

EDWINO A. TORRES (DECEASED), REPRESENTED AND SUBSTITUTED BY ALFONSO P. TORRES III AND FATIMA P. TORRES, SON AND DAUGHTER, RESPECTIVELY, OF DECEASED PETITIONER, PETITIONERS, VS. ...

G.R. No. 177836. September 04, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review on Certiorari,[1] under Rule 45 of the Revised Rules of Court, seeks the review of the 29 November 2006[2] and 2 May 2007[3] Resolutions of the Court of Appeals in CA-G.R. SP No. 81305, entitled "Edwino A. Torres (deceased) represented and substituted by Alfonso P. Torres III, Fatima P. Torres, son and daughter of deceased petitioner," which, respectively, dismissed the petition assailing the decision of the Office of the President, and denied the subsequent motion for reconsideration thereof.

The root of the present controversy is a 111-square meter parcel of alienable and disposable residential land, described as Lot No. 4, Sgs-04-000316-D, located at Poblacion, San Jose, Occidental Mindoro (subject property).

Respondent Balligi V. Rodellas (Balligi) and her family began occupying the subject property sometime in 1967. They built thereon a residential house (the Rodellas' house), initially made of light materials, but eventually renovated and replaced using stronger materials.

In October 1986, Balligi filed a Miscellaneous Sales Application (MSA) for the subject property with the Department of Environment and Natural Resources (DENR). Said application was docketed as MSA No. (IV-18) 3524.

In 1989, Balligi and her family left Occidental Mindoro for Manila in order to find work. On 1 October 1989, Balligi left the country to join her husband in Saudi Arabia as an Overseas Filipino Worker (OFW). In the meantime, the house built by Balligi and her family on the subject property was left in the care and possession of her relatives, namely, her half-brother, Aster Vallejos; her sister, Bituin Vallejos; her cousin-in-law, Sonia Jaravata; her sister and brother-in-law, spouses Inanama Vallejos (Inanama) and Oscar Gallardo; Milagros Olarte; and Ildefonso Ruiz and family.

Sometime thereafter, still in 1989, petitioner Edwino A. Torres (Edwino) and his spouse moved into the house on the subject property, occupying the portion vacated by Aster Vallejos. Edwino claimed that Balligi already sold him the subject property and the house built thereon for P60,000.00, as evidenced by an Affidavit of Relinquishment/Sale of Right supposedly signed by the parties thereto and notarized on 9 October 1989. From that time on, Edwino collected monthly rental of P300.00 from the other occupants of the house.

On the basis of the Affidavit of Relinquishment/Sale of Right, Edwino filed with the DENR an MSA in his own name for the subject property, docketed as MSA No. (IV-18) 3780.

After conducting an investigation and ocular inspection, Wilfredo M. Paguia, Land Investigator, DENR, issued a Report on 10 June 1991, recommending that Edwino's MSA be given due course. On 15 July 1991, the Provincial Environment and Natural Resources Officer (PENRO) issued an Order 1) rejecting Balligi's MSA No. (IV-18) 3524; and 2) giving due course to Edwino's MSA No. (IV-18) 3780.

In 1992, respondent Balligi's son, Eugenio V. Rodellas, Jr. (Eugenio), returned to Occidental Mindoro. While there, he came to learn that Edwino claimed ownership of the subject property and the house thereon by virtue of the Affidavit of Relinquishment/Sale of Right.

On 8 December 1992, Eugenio, alleging to act on behalf of his mother, Balligi, but without presenting any written authority from the latter, filed before the Community Environment and Natural Resources Office (CENRO), San Jose, Occidental Mindoro, a Protest against Edwino's MSA No. (IV-18) 3780. Eugenio prayed, inter alia, for the cancellation of said MSA on the ground that the Affidavit of Relinquishment/Sale of Right, the very basis of the application, was a forged document. Eugenio insisted that Balligi never entered into any sale of the subject property and house, much less signed the purported Affidavit of Relinquishment/Sale of Right on 9 October 1989, considering that Balligi and her husband were in Saudi Arabia at that time. Eugenio's Opposition to Edwino's MSA was docketed as DENR Case No. 5438.

