HEIRS OF ARTURO GARCIA I, (IN SUBSTITUTION OF HEIRS OF MELECIO BUENO), PETITIONERS, VS. MUNICIPALITY OF IBA, ZAMBALES, RESPONDENT.

G.R. No. 162217. July 22, 2015

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BERSAMIN, J.:[*]

For review are the resolutions promulgated on October 28, 2003[1] and February 10, 2004,[2] whereby the Court of Appeals (CA) respectively "dismissed" the petitioners' petition for review under Rule 42 of the Rules of Court, and denied their motion for reconsideration.

At issue is the correct remedy of a party aggrieved by the decision rendered by the Regional Trial Court (RTC) in the special civil action for certiorari brought by the defendant in an ejectment suit to assail the refusal of the Municipal Trial Court (MTC) to give due course to the latter's notice of appeal vis-à-vis the judgment in favor of the plaintiff.

Antecedents

The late Melecio R. Bueno was the tenant-farmer beneficiary of an agricultural land located in Poblacion, Iba, Zambales. On October 18, 1999, he brought an ejectment suit in the MTC of Iba against the Municipality of Iba, Province of Zambales,[3]claiming that in 1983, the Municipality of Iba had constructed the public market on a substantial portion of his land without his consent; and that his repeated demands for the Municipality of Iba to vacate the property had remained unheeded.

After due proceedings, the MTC ruled in favor of Bueno.[4] Thence, the Municipality of Iba filed its notice of appeal, but the MTC denied due course to the notice of appeal. Thus, the Municipality of Iba filed its petition for certiorari in the RTC in Iba, Zambales to assail the denial of due course by the MTC. The case was assigned to Branch 69 which ultimately granted the petition for certiorari.[5]

The petitioners, who meanwhile substituted Bueno upon his death, moved for the reconsideration of the judgment granting the petition for certiorari, but the RTC denied their motion for reconsideration.[6]

Aggrieved, the petitioners appealed to the CA by petition for review under Rule 42 of the Rules of Court.

As earlier mentioned, the CA "dismissed" the petitioners' petition for review on October 28, 2003 for not being the proper mode of appeal, observing that the assailed orders had been issued by the RTC in the exercise of its original jurisdiction.[7]

The motion for reconsideration of the petitioners was ultimately denied by the CA.[8]

Issue

Although admitting that their petition for review under Rule 42 was inappropriate, the petitioners maintain that they substantially complied with the requirements of an ordinary appeal under Rule 41, and pray that the Court

exercise its equity jurisdiction because a stringent application of the Rules of Court would not serve the demands of substantial justice.

Ruling of the Court
We affirm.

An appeal brings up for review any error of judgment committed by a court with jurisdiction over the subject of the suit and over the persons of the parties, or any error committed by the court in the exercise of its jurisdiction amounting to nothing more than an error of judgment.[9] It was, therefore, very crucial for the petitioners and their counsel to have been cognizant of the different modes to appeal the adverse decision of the RTC in the special civil action for certiorari brought by the Municipality of Iba. Such modes of appeal were well delineated in the Rules of Court, and have been expressly stated in Section 2, Rule 41 of the Rules of Court since July 1, 1997,[10] to wit:

> 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.
>
> (b) Petition for review.— The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.
>
> (c) Appeal by certiorari.—In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45. (n)

Pursuant to this rule, in conjunction with Section 3[11] and Section 4[12] of Rule 41, the petitioners should have filed a notice of appeal in the RTC within the period of 15 days from their notice of the judgment of the RTC, and within the same period should have paid to the clerk of the RTC the full amount of the appellate court docket and other lawful fees. The filing of the notice of appeal within the period allowed by Section 3 sets in motion the remedy of ordinary appeal because the appeal is deemed perfected as to the appealing party upon his timely filing of the notice of appeal. It is upon the perfection of the appeal filed in due time, and the expiration of the time to appeal of the other parties that the RTC shall lose jurisdiction over the case.[13] On the other hand, the non-payment of the appellate court docket fee within the reglementary period as required by Section 4, is both mandatory and jurisdictional, the non-compliance with which is fatal to the appeal, and is a ground to dismiss the appeal under Section 1,[14] (c), Rule 50 of the Rules of Court. The compliance with these requirements was the only way by which they could have perfected their appeal from the adverse judgment of the RTC.

In contrast, an appeal filed under Rule 42 is deemed perfected as to the petitioner upon the timely filing of the petition for review before the CA, while the RTC shall lose jurisdiction upon perfection thereof and the expiration of the time to appeal of the other parties.[15]

The distinctions between the various modes of appeal cannot be taken for granted, or easily dismissed, or lightly treated. The appeal by notice of appeal under Rule 41 is a matter or right, but the appeal by petition for review under Rule 42 is a matter of discretion. An appeal as a matter of right, which refers to the right to seek the review by a superior court of the judgment rendered by the trial court, exists after the trial in the first instance. In contrast, the discretionary appeal, which is taken from the decision or final order rendered by a court in the exercise of its primary appellate jurisdiction, may be disallowed by the superior court in its discretion.[16] Verily, the CA has the discretion whether to due course to the petition for review or not.[17]

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The procedure taken after the perfection of an appeal under Rule 41 also significantly differs from that taken under Rule 42. Under Section 10 of Rule 41, the clerk of court of the RTC is burdened to immediately undertake the transmittal of the records by verifying the correctness and completeness of the records of the case; the transmittal to the CA must be made within 30 days from the perfection of the appeal.[18] This requirement of transmittal of the records does not arise under Rule 42, except upon order of the CA when deemed necessary.[19]

As borne out in the foregoing, the petitioners' resort to the petition for review under Rule 42 was wrong. Hence, the CA did not err in denying due course to the petition for review.

