

MARINDUQUE MINING AND INDUSTRIAL CORPORATION AND INDUSTRIAL ENTERPRISES, INC., PETITIONERS, VS. COURT OF APPEALS AND NATIONAL POWER CORPORATION, RESPONDENTS.

G.R. No. 161219. October 06, 2008

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-161219/>

CARPIO, J.:

The Case

This petition for review[1] seeks the reversal of the 27 February 2003 Decision[2] and 17 November 2003 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 72402. In its 27 February 2003 Decision, the Court of Appeals set aside the 15 May 2002[4] and 24 June 2002[5] Orders of Judge Mamindiara P. Mangotara, Presiding Judge of the Regional Trial Court of Lanao del Norte, Branch 1, Iligan City (trial court), and ordered the trial court to give due course to respondent National Power Corporation's (NAPOCOR) appeal. In its 17 November 2003 Resolution, the Court of Appeals denied the motion for reconsideration of petitioners Marinduque Mining and Industrial Corporation and Industrial Enterprises, Inc. (petitioners).

The Facts

On 1 June 1999, NAPOCOR filed a complaint[6] for expropriation against petitioners for the construction of the AGUS VI Kauswagan 69 KV Transmission Line Project. NAPOCOR sought to expropriate 7,875 square meters of petitioners' property covered by Transfer Certificate of Title Nos. T-955 and T-956.[7]

Petitioners filed their answer[8] with counterclaim and alleged that the expropriation should cover not only 7,875 square meters but the entire parcel of land. Petitioners claimed that the expropriation would render the remaining portion of their property valueless and unfit for whatever purpose.

In its 5 December 2001 Decision,[9] the trial court fixed the fair market value of the 7,875-square meter lot at P115 per square meter.[10] The trial court also directed the commissioners to submit a report and determine the fair market value of the "dangling area," consisting of 58,484 square meters, affected by the installation of NAPOCOR's transmission lines.

NAPOCOR filed a motion for reconsideration. In its Order dated 4 February 2002,[11] the trial court denied NAPOCOR's motion.

In its 19 March 2002 Supplemental Decision,[12] the trial court declared that the "dangling area" consisted of 48,848.87 square meters and fixed its fair market value at P65 per square meter. The trial court ruled that petitioners are entitled to consequential damages because NAPOCOR's expropriation impaired the value of the "dangling area" and deprived petitioners of the ordinary use of their property.

NAPOCOR filed a motion for reconsideration. In its Order dated 24 June 2002,[13] the trial court denied the motion for being moot and academic because on 2 April 2002, NAPOCOR filed a Notice of Appeal[14] of the 19

March 2002 Supplemental Decision.

On the other hand, petitioners moved for the execution of the trial court's 5 December 2001 Decision and 19 March 2002 Supplemental Decision. In its 26 April 2002 Order, the trial court partially granted petitioners' motion and, on 2 May 2002, issued the writ of execution for the 5 December 2001 Decision.

On 29 April 2002, petitioners filed a "motion to strike out or declare as not filed the notice of appeal dated April 2, 2002; to declare the supplemental decision as final and executory; and to issue the corresponding writ of execution thereon." Petitioners argued that NAPOCOR violated Section 11, Rule 13[15] of the Rules of Court because NAPOCOR filed and served the notice of appeal by registered mail. According to petitioners, NAPOCOR had all the vehicles and manpower to personally serve and file the notice of appeal.

NAPOCOR opposed petitioners' motion and alleged that its legal office is "severely undermanned" with only one vehicle and one employee, acting as secretary, handling 300 active cases in Mindanao. NAPOCOR also added that it was highly irregular for petitioners to question its mode of service and filing only at this stage of the proceedings because since the inception of the case, NAPOCOR had resorted to registered mail instead of personal service.

In its 15 May 2002 Order, the trial court granted petitioners' motion and denied NAPOCOR's notice of appeal. The trial court gave more credence to petitioners' allegations and declared that NAPOCOR's explanation was a "patent violation" of the Rules. The trial court considered the notice of appeal as not filed at all and, since the period of appeal had already expired, declared its 19 March 2002 Supplemental Decision final and executory.

NAPOCOR filed a motion for reconsideration.[16] In its 24 June 2002 Order, the trial court denied NAPOCOR's motion.

On 23 August 2002, NAPOCOR filed a special civil action for certiorari with a prayer for a temporary restraining order before the Court of Appeals. NAPOCOR argued that the trial court acted without or in excess of jurisdiction and gravely abused its discretion when it denied NAPOCOR's notice of appeal of the 19 March 2002 Supplemental Decision on the sole ground that it was not filed and served personally.

