

HEIRS OF GEMINIANO FRANCISCO, AS REPRESENTED BY ORLANDO FRANCISCO; HEIRS OF MARCIANO FRANCISCO, HEREIN REPRESENTED BY VICENTE FRANCISCO; HEIRS OF ISIDORA DAGALEA, HEREIN REPRESE...

G.R. No. 215599. November 28, 2018

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CAGUIOA, J:

Before the Court is a Petition for Certiorari[1] (Petition) under Rule 65 of the Rules of Court filed by the petitioners Heirs of Geminiano Francisco, et al. (collectively, the petitioners Heirs of Francisco) assailing the Resolution[2] dated August 20, 2014 (assailed Resolution) promulgated by the Court of Appeals[3] (CA) in CA-G.R. CV No. 02277-MIN, which (1) denied outright the petitioners Heirs of Francisco's Motion for Reconsideration[4] dated October 15, 2013 for being filed beyond the reglementary period and (2) directed the Division Clerk of Court to issue an Entry of Judgment,[5] considering that the Decision[6] dated August 19, 2013 of the CA attained finality due to the lack of a timely filed Motion for Reconsideration.

The Facts and Antecedent Proceedings

As narrated by the CA in its Decision dated August 19, 2013, the essential facts and antecedent proceedings of the instant case are as follows:

The crux of this dispute is a parcel of land located at Lot No. 9, Cad. 124, Boalan, Zamboanga City, containing an area of twenty (20) hectares [(subject property)], x x x

x x x x

On August 1, 1995, the [petitioners Heirs of Francisco] filed a [C]omplaint[7] for Annulment of Title, Reconveyance of Real Property and Damages with a Prayer for a Writ of Preliminary Injunction or Temporary Restraining Order [(Complaint)] before the Regional Trial Court, Branch 12, Zamboanga City [(RTC)] [against the private respondents herein Wellington Velasco (Velasco) and Dr. Emiliano Torralba (Torralba)].

The [petitioners Heirs of Francisco] allege, among other things, that they are the heirs of the late Jaime Francisco, who, they claim, is the original occupant and owner of the subject property since 1918 up to the time of his death in 1957 or for a period of more than thirty (30) years; that even after the latter's death until the present, the [petitioners Heirs of Francisco], as heirs, continued to occupy the subject property and had established their residence therein under a claim of ownership in open, exclusive, adverse and continuous occupation thereof for a total of seventy-seven (77) years.

x x x x

For his part, [Torralba] avers in his [A]nswer that he was designated by [Velasco] as a caretaker of the subject property but denies any assertion made by the [petitioners Heirs of Francisco] that he is the lawful representative of [Velasco].

x x x x

Subsequently, [Velasco] filed an [A]nswer with counterclaim before the [RTC] stating, among other things, that he is the true, lawful and absolute owner in fee simple of the subject property. He claims that his possession over the same was unlawfully and wantonly disturbed by the [petitioners Heirs of Francisco].

x x x [T]he claim of the [petitioners Heirs of Francisco] has been waived, abandoned or otherwise extinguished in view of their execution of a Deed of Quitclaim on July 8, 1968 and x x x has prescribed since reconveyance of property under the Land Registration Act on the ground of fraud prescribes in four (4) years from the issuance of the certificate of title.

Velasco further contends that the principle of res judicata is applicable in the case at bar since the cause of action is barred by prior judgment, the same having been decided between the same parties in the case entitled Francisco Dagalea vs. Wellington Velasco, docketed as MNR Case No. 6099 which has long become final and executory on May 2, 1983, and that on October 3, 1983, the National Land Titles and Deeds Registration Administration (NLTDRA) issued Original Certificate of Title No. P-3,760 in his favor.

x x x x

On July 28, 2009, the [private respondents] filed a Motion for Demurrer to Evidence which the [RTC] granted in its Order dated November 26, 2009. The dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the motion to dismiss on demurrer to evidence filed by the defendant, Wellington Velasco through counsels is hereby GRANTED and the above-entitled case is hereby ordered DISMISSED for insufficiency of evidence and that the action filed is not the proper remedy available to the plaintiffs based on the facts and circumstances as presented which this Court believes should have been one for action for reversion which nevertheless may only be initiated by the Solicitor General as mandated by law.

Hence, [the petitioner filed an appeal with the CA assailing the Order dated November 26, 2009 issued by the RTC dismissing their Complaint.][8] (Italics supplied)

The Ruling of the CA

In its Decision dated August 19, 2013, the CA dismissed the petitioners Heirs of Francisco's appeal for lack of merit.

As claimed by the petitioners Heirs of Francisco, they received a copy of the CA's Decision dated August 19, 2013 on September 30, 2013. The petitioners Heirs of Francisco admit that they only had until October 16, 2013[9] to file a Motion for Reconsideration.[10]

The petitioners Heirs of Francisco maintain that they were able to serve and file their Motion for Reconsideration dated October 15, 2013 via courier service on October 16, 2013.[11]

However, in the assailed Resolution, the CA found that petitioners Heirs of Francisco's Motion for Reconsideration was filed only on December 6, 2013.[12] Hence, the CA denied outright the petitioners Heirs of Francisco's Motion for Reconsideration, "considering that the period to file a Motion for Reconsideration is not extendible." [13]

Consequently, the CA directed the Division Clerk of Court to issue "an Entry of Judgment for the above entitled case, pursuant to to (sic) Section 3(b), Rule IV and Section 1, Rule VII, of the Internal Rules of the Court of Appeals, as amended, considering that the August 19, 2013 Decision has attained finality for lack of a timely filed Motion for Reconsideration or a petition before the Supreme Court." [14]

Hence, the instant Petition.

