

MIDLAND INSURANCE CORPORATION, PETITIONER, VS. INTERMEDIATE APPELLATE COURT, & SISENANDO VILLAREAL, RESPONDENTS.

G.R. No. 71905. August 13, 1986

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

The petition for review on certiorari in this case seeks the nullification of the Order of the respondent Intermediate Appellate Court under date August 14, 1985, dismissing the appeal of herein petitioner despite respondent Court's letter-advice, dated February 8, 1985 directing the filing of petitioner-appellant's brief.

The factual background of this case indicates that on October 1, 1984, a judgment was rendered by the Insurance Commission in favor of complaint-appellee, Sisenando Villareal, and against herein petitioner Midland Insurance Corporation. Petitioner received a copy of the decision on October 5, 1984 and it filed a motion for reconsideration of said judgment on October 17, 1984. This motion was denied in an Order dated October 26, 1984. On November 7, 1984, petitioner filed with the Insurance Commission its notice of appeal from the subject decision to respondent Intermediate Appellate Court (IAC). This appeal was docketed as AC-G.R. SP No. 04928 of said court.

Petitioner's appeal was initially accepted by the IAC as can be gleaned from the letter-advice dated February 8, 1985, notifying petitioner's counsel to file appellant's brief. However, a Motion to Dismiss appeal, dated March 1, 1985 was filed by the complainant-appellee on the ground that the petitioner herein, as the appellant in said AC-G.R. SP No. 04928 failed to perfect its appeal within the reglementary period. Despite the opposition there-to interposed by petitioner Midland Insurance Corporation, the Respondent IAC, on August 14, 1985 granted the stated Motion to Dismiss on the ground that by said court's computation of the elapsed period from the date of receipt by herein petitioner of the decision of the Insurance Commission to the time the notice of appeal was filed before said Commission and notice of appeal and manifestation submitted to the IAC on December 5, 1984, it would appear that petitioner's appeal was belatedly made.

Respondent court in dismissing the petition said:

"Respondent-appellant's contention that under Batas Pambansa Blg. 129 the reglementary period of 15 days from receipt of the decision or judgment within which to file an appeal is not applicable to quasi-judicial agencies such as the Insurance Commission, is gratuitous. The applicable rule is explicit in No. 12(c)*, providing for appellate procedure under the Interim Rules which state that 'appeals to the Intermediate Appellate Court from quasi-judicial bodies shall continue to be governed by the provisions of Republic Act No. 5434 insofar as the same is not inconsistent with the provisions of B.P. Blg. 129. The pertinent provisions in Rep. Act No. 5434 provide:

'SEC. 2. Appeals to the Court of Appeals shall be filed within the fifteen (15) days from notice of the ruling, award, order, decision or judgment xxx.

'xxx xxx xxx

'There is no conflict between the period to appeal in R.A. No. 5434 and Sec. 39, B.P. 129 which provides:

'Appeals. - The period for appeal from final orders, resolutions, awards, judgments, or decisions of any court in all cases shall be fifteen (15) days counted from the notice of the final order, resolution, award, judgment, or decision appealed from: Provided, however, That in habeas corpus cases, the period for appeal shall be forty-eight (48) hours from the notice of the judgment appeal from.

'xxx xxx xxx"

(Decision, AC-G.R. SP No. 04928, p. 92, Rollo, p. 16)

The petitioner's case, however, rests on the assumption that it had timely filed its appeal on November 7, 1984 because Section 2 of Republic Act No. 5434 which governs appeals originating from quasi-judicial bodies grants a party ten (10) days from notice of the resolution denying a Motion for Reconsideration. As notice of the denial of petitioner's motion for reconsideration by the Insurance Commission was received by petitioner on October 30, 1984, the latter maintains that it had ten (10) days thereafter or until November 9, 1984 within which to file its appeal and this was filed with the IAC on November 7, 1984. Petitioner's submission is that the appeal was thus filed within the reglementary period.

We find the petition impressed with merit and fully agree with the petitioner's submission regarding the timeliness of its appeal.

It can be gleaned from the powers and duties of the Insurance Commissioner enumerated in Sections 414-416, 187, and 241 of the Insurance Code performs quasi-judicial functions - a term which applies to the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature (Black's Law Dictionary, Fifth Ed., 1979, 1121).

It is paragraph 22(c) of the Interim Rules and Guidelines, relative to the Implementation of the Judiciary Reorganization Act of 1981 (Batas Pambansa Blg. 129) which prescribes the procedure to be taken in the Appellate Court with respect to appeals originating from Quasi-Judicial Bodies. It reads as follows:

"Paragraph 22(c). Appeals from Quasi-Judicial Bodies. - The appeals to the Intermediate Appellate Court from quasi-judicial bodies shall continue to be governed by the provisions of Republic Act No. 5434 insofar as the same is not inconsistent with the provisions of B.P. Blg. 129."

