassed almost the entire area of the Diliman Estate, comprised various subdivisions like Project 1, Project 2, Project 3, Project 4, Project 6, Project 7, North Bago-Bantay, U.P Village, Barangay Central, Sikatuna Village, Barangay Pinahan, Barangay South Triangle, West Triangle, Barangay Sacred Heart, and other Barangays found inside the Diliman Estate. TCT No. 1356 was subdivided into 17,387 lots, more or less, under several survey plans. The subdivided lots were sold and disposed off to NHA's beneficiaries/lot buyers. Of the 17,387 subdivided lots, only 389 lots either remained undisposed or the sales contracts covering them had been executed by the PHHC or NHA in favor of the beneficiaries but the corresponding individual TCTs were yet to issue.

In 1987, NHA delivered its owner's copy of TCT No. 1356 to the QCRD to facilitate the numerous partial cancellations of TCT No. 1356 on account of the deeds of sale executed by NHA in favor of the beneficiaries. However, on June 11, 1988, fire razed the entire premises of QCRD and destroyed the original and the owner's duplicate copies of TCT No. 1356, along with many other records and documents then in the possession and custody of QCRD.

On March 12, 1999, NHA filed a petition for the reconstitution of TCT No. 1356 in the Regional Trial Court in Quezon City (RTC). Its petition, docketed as LRC Case No. Q-99-11347, was raffled to Branch 227 of the RTC, presided by respondent Judge Vicente Q. Roxas.

NHA attached to its petition documents to prove its ownership and the identity of the lands involved, namely: (a)

photocopy of the technical description of the parcels of land covered by TCT No. 1356 issued by the Lands Management Bureau of the Department of Environment and Natural Resources; (b) Subdivision Plan No. BSD 7365; (c) photocopy of a certification issued by QCRD to the effect that TCT No. 1356 was among the certificates of title destroyed by fire on June 11, 1988; (d) photocopy of TCT No. 1356 filed with NHA's Estate Management Title Custodian; and (e) list of the remaining 389 lots, identified by lot and block numbers, their respective areas, survey plan numbers, and their adjoining and adjacent properties.

The RTC set the petition for initial hearing on April 13, 1999 and directed NHA to submit twelve copies of the petition, certified true copies or originals of the annexes, certified true copies of tax declarations and tax receipts, and other jurisdictional requirements as provided by law.

NHA failed to comply with the directive and to appear at the initial hearing. Thus, on April 13, 1999, the RTC issued an order archiving LRC Case No. Q-99-11347 until compliance by NHA with the jurisdictional requirements.

On December 27, 2000, the RTC issued a resolution denying the NHA's petition for reconstitution for lack of merit, viz:

RESOLUTION

The petitioner herein has failed to comply with jurisdictional requirements continuously despite several opportunities afforded petition.

This case has been Archived since April 13, 1999.

WHEREFORE, premises considered, the application of petitioner] for reconstitution is hereby DENIED for lack of merit.

No petition for Reconstitution can be filed from hereon with any other court for TCT No. 1356 - this Court having exercised exclusive jurisdiction over the same in this Land Registration Case.

SO ORDERED.[4]

NHA sought reconsideration, explaining that it was ready and very much willing to comply with all of the requirements except for the certified true copies of the tax declarations and tax receipts that the Assessor's Office of Quezon City had not yet completed because of the voluminous documents involving the hundreds of hectares covered by TCT No. 1356. The RTC set NHA's motion for reconsideration for hearing on May 8, 2001 and directed NHA to comply with the legal requirements in order to show its good faith.⁵

In compliance, NHA submitted twelve copies of its petition for reconstitution (with annexes and original copies of the tax declarations covering 31 subdivided lots in the Malaya/East Subdivision, Bago-Bantay and Kamuning); and a letter from the QC Assessor's Office informing NHA of the failure to accede to NHA's request for the tax declarations and tax receipts.⁶ At the RTC's order, NHA filed its memorandum, to which it attached a certified true copy of a photocopy of TCT No. 1356.

Nonetheless, the RTC issued two orders on May 30, 2001⁷ and June 29, 2001⁸ denying NHA's motion for reconsideration for lack of merit. Both order are respectively reproduced as follows:

ORDER

Petitioner's failure to present any additional documents on Motion for Reconsideration in compliance with jurisdictional requirements a few of which were directed to be complied with, as stated in the March 17, 1999 Order of this Court shows that the Motion For Reconsideration is without merit. This Petition has been pending

for a long time now with petitioner having been given many years to comply.

WHEREFORE, premises considered, Motion For Reconsideration of Petitioner is hereby DENIED for lack of merit.

