

**NOLI LIM, PETITIONER, VS. ANGELITO DELOS SANTOS (DECEASED)
NOW HIS HEIRS, REPRESENTED BY BELEN DELOS SANTOS,
RESPONDENTS, DENIA R. ADOYO, ET AL., INTERVENORS, GLORIA
MURILLO, ET...**

G.R. No. 172574. July 31, 2009

Ponente: PUNO, C.J.

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PUNO, C.J.:

This petition for review on certiorari seeks to reverse the Decision[1] dated April 21, 2006 of the Court of Appeals in CA-G.R. SP No. 82645. The Court of Appeals had dismissed petitioner's petition for review and affirmed the Orders of the Office of the President dated December 22, 2003[2] and February 13, 2004[3] dismissing petitioner's appeal from the Decision[4] dated April 12, 1999 and Order[5] dated December 5, 2002 of the Office of the Secretary of the Department of Environment and Natural Resources (DENR).

The antecedent facts are as follows.

On July 17, 1991, petitioner Noli Lim filed a Protest[6] with the DENR Regional Office against the free patent application (F.P.A. No. IV-8) 5958 of Angelito delos Santos (now deceased) over Lot No. 3389-A, Csd-04-13289-D, Pls-83 located at Barrio Mar-Francisco,[7] Pinamalayan, Oriental Mindoro. Petitioner alleged that he and some other persons are the actual occupants of the land in question; that they had introduced various improvements thereon; and that when they first entered the land in 1960, there were already improvements introduced by Hospicio and Alfonso Magcawit, the tenants of Florencia Carl, who was the registered owner of the disputed property. Petitioner added that applicant Angelito delos Santos never took possession of the land nor introduced any improvements thereon.

On August 7, 1995, the Regional Executive Director of DENR Region IV-B issued an Order[8] dismissing petitioner's protest. In his order, Regional Executive Director Leonito C. Umali declared that the preferential right of applicant Angelito delos Santos and that of his predecessor-in-interest over the land in question had already been recognized, citing the decision of the Regional Trial Court (RTC) in Civil Case No. R-445, entitled "Republic v. Carmen Carl-Gillette, et al." [9] In the said decision, the free patent and original certificate of title issued in the name of one Florencia L. Carl was cancelled and nullified on the ground of misrepresentation after it was discovered by a representative of the Bureau of Lands that she, as well as her children, never entered nor cultivated the land in question, contrary to her allegation in her application that she had been continuously occupying and cultivating the parcel of land since 1906. Relying on the said decision, the Regional Executive Director ruled that the claim of protestant Noli Lim who is the son of Florencia Lim, the overseer of the land formerly claimed by Florencia Carl, must necessarily fail.[10] The dispositive portion of the Order states:

WHEREFORE, premises considered, the Protest dated July 17, 1991 filed by protestant Noli L. Lim is hereby as it is ordered DISMISSED and dropped from the records for lack of merit and whatever amount paid on account thereof is forfeited in favor of the Government.

Consequently, the Free Patent Application No. (IV-8)-5958 of Angelito delos Santos for Lot No. 3389-A, PLS-83, located at Barangay Mar-Francisco, Pinamalayan, Oriental Mindoro, be now given further due course leading to the issuance of patent therefor.

SO ORDERED.[11]

On appeal, the DENR Secretary affirmed the said Order and dismissed petitioner's appeal for lack of merit. The DENR Secretary found that the controverted lot was previously titled in the name of Florencia Carl under Original Certificate of Title (OCT) No. P-9106, issued by virtue of Free Patent No. 514819. The subject lot was under the care of Florencia Lim, through her sons Noli and Eli Lim and Hospicio Magcawit. Said lot later became the subject of Civil Case No. R-445, entitled, Republic of the Philippines v. Carmen Carl-Gillette, et al., for Annulment of Patent and Reversion of the Land to the State, where judgment was rendered on June 27, 1988 by the RTC of Pinamalayan, Oriental Mindoro, Branch 41, declaring void ab initio Free Patent No. 514819 and OCT No. P-9106 issued in the name of Florencia Carl. Moreover, the DENR Secretary noted the trial court's finding that as early as 1936, therein protestant's (Angelito delos Santos) father was the one actually occupying the land in question and that after his demise in 1969, his son, Angelito delos Santos, continued with the cultivation and occupation of the same.

Thus, according to DENR Secretary, since the title of Florencia Carl, from whom petitioner Noli Lim derived his claim and gained entry to the land in question, had been cancelled, then Noli Lim cannot claim a better right over respondent Angelito delos Santos whose predecessor-in-interest had been found to have possessed the land since 1936.

Petitioner filed a motion for reconsideration from the said decision, but his motion was denied for lack of merit. In the same order, the Motion for Intervention filed by Denia R. Adoyo, et al., and the Protest filed by Gloria Murillo, et al. were also denied.