On 8 March 1993, Eugenio and his aunt, Inanama, filed an Amended Protest against Edwino's MSA No. (IV-18) 3780. Attached to the Amended Protest was a Special Power of Attorney, which Balligi executed in favor of Eugenio and Inanama, and acknowledged before Vice Consul Alimatar M. Garangan, Philippine Embassy, Riyadh, Kingdom of Saudi Arabia in January 1993.

In an Order^[4] dated 4 June 1993, Antonio G. Principe, Regional Executive Director, Regional Office (RO) No. IV, DENR, dismissed the protests against Edwino's MSA No. (IV-18) 3780 for lack of merit, to wit:

WHEREFORE, in view of the foregoing, the Protest as well as the Amended Protest is (sic) hereby as it is ordered DISMISSED for lack of merit and whatever amount paid on account thereof is forfeited in favor of the government. The MSA No. (IV-18) 3780 of Edwino A. Torres is hereby given further due course.

According to DENR-RO No. IV, neither Eugenio nor Inanama had the personality to represent Balligi. It credited no value to the Special Power of Attorney in favor of Eugenio and Inanama, as the "document itself was highly questionable. Close scrutiny of the same shows that the authentication was done on the 25th day of January 1993 [even] before the execution of the said document by Balligi Letty V. Rodellas on January 26, 1993."^[5] DENR-RO No. IV also mentioned in its Order that it was not in a position to determine and resolve the genuineness and due execution of the Affidavit of Relinquishment/Sale of Right presented by Edwino, the same being within the jurisdiction of the courts.

On 21 June 1993, Balligi, still through her son, Eugenio, filed a Request for Extension of Time to file a motion for reconsideration of the 4 January 1993 Order of DENR-RO No. IV. However, DENR- RO No. IV, in an Order dated 10 September 1993, denied Balligi's request for extension, because it was supposedly filed beyond the 15-day reglementary period within which to appeal the assailed order. The dispositive portion of the 10 September 1993 Order reads:

WHEREFORE, in view of the foregoing premises, the Motion for Reconsideration dated June 21, 1993 filed by herein [petitioner Balligi], represented by Eugenio V. Rodellas, Jr. and Inanama V. Gallardo, is hereby as it is ordered DENIED for lack of merit.

Consequently thereto, the Order dated June 4, 1993 issued in the above-entitled case is deemed final and executory.^[6]

Determined, respondent Balligi, who had arrived back in the Philippines, herself filed, on 15 April 1994, another Opposition/Protest against petitioner Edwino's MSA No. (IV-18) 3780.

On 6 June 1994, another Order was issued by the DENR-RO No. IV directing the conduct of an investigation of the matters alleged in Balligi's Opposition/Protest; and holding the processing of Edwino's MSA No. (IV-18) 3780 in abeyance.

After an evaluation of the record of the case, DENR-RO No. IV dismissed respondent Balligi's Opposition/Protest in an Order dated 13 December 1995, the fallo of which states:

WHEREFORE, premises considered, the instant "OPPOSITION AND/OR PROTEST" filed by Balligi V. Rodellas is hereby, as it is ordered, DISMISSED for lack of merit. Let the MSA No. (IV-18) 3780 of Edwino A. Torres be now given further due course leading to the issuance of patent therefor.[7]

Citing its 10 September 1993 Order, DENR-RO No. IV reasoned that Balligi's Opposition/Protest was barred by *res judicata*.

Balligi moved for the reconsideration of the Order dated 13 December 1995 of DENR-RO No. IV before the Office of the DENR Secretary. Her Motion for Reconsideration, docketed as DENR Case No. 7771, was denied by the DENR Secretary in an Order[8] dated 29 June 1998. The DENR Secretary held that "there is no showing that she, [herein respondent Balligi] Rodellas, ever filed a complaint with the proper forum, i.e., the Court, against the herein [petitioner Edwino] involving the alleged falsified and spurious document. Mere allegation that such document is spurious and forged do not make such document spurious and a forgery." [9]

Undaunted, Balligi filed an appeal with the Office of the President, docketed as O.P. Case No. 98-8537.