Pursuant to Section 15 of Republic Act No. 26, "dismissal shall not preclude the right of the party or parties entitled thereof to file an application for confirmation of his or their title under the provision of the Land Registration Act," but the issue of Reconstitution is final and bars any registered owner or interested person from filing a case for reconstitution with any other Court as to constitute forum shopping.

SO ORDERED.

ORDER

With the denial of the Motion for Reconsideration of petitioner, Reconstitution as course of action is now barred. What petitioner must do now is to file an action for confirmation of title under the provisions of the Land Registration Act Sec. 15 RA 26.

SO ORDERED.

NHA filed a notice of appeal seeking to elevate the dismissal for review by the CA. However, the RTC dismissed the appeal, pointing out that NHA had only a day left within which to file its notice of appeal due to NHA's having filed its motion for reconsideration that interrupted the running of the period for appeal on the fourteenth day; that the balance of one day expired on June 21, 2001 because NHA had received the denial of its motion for reconsideration on June 20, 2001; and that the filing of the notice of appeal on July 4, 2001 and the payment of the appellate court docket fees only on July 5, 2001 were made way past the June 21, 2001 deadline to perfect its appeal.

Aggrieved, NHA filed a petition for certiorari in the CA (C.A.-G.R. No. SP No. 66409), ascribing grave abuse of discretion to the RTC for dismissing its notice of appeal.

As earlier stated, the CA summarily dismissed the petition for certiorari because of the failure of NHA to attach to the petition the certified true copies of all the relevant pleadings and documents.

After NHA's motion for reconsideration was denied upon the additional ground that NHA's notice of appeal had been filed out of time in the RTC, NHA now appeals.

Issues

In this appeal, NHA insists that the CA erred:

- In dismissing NHA's petition for certiorari on technical grounds;
- In not considering that the RTC's dismissal with prejudice of NHA's petition for reconstitution was made with grave abuse of discretion amounting to lack or excess of jurisdiction.

In its comment, the Office of the Solicitor General (OSG) conceded that the dismissal of the petition for reconstitution by the RTC was valid, considering NHA's failure to comply with the jurisdictional requirements (particularly the tax declarations and tax receipts). The OSG maintained that the RTC had not yet acquired jurisdiction over the petition; that the dismissal was not with prejudice, for what the RTC proscribed was the filing of a petition for reconstitution for TCT No. 1356 in another court that would constitute forum shopping; and that RTC rightly ruled on whether or not NHA had timely filed its notice of appeal.

Ruling

We affirm the CA's resolutions, but we clarify that NHA may refile its petition for reconstitution of TCT No. 1356.

A.

CA correctly dismissed the petition;

RTC did not commit grave abuse of discretion

Anent whether the CA correctly dismissed NHA's petition for certiorari, the Court stresses that NHA, as the petitioner, had the obligation to comply with the basic requirements for the filing of a petition for certiorari prescribed in Rule 65 of the Rules of Court, specifically to accompany the petition with a "certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46."

Section 3 of Rule 46 of the Rules of Court, which governs original cases filed in the CA (of which NHA's petition for certiorari was one), reiterates the requirements prescribed in Rule 65, thus:

Section 3. Contents and filing of petition; effect of non-compliance with requirements. - The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition, (n)

However, as the CA's resolution of September 7, 2001 revealed, NHA did not attach "the petition for reconstitution filed with the trial Court and other resolutions or orders of the court before its dismissal of the petition, documents which are considered relevant and pertinent thereto." [9]

The omission was fatal to the petition for certiorari of NHA. Section 3, Rule 46, of the Rules of Court, supra, expressly provides that: "The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition" Dismissal of the petition was the recourse of the CA, because the requirements imposed by the Rules of Court were not to be lightly treated or disregarded due to the omitted documents being essential in a special civil action for certiorari, a proceeding by which a superior court

determines whether the respondent court or judge acted without jurisdiction or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.

Concerning whether the RTC properly disallowed NHA's appeal on the ground of NHA's period to appeal having already expired, the RTC did not thereby commit any grave abuse of discretion. The CA's second assailed resolution of October 27, 2003[10] reasonably and validly denied NHA's motion for reconsideration, as its following ratiocination made clear, to wit:

Moreover, We find no grave abuse of discretion on the part of respondent judge in denying petitioner's notice of appeal. It is settled that perfection of an appeal within the reglementary period is not only mandatory but jurisdictional. Failure to comply with this requirement renders the questioned decision final and executory.

