

FELIPE ECO, PETITIONER AND APPELLANT, VS. JUAN DE G. RODRIGUEZ, ET AL., RESPONDENTS AND APPELLEES.*G.R. No. 16731. March 30, 1960*

Ponente: BARRERA, J.

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In a petition for certiorari filed in the Court of First Instance of Manila (Civil Case No. 33674) on September 11, 1957, Felipe Eco sought annulment of all proceedings, orders, and decisions rendered by the respondents Secretary of Agriculture & Natural Resources and Director of Forestry, claiming that the latter committed an abuse of discretion in suspending his certificate of Private Woodland Registration No. 1329, covering a tract of land with an area of 700 hectares, 290 hectares of which were forestal, and the former, in dismissing petitioner's appeal.

After the respondents had duly filed their answer justifying the controverted act, the case was heard.

On April 30, 1958, the court rendered judgment finding, inter alia that on January 17, 1956, petitioner Eco obtained from the Bureau of Forestry a certificate of private wood, land registration under Section 1829 of the Revised Administrative Code, on the strength of a possessory information title covering 700 hectares but which was made to appear later on a sketch to contain 290 hectares of forest land, 99 hectares of new logged area and 811 hectares cultivated area; TigMan Lumber Co., another timber licensee, protested against this registration and filed a petition for reconsideration which was apparently granted because the Director of Forestry suspended the operation of Eco's certificate; that likewise, it was found that portions of the area released from the forest zone were under occupancy by some 80 oppositors; that after a series of protests and counter-protests, objections and counter-objections between the parties, the Director of Forestry recommended cancellation of Eco's certificate of private woodland and the Secretary of Agriculture & Natural Resources approved the recommendation; that upon the appeal of Eco, the Secretary reopened the case and ordered a formal investigation of the whole controversy to give the parties "ample opportunity to formally present their respective sides of the controversy and (be) given their 'day in court' "; that petitioner Eco refused to submit to this reinvestigation, insisting that it was not necessary; that in the face of this attitude of Eco, the Secretary of Agriculture & Natural Resources issued a decision, the pertinent part of which reads:

"In the light of the above findings and circumstances, this Office is of the opinion, and so holds that the dismissal of the appeal of Felipe Eco is perfectly in order. This is because of his adamant stand (not) to submit to the formal investigation duly ordered by this Office. A clear indication of this attitude is shown by his failure to appear at the investigation on May 2, 1957, when he was duly notified thereof thru his counsel.

"Wherefore, and as the forested portion of the land in controversy is actually occupied by the TigMan Lumber Co., Ltd., the appellee herein, and the remaining area which was released from the forest zone is under actual occupation and cultivation by public land applicants who had duly filed their respective public land applications therefore, the instant appeal of Felipe Eco should be, as hereby it is, Dismissed. Conformably herewith, the TigMan Lumber Co., Ltd., is hereby authorized to resume its operation inside the land in

question.

"However, and in order to quiet title to the land in dispute once and for all, the appellant herein is hereby given a period of ninety (90) days from the date hereof within which to institute voluntary registration proceedings covering the land; otherwise, this Office will take the necessary steps to bring the land under the operation of Sec. 53 of the Public Land Law (Commonwealth Act 141) in conjunction with Act No. 496. For this purpose, steps shall be taken by this Office to gather evidence for the Government with a view to supporting its opposition to the voluntary registration proceedings that the appellant herein may institute, or to sustain the move of the Government in the event that it will be compelled to institute compulsory registration proceedings pursuant to Sec. 53 of the Public Land Law in conjunction with Act 496.

"So Ordered."

On the basis of the foregoing findings, the trial court, Judge Magno S. Gatmaitan presiding, dismissed the petition for certiorari, stating:

* * * * *

"The Court believes and so holds that there was nothing inherently wrong in the actuations of the Secretary of Agriculture and Natural Resources and of the Director of the Bureau of Forestry; the Court concurs with, their opinion that in order to terminate the litigation between all the parties here, the most proper procedure was for petitioner to institute voluntary registration proceedings; nor can petitioner claim that equity is with him in the meantime since as already stated above, much can be said about the excess in his area. The result will be dismissal. * * *." Copy of this decision was actually received by counsel for the petitioner on May 5, 1958.