On April 28, 2015, the private respondents filed their Comment[15] to the Petition. On February 29, 2016, the

private respondents filed a Manifestation and Motion to Deny Petition.[16]

On April 19, 2016, the Court issued a Resolution[17] requiring the petitioners Heirs of Francisco to file a Reply to the private respondents' Manifestation and Motion to Deny Petition within ten (10) days from notice. The records reveal that the petitioners Heirs of Francisco failed to file a Reply as required by the Court.

Issue

In the instant Petition, the petitioners Heirs of Francisco raise a singular issue to be resolved by the Court: whether the CA committed grave abuse of discretion in issuing the assailed Resolution denying outright the petitioners Heirs of Francisco's Motion for Reconsideration and ordering Entry of Judgment due to the failure of petitioners Heirs of Francisco to timely file a Motion for Reconsideration.

The Court's Ruling

The Court resolves to deny the instant Petition for utter lack of merit.

Being a Rule 65 Petition, the petitioners Heirs of Francisco allege that that the CA acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.

In order for a Certiorari petition to prosper, the abuse of discretion alleged must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[18]

In the instant case, the Court finds that there was no error whatsoever, more so grave abuse of discretion, committed by the CA in issuing its assailed Resolution.

First and foremost, the Court stresses at the outset that under Section 3, Rule 13 of the Rules of Court, there are only two (2) modes by which a party may file a pleading before the courts: (1) by personal filing - presenting the original copies thereof personally to the clerk of court, or (2) by registered mail.

The petitioners Heirs of Francisco admit that they did not file their Motion for Reconsideration through personal filing, but by or through private courier/courier service.[19]

Filing via private courier or courier service is NOT a manner of filing allowed or recognized by the Rules of Court. On this point alone, the instant Petition merits dismissal.

Moreover, even assuming arguendo that the Court could accept the petitioners Heirs of Francisco's act of filing by private courier as an alternative mode of filing, it must be stressed that according to Rule 52 of the Rules of Court, as well as Rule 7 of the 2002 Internal Rules of the Court of Appeals, a party may file a motion for reconsideration of a judgment or final resolution issued by the appellate court only within fifteen (15) days from notice thereof, with proof of service on the adverse party.[20]

As readily acknowledged by the petitioners Heirs of Francisco, as they received a copy of the CA's Decision dated August 19, 2013 on September 30, 2013, they had until October 16, 2013 to file their Motion for Reconsideration.[21]

However, the CA found that the petitioners Heirs of Francisco only filed their Motion for Reconsideration almost two (2) months after October 16, 2013, or on December 6, 2013.

Basic is the rule in evidence that the burden of proof lies upon him who asserts it.[22] Hence, the petitioners Heirs

of Francisco had the burden to refute the CA's finding that the Motion for Reconsideration was filed out of time on December 6, 2013 and substantiate their claim that the said pleading was filed on October 16, 2013.

However, in the instant Petition itself, the petitioners Heirs of Francisco failed to present even a shred of evidence, aside from their own self-serving allegation, to prove that they indeed couriered their Motion for Reconsideration on October 16, 2013. The Court cannot rely on the mere say-so of the petitioners Heirs of Francisco to repudiate the clear and unequivocal finding of the CA that the Motion for Reconsideration was filed only on December 6, 2013.

Hence, with the Rules of Court stating that if no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments,[23] the CA merely followed the letter of law in issuing the assailed Entry of Judgment.

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The Resolution dated August 20, 2014 issued by the Court of Appeals, Cagayan de Oro City, Special Former Twenty-Second Division in CA-G.R. CV No. 02277-MIN is AFFIRMED.

SO ORDERED.

Carpio (Chairperson), A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.
Perlas-Bernabe, J., on wellness leave.

[*] Designated additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 3-31.

[2] Id. at 34. Issued by Division Clerk of Court Melody Sherry R. Chan.

[3] Cagayan De Oro City, Special Former Twenty-Second (22[nd]) Division, composed of Associate Justices Edgardo A. Camello, Henri Jean-Paul B. Inting, and Pablito A. Perez.

[4] Rollo, pp. 77-90.

[5] Id. at 32-33.

[6] Id. at 50-76. Penned by Associate Justice Henri Jean-Paul B. Inting with Associate Justices Edgardo A. Camello and Jhosep Y. Lopez, concurring.

[7] Id. at 35-47.

[8] Id. at 51-62.

[9] Id. at 11. October 15, 2013 was declared a regular holiday (Eidnl Adha) by virtue of Presidential Proclamation No. 658.

[10] Id.

[11] Id. at 11, 13-14.

[12] Id. at 34.

[13] Id., citing *V.C. Ponce Company, Inc. v. Municipality of Parañaque*, 698 Phil. 338 (2012); *Habaluyas Enterprises, Inc. v. Judge Japson*, 226 Phil. 144 (1981).

[14] Id.

[15] Id. at 99-106.

[16] Id. at 120-129.

[17] Id. at 133.

[18] Chua v. People, G.R. No. 195248, November 22, 2017.

[19] Rollo, pp. 13, 14.

[20] V.C. Ponce Company, Inc. v. Municipality of Parañaque, supra note 13, at 349.

[21] Rollo, p. 11.

[22] MOF Company, Inc. v. Shin Yang Brokerage Corp., 623 Phil. 424, 436 (2009).

[23] RULES OF COURT, Rule 36, Sec. 2.

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