PROVINCE OF LEYTE, HEREIN REPRESENTED BY MR. RODOLFO BADIABLE, IN HIS CAPACITY AS THE ICO-PROVINCIAL TREASURER, PROVINCE OF LEYTE, PETITIONER, VS. ENERGY DEVELOPMENT CORPORATION...

G.R. No. 203124. June 22, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Resolutions dated September 21, 2011[2] and August 3, 2012[3] of the Court of Appeals (CA) in CA-G.R. SP No. 04575, which dismissed petitioner Province of Leyte's (Province of Leyte) petition for certiorari before it on the ground of, inter alia, lack of proof of service of such petition to the adverse party, respondent Energy Development Corporation (EDC).

The Facts

Sometime in 2006 and 2007, the Province of Leyte issued four (4) separate franchise tax assessments against EDC which the latter, in turn, protested separately. When the Province of Leyte effectively denied all protests, EDC appealed such denials before the Regional Trial Court of Tacloban City, Branch 6 (RTC), docketed as Civil Case Nos. 2006-05-48, 2006-05-49, 2006-07-77, and 2007-08-03.[4] Upon motion of EDC, the RTC issued an Order[5] dated February 4, 2008 directing the consolidation of said appeals.[6]

Notwithstanding the pendency of the cases before the RTC, the Province of Leyte issued another tax assessment against EDC on February 27, 2008, with the Assistant Provincial Treasurer verbally intimating to EDC that he was under strict instruction from the Governor to enforce the collection of tax through the available administrative remedies upon the lapse of the sixty (60)-day period mentioned in the assessment.[7]

This prompted EDC to file a Motion for Issuance of Writ of Preliminary Injunction[8] dated April 4, 2008 praying that the RTC enjoin the Province of Leyte "from assessing, or attempting to assess, collecting or attempting to collect franchise taxes from, and availing [itself] of enforcement remedies or actions against [EDC] until [the pending cases before the RTC] shall have been resolved with finality."[9]

In support of its motion, EDC averred that it does not have a franchise; hence, the Province of Leyte's assessment of franchise taxes against it is contrary to law and would result in the payment of illegally exacted taxes if not enjoined. It was further claimed that should the Province of Leyte's actions continue, EDC's operations will be seriously imperilled and will altogether cease, resulting in loss of substantial revenues amounting to approximately Twenty One Million Pesos (P21,000,000.00) per day, as well as loss of jobs for its employees. Finally, EDC contends that the damage that it stands to suffer from the Province of Leyte's acts is irreparable as there is no assurance that it will be able to recover such losses.[10]

The RTC Ruling

In an Order[11] dated April 18, 2008, the RTC denied EDC's motion on the ground that its grant would in effect dispose of the cases before it. However, on EDC's motion,[12] the RTC issued an Order[13] dated July 17, 2009 setting aside its earlier order, and accordingly, directed the issuance of a writ of preliminary injunction in its favor. Contrary to its earlier ruling, the RTC held that the main action would not be disposed of even though, in the meantime, the Province of Leyte would be enjoined from collecting franchise taxes from EDC. The RTC further noted that in case EDC is ultimately held liable for said taxes, the injunction bond would initially and substantially answer for the Province of Leyte's claim. On the other hand, if EDC is compelled to pay such taxes pending resolution of the cases before the RTC and is subsequently adjudged not liable to pay the same, there is no assurance that it could recover its operational losses.[14]

Aggrieved, the Province of Leyte elevated the matter before the CA by way of a petition for certiorari.[15]

The CA Ruling

In a Resolution[16] dated September 21, 2011, the CA dismissed the petition on the ground that, inter alia, "there was no proper proof of service of the [p]etition to the adverse party. Certainly, registry receipts can hardly be considered sufficient proper proof of receipt by the addressee of registered mail."[17]

The Province of Leyte moved for reconsideration,[18] which was, however, denied in a Resolution[19] dated August 3, 2012; hence, this petition.[20]

The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly dismissed the Province of Leyte's certiorari petition before it due to its failure to provide proof of service of the same on EDC.

The Court's Ruling

The petition is meritorious.

At the outset, it must be stressed that the instant case was elevated to the CA via a petition for certiorari which is, by nature, an original and independent action, and therefore, not considered as part of the trial that had resulted in the rendition of the judgment or order complained of.[21] Being an original action, there is a need for the CA to acquire jurisdiction over the person of the parties to the case before it can resolve the same on the merits. Naturally, the CA acquired jurisdiction over the person of the petitioner -which is the Province of Leyte in this case - upon the filing of the certiorari petition. On the other hand, Section 4, Rule 46 of the Rules of Court (Rules), which covers cases originally filed before the CA, provides how the CA is able to acquire jurisdiction over the person of the respondent:

> SEC. 4. Jurisdiction over person of respondent, how acquired. — The court shall acquire jurisdiction over the person of the respondent by the service on him of its order or resolution indicating its initial action on the petition or by his voluntary submission to such jurisdiction. (Emphases and underscoring supplied)

Thus, in petitions for certiorari filed before the CA, the latter acquires jurisdiction over the person of the respondent upon: (a) the service of the order or resolution indicating the CA's initial action on the petition to the respondent; or (b) the voluntary submission of the respondent to the CA's jurisdiction. In the case at bar, records reveal that the CA served its Resolution[22] dated November 4, 2009 indicating its initial action on the Province of Leyte's certiorari petition before it, i.e., directing EDC to file a comment to the petition, among others. In fact, the EDC complied with such directive by filing its comment[23] dated December 14, 2009 to such petition. Hence, the CA had already acquired jurisdiction over both parties to the instant case.