On June 3, 1958 or 28 days thereafter, petitioner filed a motion for reconsideration of the decision, which, was denied on June 14, 1958, for lack of merit. On June 21, 1958, petitioner filed a notice of appeal and appeal bond. Respondents registered opposition thereto for the reason that the filing of said notice of appeal and appeal bond was made out of time. Sustaining this allegation, the court, by order of July 5, 1950, disapproved petitioner's appeal bond and notice of appeal.

On September 6 of the same year, petitioner filed a motion for relief under Rule 38, praying for the setting aside of the decision on the ground of excusable negligence. The alleged negligence consisted of the erroneous computation by counsel's clerk of the period within which an appeal may be made, said clerk being of the impression that the prescriptive period to appeal in certiorari cases is also 30 days like in ordinary civil actions instead of 15 days as provided in Section 17 of Rule 41. The motion for relief was denied for lack of merit. Petitioner interposed an appeal to the Court of Appeals but this court certified the case to us, the question involved herein being one of law.

In support of his view, petitioner-appellant cites our ruling in the cases of *Coombs vs. Santos*, 24 Phil., 446,[1] and *Herrera vs. Far Eastern Air Transport, Inc.*, G. R. No. L-2587, promulgated on September 19, 1950.[2] The aforesaid ruling has no application to the one at bar. The delay in the filing of the pleadings in those cases was brought about by the inability to file the same due to the illness either of the clerk or of the attorney. It is quite different in the instant case. Evidently, what was delegated by petitioner's counsel to his clerk was the computation itself of the period within which the appropriate pleading may be filed. This act is hardly prudent or wise. As the lower court aptly said: "the duty to compute the period to appeal is a duty that devolves upon the attorney which he can not and should not delegate unto an employee because it concerns a question of study of the law and its application, and this Court considers this to be a delicate matter that should not be delegated." The negligence here cannot, therefore, be considered excusable.

Even considering it on the merits, appellant's cause must also fail. The petition for relief was predicated

principally on the ground that the court a quo erred in not holding that the ruling of the respondent Director of Forestry, affirmed by the respondent Secretary of Agriculture & Natural Resources, suspending his Private Woodland Registration certificate was made in abuse of discretion, because said officials allegedly deprived him of his day in court. It is noteworthy to mention, however, that it is precisely for this reason that the Secretary of Agriculture & Natural Resources ordered a formal investigation of the matter to enable the parties to present their respective evidence. Yet, appellant Eco refused to submit to such investigation. Naturally, the ruling of the respondent Director was affirmed. How can it be claimed then that the Secretary of Agriculture & Natural Resources gravely abused his discretion in dismissing Eco's appeal?

Furthermore, in his questioned order of June 11, 1957, the respondent Secretary of Agriculture & Natural Resources provides:

"HOWEVER, and in order to quiet title to the land in dispute once and for all, the appellant (Eco) herein is hereby given a period of ninety (90) days from the1 date hereof within which to institute voluntary registration proceedings covering the said land; otherwise, this Office will take the necessary steps to bring the land under operation of Sec. 53 of the Public Land Law (Commonwealth Act 141) in conjunction with Act No. 496. For this purpose, steps shall be taken by this Office to gather evidence for the Government with a view to supporting its opposition to the voluntary registration proceedings that the appellant herein may institute, or to sustain the move of the Government in the event that it will be compelled to institute compulsory registration proceedings pursuant to Sec. 53 of the Public Land Law in conjunction with Act 496.

"SO ORDERED."

Apparently, instead of taking this course and thus proving his alleged right over the property, appellant elected to institute certiorari proceedings against the abovementioned officials in the Court of First Instance of Manila. Under the circumstances, it is evident that appellant's action has no foundation at all.

Wherefore, finding no error in the appealed order denying petitioner's motion for relief, the same is hereby affirmed, with costs against the petitioner-appellant. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Gutierrez David JJ., concur.

[1] In the Coombs case, the clerk's failure, on account of his illness, to call the attention of his employer-defendant's counsel—to the time within which the pleading must be filed, which resulted in the latter's failure to file an answer on time, was considered excusable negligence.

[2] In the Herrera case, the employee's inadvertance in placing in one of his drawers the envelope containing the answer, and the employer's being prevented, by reason of illness, from verifying whether the answer was actually filed or not, was held to be excusable negligence.

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