In a Decision[10] promulgated on 5 August 2003, the Office of the President reversed and set aside the assailed orders of the DENR Secretary and the DENR-RO No. IV. The Office of the President adjudged that the principle of *res judicata* was not applicable to the facts of O.P. Case No. 98-8537, given that:

A careful review of the order of June 4, 1993, which the DENR claims constitutes a bar to subsequent litigation, would reveal that the same does not comply with the third requisite enumerated above, that the judgment must be on the merits. It will be recalled that the Regional Executive Director (RED) refused to rule on the main issue raised in the protest, which is the alleged forged and spurious Affidavit of Relinquishment/Sale of Right, claiming that his Office is not in the position to determine and resolve the genuineness and due execution of the aforesaid document; and claiming further that "the said protest should not have been entertained in the first place considering that upon its filing, Eugenio V. Rodellas Jr. has no personality to represent Balligi V. Rodellas."

The Office of the President opined that "the DENR should have applied *res ipsa loquitur*" instead, since:

It should have been very clear that the alleged Affidavit of Relinquishment/Sale of Right is nothing but a forgery. [Respondent Balligi] was in the Kingdom of Saudi Arabia at the time she was supposed to have executed the document, as duly evidenced by the entries in her passport. She left the Philippines on October 1, 1989, while the Affidavit is dated October 9, 1989 x x x. In fact, at the inception of the case, she was still there in Saudi Arabia, which was why the RED did not want to recognize the legal personality of her son to represent her. If the DENR knew that appellant was out of the country all along, how can it even entertain the thought that she was the one who signed the document in Occidental Mindoro? It is important to note that [Edwino] never questioned the veracity of the entries in [Balligi]'s passport.[11]

The Office of the President disposed:

WHEREFORE, the decision of the Acting Secretary of Environment and Natural Resources dated September

19, 1997, and the order dated June 29, 1998, reiterating it, are hereby REVERSED and SET ASIDE. The Department of Environment and Natural Resources is hereby ordered to reject the Miscellaneous Sales Application No. (IV-18) 3780 of Edwino A. Torres and reinstate Miscellaneous Sales Application No. (IV-18) 3524 of Balligi V. Rodellas, and give due course thereto. All persons occupying the subject property by virtue of the Miscellaneous Sales Application of Edwino A. Torres, his heirs and assigns, are hereby ordered to vacate the same.[12]

Atty. Alexander Restor (Atty. Restor), Edwino's counsel, received a copy of the 5 August 2003 Decision of the Office of the President on 29 August 2003. On 15 September 2003, Atty. Restor filed a Motion for Reconsideration of said Decision, and at the same time, manifested that his client, Edwino, had since passed away, but without actually intimating the exact date of the latter's death.

In an Order dated 27 October 2003, the Office of the President ruled that the Motion for Reconsideration filed by Atty. Restor was -

DISMISSED for being filed out of time and for lack of personality of the movant.[13]

According to the Office of the President, Edwino's death extinguished his agency relationship with Atty. Restor. Hence, Atty. Restor had no more authority to continue to act on Edwino's behalf. In addition, the Motion for Reconsideration was filed by Atty. Restor beyond the 15-day reglementary period.

On 16 November 2003, Edwino's representatives and legal heirs executed a Letter of Appointment[14] "[appointing] and [engaging] the legal services of Atty. Alexander Restor in O.P. Case No. 988537 before the Office of the President and to further represent [them] in the event that the afore-mentioned case is appealed to the Court of Appeals/Supreme Court."

Subsequently, on 9 December 2003, Atty. Restor filed, on behalf of Edwino, represented and substituted by the latter's son and daughter, Alfonso P. Torres III (Alfonso) and Fatima P. Torres (Fatima), respectively, a Petition for Review with the Court of Appeals, challenging the 5 August 2003 Decision and 27 October 2003 Order of the Office of the President. Their Petition was docketed as CA-G.R. SP No. 81305.

In a Resolution promulgated on 29 November 2006, the appellate court dismissed the Petition in CA-G.R. SP No. 81305, thus:

IN VIEW OF THE FOREGOING, the petition is hereby DISMISSED.[15]

The Court of Appeals affirmed the finding of the Office of the President that the 5 August 2003 Decision of the latter had long since attained finality in view of the late filing of Edwino's Motion for Reconsideration of the same. Moreover, the appellate court agreed that Atty. Restor had no personality to move for the reconsideration of the decision in question, and as a result, "no motion for reconsideration of the August 5, 2003 Decision of the Office of the President could have been considered filed." [16]

As expected, Alfonso and Fatima filed a Motion for Reconsideration of the 29 November 2006 Resolution of the Court of Appeals, arguing therein that Atty. Restor had timely filed the Motion for Reconsideration of the 5 August 2003 Decision of the Office of the President. Atty. Restor received a copy of the challenged Decision of the Office of the President on 29 August 2003, and the 15[th] day or last day for filing a motion for reconsideration of the same, 13 September 2003, was a Saturday; hence, Atty. Restor was able to file such a motion only on 15 September 2003, Monday, the next working day.