Yet, the petitioners plead for liberality, insisting that their petition for review, albeit the wrong mode, was a substantial compliance with the proper mode of appeal.

The plea for liberality is unworthy of any sympathy from the Court. We have always looked at appeal as not a matter of right but a mere statutory privilege. As the parties invoking the privilege, the petitioners should have faithfully complied with the requirements of the Rules of Court. Their failure to do so forfeited their privilege to appeal. Indeed, any liberality in the application of the rules of procedure may be properly invoked only in cases of some excusable formal deficiency or error in a pleading, but definitely not in cases like now where a liberal application would directly subvert the essence of the proceedings or results in the utter disregard of the Rules of Court.[20]

Moreover, the petitioners did not give any good reason or cause that could warrant the relaxation of the rules in their favor. Their bare plea for substantial justice was not enough ground to suspend the rules. Acceding to their plea would conceal their shortcomings in procedure, and thereby belittle the lofty objectives of instituting rules of procedure. We cannot allow that to happen, for doing so would sacrifice the smooth administration of justice guaranteed to every litigant. We have allowed exceptions only for the most persuasive of reasons, like relieving the litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[21]

WHEREFORE, the Court AFFIRMS the resolutions of the Court of Appeals promulgated on October 28, 2003 and February 10, 2004 in C.A. G.R. SP No. 78706; and ORDERS the petitioners to pay the costs of suit.

SO ORDERED.

Peralta,[**] Perez, Perlas-Bernabe, and Leonen,[***] JJ., concur.

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[*] Acting Chairperson per Special Order No. 2102.

[**]Acting member per Special Order No. 2103.
[***] Acting member per Special Order No. 2108.

[1] Rollo, pp. 19-20; penned by Associate Justice Regalado E. Maambong (retired/deceased), with Associate Justice Buenaventura J. Guerrero (retired/deceased) and Associate Justice Andres B. Reyes, Jr. (currently the Presiding Justice) concurring.

[2] Id. at 13-14.

[3] CA Records, pp. 20-24; the action was docketed as Civil Case No. 898 entitled Melecio R. Bueno, represented by his Legal Guardians Aurora B. Dullas and Conchita M. Bueno v. Hon. Pancho R. Huang, in his capacity as Municipal Mayor of Iba, Zambales, Municipality of Iba, Zambales, and all persons claiming rights under the name of Municipality of Iba, Zambales.

[4] Id. at 26-28.

[5] Id. at 73-77.

[6] Id. at 88-89.

[7] Supra note 1.

[8] Supra note 2.

[9] Silverio v. Court of Appeals, G.R. No. L-39861, March 17, 1986, 141 SCRA 527, 538-539.

[10] This date is the effectivity of the 1997 revisions of the Rules of Court.

[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] Section 4. Appellate court docket and other lawful fees. — Within the period for taking an appeal, the appellant shall pay to the clerk of the 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. (n)

[13] Section 9, Rule 41 of the Rules of Court.

[14] Section 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;
(b) Failure to file the notice of appeal or the record on appeal within the period prescribed by these Rules;
(c) Failure of the appellant to pay the docket and other lawful fees as provided in section 4 of Rule 41;
(d) Unauthorized alterations, omissions or additions in the approved record on appeal as provided in section 4 of Rule 44;
(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;
(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44;
(g) Failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the court in its order;
(h) Failure of the appellant to appear at the preliminary conference under Rule 48 or to comply with orders, circulars, or directives of the court without justifiable cause; and
(i) The fact that the order or judgment appealed from is not appealable. (1a)

[15] Section 8, Rule 42 of the Rules of Court.

[16] Bersamin, Appeal and Review in the Philippines (2[nd] Edition), p. 85.

[17] Section 6, Rule 42 of the Rules of Court provides:

Section 6. Due course. — If upon the filing of the comment or such other pleadings as the court may allow or

require, or after the expiration of the period for the filing thereof without such comment or pleading having been submitted, the Court of Appeals finds prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may accordingly give due course to the petition. (n)

[18] Section 10. Duty of clerk of court of the lower court upon perfection of an appeal. – Within thirty (30) days after perfection of all the appeals in accordance with the preceding section, it shall be the duty of the clerk of court of the lower court:

(a) To verify the correctness of the original record or the record on appeal, as the case may be aid to make certification of its correctness;
(b) To verify the completeness of the records that will be, transmitted to the appellate court;
(c) If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the court may exercise for this purpose; and
(d) To transmit the records to the appellate court.

If the efforts to complete the records fail, he shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

[19] Section 7. Elevation of record. — Whenever the Court of Appeals deems it necessary, it may order the clerk of court of the Regional Trial Court to elevate the original record of the case including the oral and documentary evidence within fifteen (15) days from notice.

[20] BPI Family Savings Bank, Inc. v. Pryce Gases, Inc., G.R. No. 188365, June 29, 2011, 653 SCRA 42, 51.

[21] Bergonia v. Court of Appeals (4[th] Division), G.R. No. 189151, January 25, 2012, 664 SCRA 322.

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