Here, petitioner's notice of appeal was filed beyond the reglementary period. The records show that petitioner received a copy of the RTC resolution dismissing its petition on January 24, 2001. It has fifteen (15) days from said date to appeal or until February 8, 2001. On February 8, 2001, petitioner filed a motion for reconsideration of the RTC resolution. This motion interrupted the period to appeal. The balance of the reglementary period, which in this case is one day, shall commence to run again from receipt of the order denying the motion for reconsideration. Petitioner received a copy of the RTC order denying the motion for reconsideration on June 20, 2001. It, however, filed its notice of appeal only on July 4, 2001.

ACCORDINGLY, the motion for reconsideration is DENIED for LACK OF MERIT.

SO ORDERED.

At the time the RTC issued its resolution denying due course to NHA's notice of appeal on July 24, 2001, the applicable rule was Section 3 of Rule 41 of the Rules of Court,[11] which stated that the period for taking an ordinary appeal is within 15 days from notice of the judgment or final order appealed from. The filing of a motion for new trial or reconsideration interrupted the running of the period of appeal, which began to run again from the movant's receipt of notice of the order denying the motion. Thus, NHA had only the balance of the period within which to perfect an appeal, the balance being the number of days remaining in its reglementary period after deducting the time during which the motion was pending, that is, from the date it filed the motion for reconsideration to the date it received the notice of denial of its motion for reconsideration. Considering that NHA filed its motion for reconsideration on the last day of the reglementary period, its appeal must be brought within the day following the service to it of the order denying its motion for reconsideration. Under the circumstances, NHA's notice of appeal was undeniably filed out of time.

NHA's stance might be correct under the pronouncement in *Neypes v. Court of Appeals*,[12] where the Court has allowed a fresh period of 15 days within which an aggrieved party may file the notice of appeal in the RTC, reckoned from the receipt of the order denying said party's motion for new trial or motion for reconsideration. Although *Neypes* has been intended to standardize the appeal periods under the Rules of Court, and has been applied retroactively in some cases due to its being a dictum on remedial law, the pronouncement could not now benefit NHA considering that the issue of whether or not the RTC had been guilty of grave abuse of discretion - the precise subject matter of its petition for certiorari - should be determined on the basis of the rules and jurisprudence then prevailing.

B.

NHA may refile its petition for reconstitution

A reading of the December 27, 2000 resolution[13] and the May 30, 2001 and June 29, 2001 orders of the RTC, *supra*, reveals that the RTC thereby intended to foreclose NHA's option to refile its petition for reconstitution.

We declare, however, that the RTC's dismissal of NHA's petition for reconstitution, albeit with prejudice, does not bar NHA from filing another petition for reconstitution.

The RTC's express barring of NHA's right to refile its petition for reconstitution emanated more from judicial disapproval of NHA's mishandling of the petition than from any other reason. Yet, the bar was not insuperable, considering that the stated reason of thereby preventing NHA's

possible forum shopping was unnecessary. The venue for a new petition for reconstitution would still be Quezon City due to the parcels of land covered by TCT No. 1356 being located entirely within Quezon City. As such, the RTC in Quezon City remained as the proper court for a refiled petition for reconstitution. Moreover, considering that at the time the orders of dismissal were issued NHA had not yet established the facts essential for the RTC to proceed on its petition for reconstitution, the RTC's dismissal did not amount to an adjudication on the merits of the petition and was thus not a viable basis for a bar by res judicata.

WHEREFORE, the Court affirms the resolutions promulgated on September 7, 2001 and October 27, 2003 in CA-G.R. SP No. 66409, without prejudice to National Housing Authority's filing of a new petition for reconstitution of TCT No. 1356.

No pronouncement on costs of suit.

SO ORDERED.

Carpio Morales (Chairperson), Brion, Villarma, Jr., and Sereno., JJ., concur.

[1] Rollo, pp. 32-33; penned by Associate Justice Presbitero J. Velasco, Jr. (later Court Administrator, now member of the Court, but now retired) and Associate Justice Juan Q. Enriquez, Jr., concurring.

[2] Id., pp. 34-35; penned by Associate Justice Reyes, with Associate Justice Enriquez, Jr., and associate Justice Amelita G. Tolentino, concurring.

[3] By virtue of P.D. No. 757, NHA succeeded PHHC.

[4] Record, p. 48.

[5] Id., p. 58.

[6] Id., p. 174.

[7] Id., p. 175.

[8] Id., p. 198.

[9] Rollo, pp. 124-125.

[10] Supra, note 2.

[11] Section 3. Period of ordinary appeal. — The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed, (n)

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

[13] The dispositive portion of the resolution reads:

xxx

WHEREFORE, premises considered, the application of petition for reconstitution (sic) is hereby DENIED for lack of merit. No Petition for Reconstitution can be filed from hereon with any other court for TCT No. 1356 - this Court having exercised exclusive jurisdiction over the same in this Land Registration Case.

SO ORDERED.

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