In its Resolution dated 2 May 2007, the Court of Appeals reconsidered its initial position on the point of the late filing of the Motion for Reconsideration of the 5 August 2003 Decision of the Office of the President, conceding that:

It is true, as [herein petitioners Alfonso and Fatima] argue, that the Office of the President failed to take into consideration that the 15[th] day fell on a Saturday and therefore, the Motion for Reconsideration, which was filed on the 17[th] day, cannot be said to have been filed out of time.[17]

But the appellate court remained steadfast in its resolve that Atty. Restor lacked the legal personality to file the Motion for Reconsideration of the 5 August 2003 Decision of the Office of the President despite the Letter of Appointment, dated 16 November 2003, executed by Edwino's representatives and legal heirs in Atty. Restor's favor. The Court of Appeals pronounced that:

[T]he Letter of Appointment (citation omitted) appended by the petitioners to the Petition for Review cannot cure Atty. Restor's lack of authority in filing the Motion for Reconsideration before the Office of the President. Not only was said letter not presented before the latter. It was likewise executed only after the Office of the President issued the assailed Order. That being the case, Atty. Restor's lack of authority cannot be said to have been cured.[18]

In the end, the Court of Appeals concluded that:

Thus, while the petition for review appears to have been filed on time, the fact is that the decision sought to be reviewed has already become final and executory. In view of said finality, this Court is without authority to review said Decision anymore.[19]

Hence, this Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court bringing forth the following assignment of errors:

I.

THE COURT OF APPEALS ERRED IN AFFIRMING THE RULING OF THE OFFICE OF THE PRESIDENT THAT ATTY. RESTOR, PETITIONER'S FORMER COUNSEL, HAD NO LEGAL PERSONALITY TO FILE THE MOTION FOR RECONSIDERATION BEFORE THE OFFICE OF THE PRESIDENT, IN VIEW OF EDWINO'S DEATH, PURSUANT TO SECTION 16, RULE 3 OF THE RULES OF COURT AND ARTICLE 1919(3) OF THE CIVIL CODE;

II.

THE COURT OF APPEALS ERRED IN REFUSING TO RULE ON THE PROPRIETY OF THE DISMISSAL OF PETITIONER'S MOTION FOR RECONSIDERATION BY THE OFFICE OF THE PRESIDENT; and

III

THE DECISION OF THE DENR REGIONAL EXECUTIVE DIRECTOR DATED JUNE 4, 1993 IN DENR CASE NO. IV-5438 IN FAVOR OF PETITIONERS HAS LONG BECOME FINAL AND EXECUTORY. AS SUCH, RESPONDENT'S SUBSEQUENT OPPOSITION AND/OR PROTEST DATED APRIL 15, 1994 DOCKETED AS DENR CASE NO. IV-B-5520 VIOLATES THE PRINCIPLE OF RES JUDICATA.

At the crux of this Petition is the issue of whether the Court of Appeals erred in dismissing the Petition for Review of Edwino's legal heirs in CA-G.R. SP No. 81305 on the ground that the 5 August 2003 Decision of the Office of the President in O.P. Case No. 98-8537, being assailed in the latter Petition, had already attained finality.

Alfonso and Fatima maintain that the Court of Appeals erred in affirming the 27 October 2003 Order of the Office of the President which dismissed the Motion for Reconsideration filed by Atty. Restor based on a misapplication of Section 16, Rule 3 of the Revised Rules of Court. They aver that the failure to comply with said procedural rule should not invalidate the proceedings and the judgment rendered therein if the action survives the death of the

party to the case. The action in this case "survives the death of Edwino A. Torres as the subject of said action was ownership of real property and not some personal liability." Thus, Edwino's death "did not extinguish his civil personality." Alfonso and Fatima argue further that their "right to due process would be violated if their motion for reconsideration would be brushed aside just because counsel failed to move for a substitution of a party. x x x. In any case, Atty. Restor submitted a Letter of Appointment appointing him as counsel which ratified his representation of petitioners." [20]