Not satisfied, petitioner elevated the case to the Office of the President. Thereupon, petitioner was directed, among others, to submit his appeal memorandum and remit, within fifteen (15) days from receipt of the order, the sum of Five Hundred Pesos (P500.00) as appeal fee.[12] Petitioner prayed for an additional period of fifteen (15) days from October 18, 2003 or until November 2, 2003 within which to file the appeal memorandum and to pay the appeal fee. The Office of the President granted petitioner's motion and petitioner was given an extension of fifteen (15) days or until November 2, 2003 within which to comply. On November 10, 2003, he filed another motion requesting for another extension of five (5) days to file the appeal memorandum and to pay the appeal fee, which was not acted upon by the said Office. Thereafter, on November 14, 2003, petitioner filed his appeal memorandum through registered mail but allegedly opted to wait for the appeal memorandum to reach the Office of the President before paying the corresponding appeal fee. On January 7, 2004, petitioner paid the appeal fee.

In the meantime, the Office of the President, after verifying that no appeal fee has been paid by petitioner although an appeal memorandum has been filed by his counsel, issued on December 22, 2003 an order dismissing petitioner's appeal for lack of jurisdiction to entertain the same. In the said order, the Office of the President stated that the requirement of appeal fee is jurisdictional and non-payment thereof justifies dismissal of the appeal. Petitioner's motion for reconsideration from the dismissal order was likewise denied.

Undaunted, petitioner filed a petition for review before the Court of Appeals which rendered the herein assailed Decision affirming the orders of the Office of the President. The Court of Appeals held that perfection of appeals in the manner and within the period permitted by law is not only mandatory but also jurisdictional; and indispensable to the perfection of an appeal is the payment of the appellate docket fees.[13] The appellate court acknowledged that the dismissal of an appeal for non-payment of docket and lawful fees is discretionary, but

enunciated that the Office of the President cannot be faulted for exercising such discretion and proceeded to dismiss petitioner's appeal, since petitioner was given every opportunity to perfect his appeal through the filing of an appeal memorandum and the payment of corresponding appeal fees.[14] Said court further concluded that inasmuch as the payment of the appellate docket fees was made long after the expiration of the period for the perfection of an appeal, the Office of the President did not acquire jurisdiction to take cognizance of the case, except to order its dismissal.[15]

Hence, petitioner is now before us raising the sole issue of whether or not the Court of Appeals erred in sustaining the orders of the Office of the President in dismissing his appeal for failure to timely pay the corresponding appeal fees.

In the main, petitioner asserts that he has paid the corresponding appeal fees within a reasonable time after the appeal memorandum was filed and that the dismissal of the appeal on a mere technicality is tantamount to denial of substantial justice. Petitioner begs this Court to disregard the rules of technicality and consider the merits of the case.[16]

Respondents (the heirs of Angelito delos Santos), on the other hand, contend that the appeal interposed by petitioner before the Office of the President was filed out of time; hence the decision of the DENR Secretary has become final and executory. Also, they argue that the petitioner cannot claim that the Office of the President disregarded the merits of the case because he was given enough opportunity to present his evidence before the DENR and was given an extension to file his memorandum and pay the appeal fees before the Office of the President but he failed to do so.[17]

Simply stated, the question before us now may be rephrased as follows: does petitioner's failure to pay on time the appeal fee warrant the dismissal of his appeal filed with the Office of the President?

It is a well-established rule that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal.[18] Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the action and the decision or final order sought to be appealed from becomes final and executory.[19] The payment of docket fees is not a mere technicality of law or procedure, but an essential requirement for the perfection of an appeal.[20]

In the instant case, petitioner failed to perfect his appeal with the Office of the President, despite having been given reasonable opportunity to do so. Records would show that petitioner was granted an extension of fifteen (15) days from October 18, 2003 or until November 2, 2003 to file his appeal memorandum and to pay the appeal fee. Instead of complying, petitioner, on November 10, 2003, when the extension granted had already expired, requested for another extension of five (5) days. It is specifically provided under Section 4 of Administrative Order No. 18[21] that extension of time for the payment of appeal fee and the filing of pleadings shall not be allowed, except for good and sufficient cause and only if the motion for extension is filed before the expiration of the time sought to be extended.

Indeed, petitioner's motion was appropriately not acted upon, it having been filed after the expiration of the period sought to be extended. Also, while petitioner filed his appeal memorandum on November 14, 2003, it took him more than two months from November 2, 2003, to pay the appeal fee as records show that petitioner was able to pay only on January 7, 2004. The reason advanced by petitioner for the late payment, that he opted to wait for his appeal memorandum which was filed through mail, to reach the Office of the President before paying the appeal fee, is flimsy and is not sufficient to justify the relaxation of the rules. In the case of *KLT Fruits, Inc. v. WSR Fruits, Inc.*, [22] this Court has denied the appeal when the docket fee was filed more than 30 days after the period to appeal had expired.[23]

In exceptional cases, we had allowed a liberal application of the rule. The recent case of Villena v. Rupisan,[24] extensively discussed and enumerated the various instances recognized as exceptions to the stringent application of the rule in the matter of paying the docket fees, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances.[25]