Section 2 of R.A. 5434 explicitly provides:

"Sec. 2. Appeals to the Court of Appeals shall be filed within fifteen (15) days from notice of the ruling, award, order, decision or judgment or from the date of its last publication if required by law for its effectivity or in case a motion for reconsideration is filed within that period of fifteen (15) days, then within ten (10) days from Notice or publication, when required by law, of the resolution denying the motion for reconsideration. No more than one motion for reconsideration shall be allowed by any party. xxx." (underscoring supplied)

We find that petitioner herein is correct in maintaining that its appeal was timely filed. Petitioner's motion for reconsideration was denied by the Insurance Commission and advice of such denial was received by petitioner on October 30, 1984. As petitioner would then have ten (10) days from October 30, 1984 or until November 9, 1984, its appeal was well within the ten-day period within which an appeal can be made to the respondent Intermediate Appellate Court.

What We note is that Respondent IAC fell into error because it failed to consider and apply the pivotal Section 2 of R.A. 5434, which recites that "in case a motion for reconsideration is filed within that period of fifteen (15)

days, then within ten (10) days from Notice or publication, when required by law, of the resolution denying the motion for reconsideration xxx." Respondent court's failure to do so led to its erroneous conclusion.

It should be considered that while Section 39 of B.P. Blg. 129, in conjunction with Section 19(a) of the Interim Rules, fixes a uniform fifteen (15) day period for appeal from notice of the final order, resolution, award, judgment or decision of any court, Section 22(c) of the Interim Rules, however, applies in particular to appeals to the Intermediate Appellate Court from quasi-judicial bodies. Said Section 22(c) explicitly refers to the provisions of R.A. 5434, of which Section 2 thereof, had already been above cited. There is no inconsistency between said section and B.P. 129 or its implementing guidelines. B.P. 129 may not be said to have repealed said provision of R.A. 5434 for the Interim Rules even expressly refer to said Section 2 of R.A. 5434. Said Section 2 should, therefore, be applied.

It should be stressed that the provision in Section 2 of R.A. No. 5434 which allows an additional ten (10) days from notice of the denial of the motion for reconsideration does not extend the period for appeal but merely furnishes an automatic ten-day allowance in the event that a motion for reconsideration is interposed within the appeal period. In other words, this particular provision becomes operative only if a motion for reconsideration is filed during the fifteen-day period. The period for appeal remains untouched by Section 2 of R.A. 5434. Private respondent's submission, therefore, that this interpretation runs counter to the avowed intent of the Judiciary Reorganization Act to set a uniform and thus shorter period for appeals does not possess a persuasive ring.

Furthermore, even if viewed in the light of Section 416, paragraph 7 of the Insurance Code (P.D. 612, as amended), which decrees that "xxx any party may appeal from a final order, ruling or decision of the Commissioner by filing with the Commissioner within thirty (30) days from receipt of copy of such order, ruling or decision a notice of appeal xxx", the timeliness of the petitioner's appeal to the Intermediate Appellate Court stands unassailable. Petitioner received notice of the decision of the Insurance Commissioner on October 5, 1984 and filed a motion for reconsideration on October 17, 1984, thereby availing of eleven (11) days of the thirty (30) days limit in Section 416, par. 7, adverted to above. Consequently, when petitioner received a copy of the Order denying said motion for reconsideration on October 30, 1984, petitioner still had in its favor a total of nineteen (19) days from the aforesaid date inasmuch as the motion for reconsideration would suspend the running of the thirty-day period prescribed for filing notice of appeal with the Insurance Commission (Rule 41, Section 3, Rules of Court). Obviously, the filing of the notice of appeal on November 7, 1984 did not exceed the remaining nineteen (19) days afforded to petitioner.

Thus, whether it be B.P. 129 or R.A. 5434 or the provisions of the Insurance Code, P.D. 612, as amended, that should be considered and applied, the appeal in subject case made by Midland Insurance Corporation must be deemed to be still timely filed.

It is also significant to note that in the recent decision of this Court in *Gimenez Stockbrokerage and Co. Inc., vs. Securities and Exchange Commission*, No. L-68568, December 26, 1984, 133 SCRA 840-841, We therein held -

"xxx the SEC erred in holding that the thirty-day period provided for in section 6 of Presidential Decree No. 902-A was modified by section 39 of the Judiciary Revamp Law, Batas Pambansa Blg. 129, which provides for a period of fifteen days for appealing from final orders, resolutions, awards, judgments or decisions of any court. The SEC is not a Court. It is an administrative agency."

In the same manner that the SEC was held to be an administrative agency, with quasi-judicial functions, the same consideration would apply to the Insurance Commission. Consequently, the period of appeal from final orders, decisions, resolutions or awards of said Insurance Commission may not be necessarily modified or limited by section 39 of Batas Pambansa Blg. 129.

IN VIEW OF ALL THE FOREGOING, the Order of the respondent Inter-mediate Appellate Court, dated August 14, 1985, dismissing petitioner's appeal is hereby SET ASIDE and it is directed to give due course to the petitioner's appeal in accordance with the rules and procedure prescribed therefor by said court.

No pronouncement as to costs.

Feria, (Chairman), Fernan, Gutierrez, Jr., and Paras, JJ., concur.

* Should be No. 22(c)

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