In defense of the assailed resolutions of the Court of Appeals, Balligi contends that the arguments of Edwino's heirs are untenable as "[p]etitioners' stand is premised on the assumption that the proceedings and the judgment had before the Office of the President were invalid." [21] Quite the reverse, Balligi asserts that "said proceedings stand for even petitioners ADMITTED the non-personality of Atty. Restor under (sic) their Motion for Reconsideration before the Honorable Court of Appeals x x x." [22] That said, however, Balligi, through a new counsel, Atty. Amando S. Fabros, digressed from previous arguments. Balligi now claims that "[t]he ruling of the Office of the President was not so much based on the failure of either Atty. Alfredo A. Castillo (Atty. Castillo) or Atty. Restor to give advice or information as to the death of Edwino A. Torres but on the apparent non-withdrawal of Atty. Castillo who was handling the appeal, and the unceremonious taking over of said appeal by Atty. Restor without such withdrawal and written authority of petitioners." [23] She insists that "what was invalidated or not given force and effect was the Motion for Reconsideration filed by Atty. Restor without legal authority or personality." [24] Balligi submits that "if a party appears in an action by attorney, he must be heard only through such attorney, who, so long as he remains the attorney of record, has the exclusive management and control of the action and of all steps and proceedings taken therein to enforce the rights and remedies of his client." [25]

We agree with petitioners that the Office of the President misapplied the rule on substitution upon the death of a party litigant.

Note that the rules and regulations governing appeals to the Office of the President of the Philippines are embodied in Administrative Order No. 18, Series of 1987, entitled "Prescribing Rules and Regulations Governing Appeals to the Office of the President of the Philippines." Though nothing therein provides for substitution of a party in case of death, the same states in its Section 9 that:

SECTION 9. The Rules of Court shall apply in a suppletory character whenever practicable.

Sec. 16, Rule 3 of the Revised Rules of Court, thus, finds application herein, in that it covers the situation in case of the death of a party. The rule provides:

Section 16. Death of party; duty of counsel. - Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with his duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the

opposing party, may be recovered as costs. (Emphases ours.)

Clear from the aforequoted provision that a deceased party may be substituted by his heirs, but it must be emphasized that substitution may only be allowed in actions that survive the death of a party thereto. In *Gonzales v. Philippine Amusement and Gaming Corporation*,^[26] citing *Bonilla v. Barcena*,^[27] we declared that the determination of whether an action survives the death of a party depends on the nature of the action and the damage sued for. We explicated:

In the causes of action which survive the wrong complained of affects primarily and principally property and property rights, the injuries to the person being merely incidental, while in the causes of action which do not survive the injury complained of is to the person, the property and rights of property affected being incidental x x.

In the case at bar, both parties accuse the other of unlawfully depriving them of their respective rights to acquire the subject property, together with the house built thereon, by means of an MSA grant from the State. Evidently, what are primarily and principally affected herein are the property and property rights of the parties, and any injuries to their persons (i.e., damages) are only incidental. Such property and property rights survived Edwino's death and may pass on by succession to his heirs. Therefore, the heirs must be allowed to continue any litigation to protect said property or property rights and to substitute themselves for the deceased party in accordance with appropriate rules.

According to Section 16, Rule 3 of the Revised Rules of Court, a counsel, within 30 days from his client's death, is duty-bound to inform the court of such fact, and to submit the name/s and address/es of the deceased client's legal representative/s. Thereafter, the court shall order, forthwith, the appearance of and substitution by the deceased party's legal representative/s within another period of 30 days from notice.

Nowhere is it mentioned in the instant case when exactly Edwino died. Atty. Restor just informed the Office of the President of the fact of Edwino's death in the Motion for Reconsideration of the 5 August 2003 Decision, which he filed on 15 September 2003 on behalf of his deceased client. With no exact date of Edwino's death, we have no basis for determining whether Atty. Restor was able to inform the Office of the President of such fact within the requisite period of 30 days. Nevertheless, even assuming that Atty. Restor belatedly notified the Office of the President of Edwino's death, Section 16, Rule 3 of the Revised Rules of Court only provided that, in case of failure of the counsel to comply with his duty as stated in the first paragraph thereof, it would be a ground for disciplinary action against said counsel, not that he/she would already be without personality to appear as counsel in the proceedings for the benefit of his/her client or the latter's heirs.