Despite the foregoing, the CA still opted to dismiss the Province of Leyte's petition before it on the ground that,

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inter alia, there was no proper proof of service of the petition to EDC in accordance with Section 13, Rule 13, of the Rules,[24] which reads:

> SEC. 13. Proof of Service. - Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with section 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. (Emphasis and underscoring supplied)

Relying on Aramburo v. CA,[25] the CA held that while the Province of Leyte presented the registry receipt, it failed to include the registry return card; hence, there was no valid proof of service to EDC, which must then result in the dismissal of the Province of Leyte's petition.[26]

The CA erred in this regard.

Section 3, Rule 46 of the Rules provides the procedural requirements in filing original actions before the CA, to wit:

> SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. - The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.
>
> In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.
>
> It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto
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> The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis and underscoring supplied)

Admittedly, the Rules require that the petition filed before the CA should include proof of service to the other party. Essentially, the purpose of this rule is to apprise such party of the pendency of an action in the CA. Thus, if such party had already been notified of the same and had even participated in the proceedings, such purpose would have already been served.

Considering that in this case, the CA had already issued a Resolution dated November 4, 2009 directing EDC to file a comment which the latter had complied with, it cannot be denied that EDC was already aware of the certiorari proceedings before the CA and that jurisdiction had been acquired over its person. The CA, therefore, should have brushed aside the Province of Leyte's procedural mishap and resolved the case on the merits in the interest of substantial justice. The Court's pronouncement in Barra v. Civil Service Commission[27] is instructive on this matter:

> Courts should not be unduly strict in cases involving procedural lapses that do not really impair the proper

> administration of justice. Since litigation is not a game of technicalities, every litigant should be afforded the amplest opportunity for the proper and just determination of his case, free from the constraints of technicalities. Procedural rules are mere tools designed to facilitate the attainment of justice, and even the Rules of Court expressly mandates that "it shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.[28]

Verily, the demands of justice require the CA to resolve the issues before it, considering that what is at stake here are taxes, albeit locally imposed in this case, which are the nation's lifeblood through which government agencies continue to operate and with which the State discharges its functions for the welfare of its constituents.[29] Thus, it is far better and more prudent for the Court to excuse a technical lapse and afford the parties a substantive review of the case in order to attain the ends of justice than to dismiss the same on mere technicalities.[30]

In view of the foregoing discussion and the fact that the CA had dismissed the case on purely procedural grounds, the Court deems it appropriate to remand the case to the CA to thresh out its merits.

WHEREFORE, the petition is GRANTED. Accordingly, the Resolutions dated September 21, 2011 and August 3, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 04575 are hereby REVERSED and SET ASIDE. CA-G.R. SP No. 04575 is REINSTATED and REMANDED to the CA, which is DIRECTED to resolve the case on the merits.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

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[1] Rollo, pp. 77-97.

[2] Id. at 53-55. Penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Pampio A. Abarintos and Gabriel T. Ingles concurring.

[3] Id. at 71-74. Penned by Executive Justice Pampio A. Abarintos with Associate Justices Gabriel T. Ingles and Zenaida T. Galapate-Laguilles concurring.

[4] Id. at 144.

[5] CA rollo, pp. 146-147. Penned by Judge Santos T. Gil.

[6] See rollo, p. 80.

[7] Id. at 145.

[8] Id. at 144-149.

[9] Id. at 147.

[10] See id. at 145-146.

[11] Id. at 157-158.

[12] See Motion for Reconsideration dated June 17, 2008; id. at 159-164.

[13] Id. at 169-171. Penned by Presiding Judge Alphinor C. Serrano.

[14] See id. at 171.

[15] Id. at 10-31.

[16] Id. at 53-55.

[17] See id. at 54.

[18] See Manifestation dated November 2, 2011; id. at 56-62.

[19] Id. at 71-74.

[20] Id. 77-97.

[21] See Reicon Realty Builders Corporation v. Diamond Dragon Realty and Management, Inc., G.R. No. 204796, February 4, 2015; citations omitted.

[22] See dorsal portion; CA rollo, p. 220.

[23] Id. at 35-51.

[24] See id. at 53-55.

[25] In this case, the Court instructed that if service is made through registered mail, sufficient proof of service consists of: (a) the affidavit of the party serving, containing a full statement of the date, place, and manner of service; (b) the registry receipt issued by the mailing office; and (c) the registry return card or, in lieu thereof, the letter unclaimed together with the certified or sworn copy of the notice given by the postmaster to the addressee. See 189 Phil. 125, 131-132 (1980).

[26] See rollo, p. 54. See also id. at 72-73.

[27] G.R. No. 205250, March 18, 2013, 693 SCRA 563.

[28] Id. at 566.

[29] See Visayas Geothermal Power Company v. Commissioner of Internal Revenue, G.R. No. 197525, June 4, 2014, citing Commissioner of Internal Revenue v. Petron Corporation, G.R. No. 185568, March 21, 2012, 668 SCRA 735, 764.

[30] See Barra v. Civil Service Commission, supra note 27.

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