The Ruling of the Court of Appeals

In its 27 February 2003 Decision, the Court of Appeals ruled in NAPOCOR's favor and set aside the trial court's 15 May 2002 and 24 June 2002 Orders. The Court of Appeals also ordered the trial court to give due course to NAPOCOR's appeal. The Court of Appeals declared that the trial court acted whimsically and capriciously when it denied the notice of appeal and declared the 19 March 2002 Supplemental Decision final and executory. The Court of Appeals noted that service by registered mail was previously resorted to by both parties and yet, this was the first time petitioners questioned NAPOCOR's mode of service. The Court of Appeals added that the trial court should have given due course to NAPOCOR's appeal because of the large amount of public funds involved considering the significant disparity between the area sought to be expropriated and the "dangling area." The Court of Appeals also said that the Rules should be liberally construed to effect substantial justice.

Petitioners filed a motion for reconsideration. In its 17 November 2003 Resolution, the Court of Appeals denied petitioners' motion.

Hence, this petition.

The Issues

Petitioners raise the following issues:

- Whether the Court of Appeals erred in ruling that the trial court's issuance of the 15 May 2002 and 24 June 2002 Orders was attended with grave abuse of discretion amounting to lack of jurisdiction; and
- Whether the Court of Appeals erred in ruling that the 19 March 2002 Supplemental Decision is not final and executory.

The Ruling of the Court

The petition has no merit.

On NAPOCOR's failure to comply with Section 11, Rule 13 of the Rules of Court

Petitioners maintain that the trial court had the "wide latitude of discretion" to consider the notice of appeal as not filed at all because NAPOCOR failed to comply with the Rules.

On the other hand, NAPOCOR argues that the Rules allow resort to other modes of service and filing as long as the pleading was accompanied by a written explanation why service or filing was not done personally. NAPOCOR maintains that it complied with the Rules because the notice of appeal contained an explanation why NAPOCOR resorted to service and filing by registered mail - due to lack of manpower to effect personal service.[17] NAPOCOR also insists that petitioners are estopped from questioning its mode of service and filing because since the inception of the case, NAPOCOR had resorted to registered mail and yet, petitioners only raised this issue when the notice of appeal was filed.

Under Section 11, Rule 13 of the Rules, personal service of pleadings and other papers is the general rule while resort to the other modes of service and filing is the exception. When recourse is made to the other modes, a written explanation why service or filing was not done personally becomes indispensable.[18] If no explanation is offered to justify resorting to the other modes, the discretionary power of the court to expunge the pleading comes into play.[19]

In *Solar Team Entertainment, Inc. v. Ricafort*,[20] we ruled:

We thus take this opportunity to clarify that under Section 11, Rule 13 of the 1997 Rules of Civil Procedure, personal service and filing is the general rule, and resort to other modes of service and filing, the exception. Henceforth, whenever personal service or filing is practicable, in light of the circumstances of time, place and person, personal service or filing is mandatory. Only when personal service or filing is not practicable may resort to other modes be had, which must then be accompanied by a written explanation as to why personal service or filing was not practicable to begin with. In adjudging the plausibility of an explanation, a court shall likewise consider the importance of the subject matter of the case or the issues involved therein, and the prima facie merit of the pleading sought to be expunged for violation of Section 11.[21]

In this case, NAPOCOR complied with the Rules. NAPOCOR's notice of appeal sufficiently explained why the notice of appeal was served and filed by registered mail - due to lack of manpower to effect personal service. This explanation is acceptable for it satisfactorily shows why personal service was not practicable.[22] Moreover, the Court of Appeals correctly considered the importance of the issue involved in the case. Therefore, the Court of Appeals did not err when it ruled that the trial court acted with grave abuse of discretion in the issuance of the 15 May 2002 and 24 June 2002 Orders.

On NAPOCOR's failure to file a record on appeal

Petitioners maintain that NAPOCOR's appeal should be dismissed because NAPOCOR failed to file a record on appeal and consequently, it failed to comply with the material data rule.[23]

NAPOCOR argues that in this case the filing of a record on appeal is "superfluous" because the trial court had

nothing else to resolve as the 19 March 2002 Supplemental Decision finally disposed of the case. Moreover, NAPOCOR states that petitioners only raised this issue in petitioners' comment before the Court of Appeals.

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 of Court so require.[24] 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.[25] In such a case, the filing of a record on appeal becomes indispensable since only 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.