Instructive herein is our ruling in *Heirs of F. Nuguid Vda. de Haberer v. Court of Appeals*.^[28] Florentina Nuguid Vda. de Haberer (Florentina) was the appellant in the case still pending before the Court of Appeals when she died. Florentina's counsel, Attorneys Bausa, Ampil and Suarez, gave the Court of Appeals notice of their client's death and requested the suspension of the running of the period within which to file the appellant's brief, pending the appointment by the probate court of an executor of the latter's estate. The Court of Appeals denied the motion for extension/suspension of time to file appellant's brief and dismissed the appeal. Florentina's counsels filed their urgent motion for reconsideration, explaining that their predicament over the requests for extension/suspension of period to file a brief was due to the uncertainty of whether their services would still be retained by the heirs or legal representatives of their deceased client. Florentina's counsels still felt obligated, however, to preserve the right of Florentina's heirs/successors to continue the appeal, pursuant to what is now Section 16, Rule 3 of the Revised Rules of Court, pending the settlement of the question of who among such heirs/successors should be the executor of the deceased's estate. Hence, Florentina's counsel presented, for admission, the printed "brief for the appellant," the printing of which they had deferred "for professional ethical considerations," pending action by the

appellate court on their request for suspension of the period. Despite the foregoing explanation by Florentina's counsel, the Court of Appeals still refused to reconsider its earlier dismissal of the appeal and to admit the submitted appellant's brief. In addition to invoking the general principle that "litigants have no right to assume that such extensions will be granted as a matter of course"; the appellate court also cited the equally established principle that the relation of attorney and client is terminated by the death of the client. In the absence of a retainer from the heirs or authorized representatives of his deceased client, the attorney would thereafter have no further power or authority to appear or take any further action in the case, save to inform the court of the client's death and take the necessary steps to safeguard the deceased's rights in the case. Upon appeal to us, we found that the Court of Appeals gravely erred in not following the Rule and requiring the appearance of the legal representative of the deceased and instead dismissing the appeal of the latter who had yet to be substituted in the pending appeal. We held that:

Respondent court therefore erred in ruling that since upon the demise of the party-appellant, the attorney-client relationship between her and her counsels "was automatically severed and terminated," whatever pleadings filed by said counsel with it after the death of said appellant "are mere scraps of paper." If at all, due to said death on May 25, 1975 and severance of the attorney-client relationship, further proceedings and specifically the running of the original 45-day period for filing the appellant's brief should be legally deemed as having been automatically suspended, until the proper substitution of the deceased appellant by her executor or administrator or her heirs shall have been effected within the time set by respondent court pursuant to the cited Rule.

x x x x

Prescinding from the foregoing, justice and equity dictate under the circumstances of the case at bar that the rules, while necessary for the speedy and orderly administration of justice, should not be applied with the rigidity and inflexibility of respondent court's resolutions. What should guide judicial action is the principle that a party litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities. x x x.[29] (Emphases supplied.)

In this case, Atty. Restor is in much the same situation as Florentina's counsels. Though incomplete, the mention by Atty. Restor of Edwino's death in the Motion for Reconsideration effectively informed the Office of the President of the same. Having been apprised of the fact of Edwino's death, it was incumbent upon the Office of the President, even without Atty. Restor's motion to such effect, to order the legal representative/s of the deceased party to appear and be substituted; or, at the very least, to direct the counsel to furnish the court with the names and addresses of such representative/s.

Since Atty. Restor filed the Motion for Reconsideration within the reglementary period and no longer requested for suspension/extension of time to do so, the Office of the President need not suspend the running of said reglementary period as in *Heirs of F. Nuguid Vda. de Haberer*, but it could have deferred any action on said Motion until a substitution had been effected and it had ascertained that the substituted heirs chose to retain Atty. Restor's services as legal counsel. Conspicuously, the Office of the President completely failed to act on the information that Edwino had died so as to effect proper substitution by the latter's heirs, as set forth in Section 16, Rule 3 of the Revised Rules of Court. The only action the Office of the President took as regards said information was to deny the Motion for Reconsideration filed by Atty. Restor for his lack of personality, given his client's death. This we find totally contrary to equity and fair play since Edwino's heirs were, in effect, deprived of their right to seek reconsideration or appeal of the adverse decision of the Office of the President which was itself partly responsible for their non-substitution.

