

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR
OF LANDS AND DIRECTOR OF FOREST DEVELOPMENT,
PETITIONERS, VS. HON. OTILIO G. ABAYA, PRESIDING JUDGE OF THE
CFI OF AGUSAN...**

G.R. No. 55854. February 23, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

For purposes of an appeal from a decision of the trial court in a land registration case, should the period of appeal be reckoned from the time of notice to the fiscal or notice to the Solicitor General? This is the issue posed in this case.

In 1977 and 1978, private respondents filed with the Court of First Instance of Agusan del Sur separate applications for registration of several parcels of land located in Bahbah, now Prosperidad, Agusan del Sur with a total area of 7,880,418 square meters more or less. The applications were docketed as LRC Nos. N-160 to N-170. On subsequent dates, some of these applications were amended.

The Director of Lands and the Director of Forest Development through the Solicitor General filed separate oppositions to the applications for registration. Along with said oppositions the Solicitor General also filed separate notices of appearance addressed to the Clerk of Court and copies furnished the applicants. The notices of appearance read as follows:

“NOTICE OF APPEARANCE

The Clerk of Court
CFI Agusan del Sur

G r e e t i n g s :

Please enter the appearance of the Solicitor General as counsel for the Government in the above-entitled case, and cause all notices of hearings, orders, resolutions, decisions and other processes to be served upon him at the Office of the Solicitor General, Department of Justice, Manila.

The Provincial Fiscal of Prosperidad, Agusan del Sur has been authorized to appear in this case and therefore should also be furnished notices of hearings, orders, resolutions, decisions and processes. However, as the Solicitor General retains supervision and control of the representation in this case and has to approve withdrawal of the case, non-appeal, or other actions which appear to compromise the interests of the Government, only notices of orders, resolutions, and decisions served on him bind the party represented.

Adverse parties are likewise requested to furnish both the Solicitor General and the Fiscal with copies of their pleadings and motions. (Emphasis supplied)”[1]

After a joint trial of all the cases the trial court rendered a decision dated June 6, 1980 adjudicating the land

applied for in the proposal indicated therein to the applicants, private respondents herein. A copy of the decision was received by the Solicitor General on July 8, 1980.

On July 29, 1980, oppositors, the Director of Land and the Director of Forest Development, through the Solicitor General, filed separate notices of appeal from the decision to the Court of Appeals. On the same date said oppositors filed separate motions for extension of time within which to file the records on appeal. On September 3, 1980, or within the extended period first requested, the same oppositors filed separate motions for further extension of time to file record on appeal.

On September 19, 1980 the trial court issued an order denying the government's appeal as follows:

"The Court rendered a joint judgment in all these cases on June 6, 1980. First Assistant Fiscal Conrado R. Fabular, one of the counsels of the Republic of the Philippines was furnished a copy of said decision on June 17, 1980. The Solicitor General was also furnished copy of said decision which the latter claims to have received on July 8, 1980.

The counsels for Republic of the Philippines are First Assistant Fiscal Conrado R. Fabular, District Land Officer Jose Roasol and the Solicitor General.

It is a rule that when a party is represented by several counsels, notice to one of them is sufficient and such notice binds such party. In this case, Fiscal Fabular was notified of the decision on June 17, 1980 and during the thirty (30) day period allowed him to appeal which expired on July 17, 1980, he failed to do so. The contention of Solicitor General that he received notice of said judgment on July 8, 1980 and that he filed his notice of appeal on July 25, 1980, does not resurrect the right of Republic of the Philippines to appeal said judgment which was already lost when Fiscal Fabular or any of Republic's counsels failed to do so within thirty (30) days from June 17, 1980, the date of receipt of said decision by Fiscal Fabular which expired on July 17, 1980. After the latter date the Republic of the Philippines foreclosed its right to appeal." [2]

Hence, this petition wherein petitioners allege that the aforesaid order of said respondent judge should be set aside because it was issued in excess of jurisdiction, in grave abuse of discretion, and in violation of applicable jurisprudence.

Pending consideration of this petition, on March 23, 1981, this Court issued a restraining order as prayed for in the petition to restrain said respondent judge, any officers or agents representing any person or persons acting upon his orders, place or stead from taking any further proceedings in LRC Nos. N-160 and N-170.

The petition is impressed with merit. By express provision of law, the Solicitor General is the counsel of the government in all land registration cases and related proceedings.[3] He formally entered his appearance as counsel for the Director of Land and the Director of Forest Development. In his notice of appearance, he made it clear that he is the counsel for the government of the aforesaid land registration cases and only notices, orders, resolutions and decisions served on him will bind the government. He also made it clear that while the provincial fiscal acknowledged that he was authorized to appear in this case and should therefore, be served with notices, orders, resolutions, decisions and processes, the Solicitor General retained the supervision and control over him such that it is he alone who can approve the withdrawal of the decision, non-appearance and other actions to protect the interest of the government.

In Republic vs. Polo[4] where the issue is identical to the issue presented in this case, this Court held as follows:

"We hold that the thirty-day period should be counted from the date when the Solicitor General received a copy of the decision because the service of the decision upon the city fiscal did not operate as a service upon the Solicitor General.

It should be clarified that, although the Solicitor General requested the city fiscal to represent him in the trial court, he nevertheless, made his own separate appearance as counsel for the State. In that “notice of appearance,” he expressly requested that he should be served in Manila with “all notices of hearings, orders, resolutions, decisions and other processes” and that such service is distinct from the service of notices and other papers on the city fiscal.

The Solicitor General also indicated in his “notice of appearance” that he retains supervision and control of the representation in this case and has to approve withdrawal of the case, non-appeal, or other actions which appear to compromise the interests of the Government” and that “only notices of orders, resolutions and decisions served on him will bind” the Government.

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In this case, it is obvious that, strictly speaking, the city fiscal did not directly represent the Government. He was merely a surrogate of the Solicitor General whose office, “as the law office of the Government of the Republic of the Philippines,” is the entity that is empowered to “represent the Government in all land registration and related proceedings”[5]

The notices of appeal in the eleven (11) registration cases appear to have been filed within the original reglementary period while the corresponding records on appeal were filed within the period of the extension requested to file record on appeal. Thus, as the Solicitor General related, he received a copy of the decision on July 8, 1980. He filed the notices of appeal on July 29, 1980. On the same date, he filed a motion requesting for thirty (30) days extension of time to file record on appeal from August 8, 1980, or up to September 7, 1980 within which to file the record on appeal. On September 5, 1980, or within the first extension requested, the Solicitor General filed another motion dated September 3, 1980 for further extension of time to file record on appeal for thirty (30) days from September 7, 1980 within which to submit the said record on appeal. Before the expiration of the second extension or on September 26, and 29, 1980, the corresponding records on appeal were filed with the court in said cases.

The reglementary period cannot be counted from receipt of the copy of the decision by the Asst. Fiscal Conrado R. Fabular in June 7, 1980 since, as above-stated, Fiscal Fabular was not the counsel of record but only a surrogate of the Solicitor General in the proceedings.

WHEREFORE, the petition is GRANTED. The questioned order of the respondent judge dated September 19, 1980 is hereby REVERSED AND SET ASIDE. The respondent judge or his successor is hereby directed to give due course to the appeal of petitioners. The restraining order issued on March 23, 1981 is hereby lifted. The Court makes no pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 4 to 5, Rollo.

[2] Pages 6 to 7, Rollo.

[3] Section 1(e), P. D. No. 478.

[4] 89 SCRA 33 (1979).

[5] Section 1(e), P.D. No. 478.

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