Jurisprudence recognizes the existence of multiple appeals in a complaint for expropriation because there are two stages in every action for expropriation.[26] The first stage is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit.[27] The order of expropriation may be appealed by any party by filing a record on appeal.[28] The second stage is concerned with the determination by the court of the just compensation for the property sought to be expropriated.[29] A second and separate appeal may be taken from this order fixing the just compensation.[30]

In this case, since the trial court fully and finally resolved all conceivable issues in the complaint for expropriation, there was no need for NAPOCOR to file a record on appeal. In its 5 December 2001 Decision, the trial court already determined NAPOCOR's authority to exercise the power of eminent domain and fixed the just compensation for the property sought to be expropriated. NAPOCOR filed a motion for reconsideration. But after the trial court denied the motion, NAPOCOR did not appeal the decision anymore. Then, in its 19 March 2002 Supplemental Decision, the trial court fixed the just compensation for the "dangling area." NAPOCOR filed a motion for reconsideration and the trial court denied the motion. NAPOCOR then filed a notice of appeal. At this stage, the trial court had no more issues to resolve and there was no reason why the original records of the case must remain with the trial court. Therefore, there was no need for NAPOCOR to file a record on appeal because the original records could already be sent to the appellate court.

Moreover, petitioners did not raise this issue in their "motion to strike out or declare as not filed the notice of appeal dated April 2, 2002; to declare the supplemental decision as final and executory; and to issue the corresponding writ of execution thereon" before the trial court. It is settled that an issue not raised during the trial could not be raised for the first time on appeal as to do so would be offensive to the basic rules of fair play, justice, and due process.[31]

WHEREFORE, we DENY the petition. We AFFIRM the 27 February 2003 Decision and 17 November 2003 Resolution of the Court of Appeals in CA-G.R. SP No. 72402.

SO ORDERED.

Puno, C.J., (Chairperson), Azcuna, Reyes, and Leonardo-De Castro, JJ., concur.

* As replacement of Justice Renato C. Corona who is on official leave per Special Order No. 520.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 31-37. Penned by Associate Justice Buenaventura J. Guerrero, with Associate Justices Teodoro P. Regino and Mariano C. del Castillo concurring.

[3] Id. at 39.

[4] Id. at 67-68.

[5] Id. at 69.

[6] CA rollo, pp. 28-33.

[7] Transfer Certificate of Title No. T-955 covers a total of 87,465 square meters, with 2,550 square meters included in the area sought to be expropriated. Transfer Certificate of Title No. T-956 covers a total of 152,147 square meters, with 5,325 square meters included in the area sought to be expropriated.

[8] CA rollo, pp. 34-38.

[9] Rollo, pp. 49-58.

[10] The Commissioner's Report dated 18 September 2001 recommended that the 7,875-square meter lot had a fair market value of P106 per square meter.

[11] Rollo, p. 59.

[12] CA rollo, pp. 70-72. The Commissioner's Report dated 11 February 2002 recommended that the 58,484.275-square meter "dangling area" had a fair market value of P90 per square meter.

[13] Id. at 27.

[14] Id. at 74.

[15] Section 11, Rule 13 of the Rules of Court provides:

SEC. 11. Priorities in modes of service and filing. - Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

[16] CA rollo, pp. 90-92.

[17] Id. at 74.

[18] *Marohomsalic v. Cole*, G.R. No. 169918, 27 February 2008, 547 SCRA 98.

[19] See *United Pulp and Paper Co., Inc. v. United Pulp and Paper Chapter-Federation of Free Workers*, G.R. No. 141117, 25 March 2004, 426 SCRA 329 and *Zulueta v. Asia Brewery, Inc.*, 406 Phil. 543 (2001).

[20] 355 Phil. 404 (1998).

[21] Id. at 413-414.

[22] See *Public Estates Authority v. Judge Caoibes, Jr.*, 371 Phil. 688 (1999).

[23] Section 1(a), Rule 50 of the Rules of Court provides:

SEC. 1. Grounds for dismissal of appeal. - An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

(a) Failure of the record on appeal to show on its face that the appeal was taken within the period fixed by these Rules.

[24] RULES OF COURT, Rule 41, Sec. 2(a).

[25] Roman Catholic Archbishop of Manila v. Court of Appeals, G.R. No. 111324, 5 July 1996, 258 SCRA 186.

[26] Municipality of Biñan v. Garcia, G.R. No. 69260, 22 December 1989, 180 SCRA 576.

[27] Id.

[28] Tan v. Republic, G.R. No. 170740, 25 May 2007, 523 SCRA 203.

[29] Municipality of Biñan v. Garcia, supra note 26.

[30] Tan v. Republic, supra.

[31] Victorias Milling Co., Inc. v. Court of Appeals, 389 Phil. 184 (2000).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.