

ANTIQUE SAWMILLS, INC., PETITIONER AND APPELLANT, VS AQUILES R. ZAYCO, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. 20051. May 30, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from the decision of the Court of First Instance of Manila dismissing the petition for certiorari with preliminary injunction filed by the Antique Sawmills, Inc. seeking the annulment of the decisions of the Executive Secretary dated August 27, 1956 and February 25, 1958 in DANR Case Nos. 1020 and 1020-A (In Re Forestry Notice No. 1598).

The only issue raised in this case is whether the Office of the President still retains or possesses jurisdiction to review on appeal a decision of the Secretary of Agriculture and Natural Resources which has become final. The issue came up by reason of the following incidents:

On September 30, 1954, a public bidding was conducted for the award of a 12,680 hectare forest area. Four parties submitted bid applications with the Bureau of Forestry, namely; the petitioner-appellant, Antique Sawmills, Inc., the respondent-appellee, Aquiles Zayco, Crisencio Milendez, and Pedro T. Lo. On November 29, 1954, the Director of Forestry awarded the bid to the respondent-appellee, Aquiles R. Zayco. Thereafter, the losing bidders appealed the above award to the Secretary of Agriculture and Natural Resources who, on March 23, 1955, however, affirmed the same.

To the above order of March 23, 1955, all the losing bidders filed a motion for reconsideration with the Secretary of Agriculture and Natural Resources and acting on this motion, the said Secretary issued an order on July 14, 1955 modifying the original exclusive award to Aquiles R. Zayco. Under this July 14, 1955 order, the forest area in question was awarded in equal portions to Aquiles R. Zayco and the petitioner-appellant, Antique Sawmills, Inc.

Zayco received a copy of the above-mentioned order on July 28, 1955, and on August 20, 1955, he filed against it a motion for reconsideration. On September 10, 1955, this motion for reconsideration was denied. Zayco received a copy of this order on November 27, 1955.

On December 19, 1955, Zayco filed with the Secretary of Agriculture and Natural Resources a second motion for reconsideration which, on February 15, 1956, was resolved by the latter thus—

"It appears that the herein motion which in effect is a second motion for reconsideration was filed too late, that is, outside the reglementary period of thirty (30) days prescribed in Section 10 of Forestry Administrative Order No. 6-2. From the time the movant received notice of the order sought to be reconsidered on July 28, 1955, to the time he filed his first motion for reconsideration on August 20, 1955, twenty-three (23) days had elapsed; and from his receipt of the order of this Office dated September 10, 1955, denying the first motion for reconsideration on November 22, 1955, to the filing of the instant motion on December 19, 1955, twenty-seven (27) days had elapsed. All in all, fifty (50) days had elapsed from his receipt of the order sought

to be reconsidered to the filing of the herein motion. Consequently, the said order of this office dated July 14, 1955 had already become final and executory pursuant to the aforecited regulation.

"It appears further that the grounds upon which the instant motion is based are unmeritorious and undeserving of further consideration. That the appellant Antique Sawmills, Inc. fraudulently misrepresented the facts of this case, is a gratuitous assertion belied by the evidence on record and the further charge that said appellant is a dummy or is acting not on his own behalf but for another entity, for the present is unfounded and based on the mere suspicions of the movant. At any rate, another re-examination of the evidence on record has not only led us to the same conclusion, but also convinced us more of the justice and wisdom of our disposition in the order of July 14, 1955."

On February 27, 1956, the respondent-appellee appealed the above order of February 15, 1956 to the Office of the President. On March 10, 1956, the herein appellant interposed an opposition to the above mentioned appeal on the main ground that the order appealed from had already become final and executory.

On August 27, 1956, however, the Executive Secretary rendered a decision sustaining the appeal and reversing the order of the Secretary of Agriculture and Natural Resources dated July 14, 1955. This order of the Executive Secretary awarded the entire forest concession in question to the respondent-appellee, Aquiles R. Zayco. Pertinent portion of the decision reads:

"The first issue to be resolved in this appeal is whether or not this Office can pass upon the merits of the instant case, it appearing that the appeal was filed after the lapse of thirty (30) days from appellant's receipt of that Department's order dated July 14, 1955. It appears, however, in the affidavit of the appellant and in the records of this case that lie was not duly represented by counsel in the main stages of the proceedings, and that lie was not aware of the reglementary period within which to take the various steps to protect his rights. Moreover, there was no advertence on notice by that Department upon the herein appellant that lie had to exercise his rights within certain fixed periods. While it can not be denied that, for the sake of orderly proceedings, technical rules of procedure should be adhered to, these rules may be relaxed in the interest of justice and equity. We are inclined to liberalize the rule in this case to attain an approximation to substantial justice. An examination of the record shows that the order modifying that Department's decision dated March 23, 1955, lacks legal and equitable basis. For this reason, this Office is constrained to pass upon the substantial merits of the case."