Considering that petitioner has not proffered an acceptable explanation for the delay in the payment of the appeal fee, his reason not being one of the recognized exceptions, we agree with the Court of Appeals that there is no compelling reason to reverse the orders of the Office of the President dismissing the appeal filed by petitioner. It bears emphasizing that perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional, and failure to do so renders the questioned decision final and executory, and deprives the appellate court of jurisdiction to alter the final judgment, much less to entertain the appeal.[26]

Here, petitioner paid the appeal fee only after the Office of the President had already dismissed his appeal on December 22, 2003. Obviously, at the time of payment, the assailed decision and order of the DENR had already attained finality. A judgment becomes "final and executory" by operation of law. Finality becomes a fact when the reglementary period to appeal lapses and no appeal is perfected within such period.[27] Hence, just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the case.[28]

Now as to the invocation by petitioner of substantial justice which warrants the allowance of his appeal, the pronouncement by this Court in the case of Lazaro v. Court of Appeals,[29] is apt:

We must stress that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. "Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed." [30]

Moreover, as to the alleged merit of his case claimed by petitioner, we are not convinced. Both the Regional Executive Director and the DENR Secretary are in agreement that Angelito delos Santos' preferential right over the land in question had been recognized by the RTC whose decision has long been final. Well settled is the rule that findings of administrative agencies, which have acquired expertise because their jurisdiction is confined to specific matters, are accorded respect, if not finality, by the courts.[31]

As regards the claim of one Augusto Marte, who allegedly purchased one (1) hectare or ten thousand (10,000) square meters of the subject property from the heirs of deceased respondent, Angelito delos Santos, and who filed his comment to the petition before this Court seeking to protect his rights and interests in the property, we deem that his claim is not a proper subject in the instant petition, as it would entail the presentation of evidence which is beyond the ambit of the instant review.

To conclude, we find no error on the part of the Court of Appeals in affirming the orders of the Office of the

President dismissing petitioner's appeal for his failure to timely pay the appeal fee. The appellate court's ruling is in accordance with the time-honored principle that the right to appeal is not a natural right or a part of due process, it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. The party who seeks to avail of the privilege must comply with the requirement of the rules. Failing to do so, the right to appeal is lost.

WHEREFORE, the petition for review on certiorari is hereby DENIED for lack of merit. The Decision dated April 21, 2006 of the Court of Appeals docketed as CA-G.R. SP No. 82645 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Carpio Morales, Chico-Nazario,[*] Leonardo-De Castro,**] and Bersamin,***] JJ., concur.

[*] Designated member of the Second Division per Special Order No. 658.

[**] Designated member of the Second Division per Special Order No. 635.

[***] Additional member per Raffle of June 10, 2009 in place of Associate Justice Arturo D. Brion who took no part due to prior action in the Court of Appeals.

[1] Rollo, pp. 30-37. Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Arturo D. Brion (now a member of this Court) and Magdangal M. de Leon concurring.

[2] CA rollo, pp. 22-23.

[3] Id. at 24-26.

[4] Id. at 39-43.

[5] Id. at 50-53.

[6] Rollo, pp. 44-45. Docketed as DENR Case No. IV-B-5506.

[7] "Marfrancisco," in other parts of the records.

[8] Rollo, pp. 46-48.

[9] Id. at 48.

[10] Id. at 47-48.

[11] Id. at 48.

[12] Id. at 68.

[13] Id. at 33.

[14] Id. at 34.

[15] Id. at 36.

[16] Id. at 18.

[17] Id. at 152-154.

- [18] Caspe v. Court of Appeals, G.R. No. 142535, June 15, 2006, 490 SCRA 588, 591.
- [19] Enriquez v. Enriquez, G.R. No. 139303, August 25, 2005, 468 SCRA 77, 85.
- [20] La Salette College v. Pilotin, G.R. No. 149227, December 11, 2003, 418 SCRA 380, 389.
- [21] Prescribing Rules and Regulations Governing Appeals to the Office of the President of the Philippines, done on February 12, 1987.
- [22] G.R. No. 174219, November 23, 2007, 538 SCRA 713.
- [23] Id. at 730.
- [24] G.R. No. 167620, April 3, 2007, 520 SCRA 346.
- [25] Id. at 367-368.
- [26] Meatmasters International Corporation v. Lelis Integrated Development Corporation, G.R. No. 163022, February 28, 2005, 452 SCRA 626, 631.
- [27] Social Security System v. Isip, G.R. No. 165417, April 3, 2007, 520 SCRA 310, 314.
- [28] National Power Corporation v. Degamo, G.R. No. 164602, February 28, 2005, 452 SCRA 634, 641-642.
- [29] G.R. No. 137761, April 6, 2000, 330 SCRA 208.
- [30] Id. at 214.
- [31] Estrella v. Robles, Jr., G.R. No. 171029, November 22, 2007, 538 SCRA 60, 76.

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