We emphasize that the purpose behind Section 16, Rule 3 of the Revised Rules of Procedure is the protection of

the right to due process of every party to a litigation who may be affected by the intervening death. The deceased litigant is himself or herself protected, as he/she continues to be properly represented in the suit through the duly appointed legal representative of his estate.[30] The spirit behind the general rule requiring a formal substitution of heirs is "not really because substitution of heirs is a jurisdictional requirement, but because non-compliance therewith results in the undeniable violation of the right to due process of those who, though not duly notified of the proceedings, are substantially affected by the decision rendered therein." [31]

It must also be remembered that, unless properly relieved, the counsel is responsible for the conduct of the case; [32] he is obligated by his client and the court to do what the interest of his client requires until the end of litigation or his representation is terminated formally and there is a termination of record. [33] And the only way the Office of the President could have ascertained whether Atty. Restor still had the authority to file the Motion for Reconsideration on behalf of Edwino's heirs, or otherwise had been relieved or his representation terminated, was by having Edwino's heirs come forth as the rules required. In fact, in the Letter of Appointment dated 16 November 2003, which was presented before the Court of Appeals, Alfonso and Fatima, as Edwino's legal representatives and heirs, explicitly retained the services of Atty. Restor by "[appointing] and [engaging] [his] legal services x x x in O.P. Case No. 98-8537 before the Office of the President and to further represent [them] in the event that the afore-mentioned case is appealed to the Court of Appeals/Supreme Court." [34] Even though belatedly executed, such Letter of Appointment demonstrates that if they were just given the opportunity by the Office of the President, Alfonso and Fatima could have easily confirmed the authority of Atty. Restor to continue acting as their counsel in the proceedings and to submit the Motion for Reconsideration of the 5 August 2003 Decision of the Office of the President.

Interestingly, if, as argued by the Office of the President and the Court of Appeals, Atty. Restor no longer had the personality to represent Edwino upon the latter's death, assuming he died prior to the rendition of the decision of the Office of the President, should it not also follow that the sending of a copy of the 5 August 2003 Decision of the Office of the President to Atty. Restor, as counsel of record, could no longer be deemed a notice to the party, and his receipt of the same could not have caused the commencement of the period within which to file a motion for reconsideration? As a consequence, the reglementary period within which to move for reconsideration of the assailed decision in O.P. Case No. 98-8537 had really not yet begun to toll.

Given the foregoing, the 5 August 2003 Decision of the Office of the President could not have attained finality. It being partly responsible for the non-substitution of the heirs for the deceased Edwino, the Office of the President could not dismiss the Motion for Reconsideration filed by Atty. Restor, to the prejudice of said heirs. Justice and equity demand that Edwino's heirs be given the opportunity to contest the adverse judgment that affects the property and property rights to which they succeeded. A rule intended to protect due process cannot be invoked to defeat the same.

This having been said, we address the recent theory [35] of Atty. Fabros, Balligi's new counsel, that Atty. Restor's lack of personality to file the Motion for Reconsideration of the 5 August 2003 Decision of the Office of the President was due to the failure of Atty. Castillo, Edwino's previous counsel, to formally withdraw as such, and of Atty. Restor to formally substitute for Atty. Castillo. A thorough review of the Order dated 27 October 2003 of the Office of the President (dismissing the Motion for Reconsideration of the Decision dated 5 August 2003 filed by Atty. Restor, due to the latter's lack of personality), and the Resolutions dated 29 November 2006 and 2 May 2007 of the Court of Appeals (affirming the dismissal by the Office of the President of said Motion for Reconsideration) reveal no such pronouncement. The plain reason for the dismissal of the Motion for Reconsideration was that Atty. Restor had no more personality to file the same, given that Edwino's death extinguished the attorney-client relationship between them.

But even assuming, for the sake of argument, that the Office of the President and the Court of Appeals did find that Atty. Restor had no personality to file the Motion for Reconsideration in question because Atty. Castillo had not withdrawn as Edwino's counsel and Atty. Restor had not substituted for Atty. Castillo; such finding would have likewise been erroneous. A party may have two or more lawyers working in collaboration in a given litigation,[36] but the fact that a second attorney enters his appearance for the same party does not necessarily raise the presumption that the authority of the first attorney has been withdrawn.[37] The second counsel should only be treated as a collaborating counsel despite his appearance as "the new counsel of record." A lawyer is presumed to be properly authorized to represent any cause in which he appears;[38] the second counsel, in this case Atty. Restor, is presumed to have acted within his authority as collaborating counsel when he filed the Motion for Reconsideration of the 5 August 2003 Decision of the Office of the President.