After the denial of his motion for reconsideration on the order of the Executive Secretary, the petitioner instituted with the Court of First Instance of Manila the instant proceedings.

The petitioner's theory is simple. It contends that the period provided by the rules for the perfection of an appeal is not only mandatory but jurisdictional. Thus, since the respondent-appellee failed to perfect his appeal on time and finality had already set in on the order of July 14, 1955, the Office of the President could not have acquired jurisdiction over the same.

The respondents, on the other hand, maintain that the said period is a mere procedural technicality which, at least in administrative proceedings, may liberally be relaxed.

In a long line of cases, [1] the Supreme Court has ruled that compliance with the period provided by law for the perfection of an appeal is not merely mandatory but also a jurisdictional requirement. Thus, in the case of *Miranda vs. Guanzon et al.*, 92 Phil. 168, this Court held:

"Section 13 of Rule 41 provides that when the appeal is not perfected within the reglementary period the appeal shall be dismissed. The requirement regarding the perfection of an appeal within the reglementary period is not only mandatory but jurisdictional. Such failure has the effect of rendering final the judgment of the court, and the certification of the record on appeal thereafter cannot restore the jurisdiction which has been

lost. The dismissal of the appeal can be effected even after the case has been elevated to the Court of Appeals (Rule 12, Section 1[a]). Appellee's failure to file a motion for dismissal of appeal in the court of origin before the transmittal of the record to the appellate court does not constitute a waiver on his part to interpose such objection." (Italics supplied)

That administrative rules and regulations have the force of law can no longer be questioned. Only recently, in the case of *Valerio vs. Secretary of Agriculture, et al.*, G. R. No. L-18587, April 23, 1963, we reaffirmed that—

"* * * it cannot be contended, as the court a quo intimated, that an administrative regulation should not be given the same weight as a rule of court but should rather be given a more liberal interpretation for, as is well known, a regulation adopted pursuant to law has the force and effect of law. In fact, it is a wise policy that administrative regulations be given the same force as rules of court in order to maintain the regularity of administrative proceedings.

The appellee's view that the period fixed in Administrative Order No. 6-2 of the Director of Forestry cannot bind the Office of the President since the latter has supervision and control over the former cannot commend itself to sound public policy. Even administrative decisions must end sometime, as fully as public policy demands that finality be written on judicial controversies (*Manila Electric Co. vs. Public Service Commission*, 61 Phil. 456). In other words, public interest requires that proceedings already terminated should not be altered at every step. The Rule of non *quieta movere* prescribes that what was already terminated should not be disturbed (*Espiritu vs. San Miguel Brewery*, 63 Phil. 615). We do not doubt that even the Office of the President subscribes to the above rule. As aptly remarked by Justice Malcolm in *Dy Cay vs. Cross-field & Obrien*, 38 Phil. 527.

"Public policy and sound practice demand that, at a risk of occasional errors, judgment of courts should become final at some definite date fixed by law. The very object for which courts were instituted was to put an end to controversy. To fulfill this purpose and to do so speedily, certain time limits, more or less arbitrary, have to be set up to spur on the slothful. * * * "

Wherefore, the decision appealed from is hereby revoked and set aside. The award made under the Order of the Secretary of Agriculture and Natural Resources dated July 14, 1955 is hereby declared valid, effective and subsisting. Costs against the appellee, *Aquiles Zayco*.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Barrera, Dizon, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Judgment set aside.

[1] See *Shioji vs. Harvey*, 43 Phil. 333; *Roman Catholic Bishop of Tuguegarao vs. Director of Lands*, 34 Phil. 623; *Estate of Cordova and Zarate vs. Albado*, 34 Phil. 920; *Bermudez vs. Director of Lands*, 36 Phil. 774.

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