

ISIDRO ALEJANDRO, PETITIONER, VS. PASTOR M, ENDENCIA, JUDGE OF FIRST INSTANCE OF BULACAN, PEDRO L. MERCADO, DOROTEA RAVAGO DE LOS SANTOS, AND HEIRS OP EUGENIO DE LA CRUZ, RESPON...*G. R. No. 45476. March 30, 1937*

Ponente: IMPERIAL, J.

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The petitioner filed this petition for mandamus to compel the respondent judge to approve and forward to this court the bill of exceptions presented by him in registration proceeding No. 921 of the Court of First Instance of Bulacan, in connection with his appeal from the order of said court approving a plan of subdivision of the lands disputed by the parties.

On August 31, 1936, the Court of First Instance of Bulacan issued an order approving a plan of subdivision. On September 11th of said year, the petitioner, as applicant in the registration proceeding, was notified of said order and on said date he filed a motion for reconsideration which is equivalent to a motion for a rehearing. On September 23, 1936, the court denied the motion for reconsideration of the petitioner who was notified of the order of denial on the 26th of said month. On September 23d of said year the court issued another order adjudicating lots to the parties and reiterating the approval of the plan of subdivision provided in the order of August 31st. On October 10, 1936, the petitioner mailed his exception to the denial of his motion for reconsideration and to the order recently issued, announced his intention to appeal and at the same time requested an extension of thirty (30) days to file his bill of exceptions. This combined motion was received at the clerk's office and attached to the record on the 14th of said month. On October 21st of said year the court issued an order directing notation of the exception taken to its orders of August 31st and September 23d, and granting the petitioner-applicant an extension of fifteen (15) days to file his bill of exceptions. The petitioner was notified of this order on November 2, 1936. The bill of exceptions was filed by him on the 13th of said month of November.

Although it does not appear in the copy of the bill of exceptions, the petitioner alleges in his sworn petition for mandamus that the court disapproved said bill of exceptions on the ground that it was presented out of time.

In land registration cases any party may appeal from a final decision, decree or order by filing a bill of exceptions within 30 days counting from the date on which the party received a copy of the decision, decree or order (section 14, Act No. 496, as amended by section 4, Act No. 1108, and section 26, Act No. 2347). The period of thirty days for filing the bill of exceptions is interrupted from the time the motion for a rehearing is filed, and the time during which the court has the motion under advisement is not counted. (Roman Catholic Bishop of Tuguegarao vs. Director of Lands, 34 Phil., 623; Estate of Cordova, and Zarate vs. Alabado, 34 Phil., 920; Bermudez vs. Director of Lands, 36 Phil., 74; Layda vs. Legazpi, 39 Phil., 83.) As the petitioner filed a motion for reconsideration or rehearing on the same date when he was notified of the order of August 31, 1936, which was on September 11th of said year, the period for appealing and filing the bill of exceptions was interrupted from said date and did not

begin to run until September 26, 1936, when the petitioner was notified of the order denying his motion for reconsideration. The period of 30 days expired on October 26, 1936.

The petitioner alleges that he filed his bill of exceptions within the original period of 30 days or within the extension granted, because he contends that said period of 30 days was interrupted from October 14th when he filed his petition for extension of time and did not commence to run again until November 2d, when he was notified of the order granting him an extension of 15 days. If the contention is correct, then the bill of exceptions was filed 29 days from the time the petitioner was notified of the order of September 11, 1936, which took place on the 26th of said month, because from September 11th to October 14th, on which he filed his petition for an extension of time, only 18 days elapsed, and from November 2d, when he was notified of the granting of the extension, to the date of the filing of the bill of exceptions, which took place on the 13th of said month, 11 days elapsed.

This court has never resolved that a petition for extension of time suspends the running of the period fixed by law for the filing of the bill of exceptions in civil actions as well as in registration proceedings. What it has decided is that the petition for extension of time in both cases should be filed before the expiration of the period fixed by law (*Director of Lands vs. Maurera and Tiongson*, 37 Phil., 410; *Layda vs. Legazpi*, supra). The petition for extension of time should not interrupt the period fixed by law for the filing of the bill of exceptions or for the taking of the appeal on the ground that the only purpose of said petition is to ask the court to grant an additional period to that fixed by law to that end.

In the present case, however, it so happened that the petitioner was notified of the order granting the extension of time only on November 2d, in spite of the fact that it had been issued on October 21st and the petition to that effect had been filed before the expiration of the period fixed by law for the presentation of the bill of exceptions. If the extension of 15 days is computed from October 21st, or from the expiration of the original period of 30 days for the filing of the bill of exceptions, it appears that the bill of exceptions was filed by the petitioner outside the extension granted him. In this case this court sees no good nor logical reason not to apply to order of October 21st, the rule of procedure that every decision or order must produce all its legal effect from the time the parties are notified thereof.

In view of the foregoing considerations and in order to avoid failure of certain appeals due to the carelessness or negligence on the part of officials charged with immediate service of notice of orders issued by the courts, this court holds; (1) That petitions for extension of the period for filing the bill of exceptions in land registration cases must be filed, at all events, before the expiration of the period fixed by law; (2) that said petitions must be decided promptly or, at least, before the expiration of the period fixed by law, and the interested parties or their attorneys must immediately be notified of the order issued therein; (3) that the extension of time, if granted and the court fails to determine when it should commence to run, must be joined to the original period or that fixed by law, and must be computed from the date following the expiration thereof and (4) that when the order granting extension of time is issued and notice thereof served after the expiration of the period fixed by law, said extension of time must be counted from the date notice of the order granting it is received.

For the foregoing reasons, the remedy applied for is granted, and the respondent judge, or whoever presides over the Court of First Instance of Bulacan, is required to approve and forward to this court the bill of exceptions presented by the petitioner on November 13, 1936, with the costs to the other respondents. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Diaz, Laurel, and Concepcion, JJ., concur.

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