Finally, we stop short of resolving the issue of whose MSA should be given due course, because in order to do so, we must first make findings of fact concerning the authenticity and validity of the Affidavit of Relinquishment/Sale of Right dated 9 October 1989, allegedly executed by Balligi in favor of Edwino. It must be noted that the DENR and the Office of the President made divergent findings thereon. We cannot, as of yet, make such findings given the derth of evidence on record. To arrive at an ultimate determination, the remand of the case to the Court of Appeals is in order, so that it can give due course to the Petition for Review in CA-G.R. SP No. 81305. Time and again, we have stated that this Court is not a trier of fact or otherwise structurally capacitated to receive and evaluate evidence de novo, unlike the Court of Appeals. The Court of Appeals generally has the authority to review findings of fact, and even hold hearings for further reception of evidence. Its conclusions as to findings of fact are generally accorded great respect by this Court. It is a body that is fully capacitated and has a surfeit of experience in appreciating factual matters, including documentary evidence.

WHEREFORE, premises considered, the instant Petition is PARTLY GRANTED. The assailed twin Resolutions dated 29 November 2006 and 2 May 2007 of the Court of Appeals in CA-G.R. SP No. 81305 are REVERSED and SET ASIDE, insofar as they affirmed the declarations of the Office of the President in the latter's Order dated 27 October 2003 in O.P. Case No. 98-8537 that, given the death of his client, Edwino A. Torres, Atty. Alexander Restor lacked the personality to file the Motion for Reconsideration of the Decision dated 5 August 2003; and that, since no motion for reconsideration or appeal had been timely filed, the said Decision dated 5 August 2003 of the Office of the President had become final and executory.

The case is hereby REMANDED to the Court of Appeals, which is ORDERED to give due course to the Petition for Review filed in CA-G.R. SP No. 81305 and to hold further proceedings in accordance with this Decision.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 8-33.

[2] Penned by Associate Justice Mariflor P. Punzalan-Castillo with Associate Justices Andres B. Reyes, Jr. and Hakim S. Abdulwahid concurring; rollo, pp. 34-36.

[3] Rollo, pp. 37-41.

[4] Id. at 43-45.

[5] DENR Order dated 4 June 1993, p. 3; rollo, p. 45.

[6] Rollo, p. 47.

- [7] Id. at 50.
- [8] Id. at 52-54.
- [9] Id. at 50.
- [10] Id. at 55-59.
- [11] Id. at 58.
- [12] Id. at 58-59.
- [13] Id. at 62.
- [14] CA rollo, p. 52.
- [15] Rollo, p. 36.
- [16] Id. at 35.
- [17] Id. at 40.
- [18] Id.
- [19] Id. at 36.
- [20] Id. at 19.
- [21] Id. at 123.
- [22] Id.
- [23] Id. at 125.
- [24] Id. at 124.
- [25] Id.
- [26] 473 Phil. 582, 591 (2004).
- [27] 163 Phil. 521 (1976).
- [28] 192 Phil. 61 (1981).
- [29] Id. at 70-71.
- [30] Sumaljag v. Literato, G.R. No. 149787, 18 June 2008, 555 SCRA 53, 59-60; citing Napere v. Barbarona, G.R. No. 160426, 31 January 2008, 543 SCRA 376, 382.
- [31] Heirs of F. Nuguid Vda. de Haberer v. Court of Appeals, supra note 28.
- [32] Tumbagahan v. Court of Appeals, G.R. No. L-32684, 20 September 1988, 165 SCRA 485, 489.
- [33] Orcino v. Gaspar, 344 Phil. 792, 798 (1997).
- [34] CA rollo, p. 52.
- [35] Rollo, p. 125.
- [36] Tan v. Court of Appeals, 341 Phil. 570, 580 (1997).

[37] *Elbiña v. Ceniza*, G.R. No. 154019, 10 August 2006, 498 SCRA 438, 442.

[38] *Fernandez v. Aniñon*, G.R. No. 138967, 24 April 2007, 522 SCRA 1, 9-10.

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