

REPUBLIC OF THE PHILIPPINES (REPRESENTED BY THE DIRECTOR OF LANDS), PETITIONER, VS. THE REGISTER OF DEEDS OF QUEZON, MANUEL G. ATIENZA, DEVELOPMENT BANK OF THE PHILIPPINES (LUCE...*G.R. No. 73974. May 31, 1995*

Ponente: ROMERO, J.

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This petition for review on certiorari seeks to nullify and set aside the decision[1] of the then Intermediate Appellate Court reversing the decision of the former Court of First Instance of Quezon, Branch II at Lucena City[2] which annulled Original Certificate of Title (OCT) No. P-13840 and Free Patent (FP) No. 324198 issued to Manuel Atienza for a 17-hectare piece of land which turned out to be within the forest zone in Pagbilao, Quezon.

On April 18, 1967, Atienza was awarded FP No. 324198 over a parcel of land located in Ila, Malicboy, Pagbilao, Quezon, with an area of 172,028 square meters. By virtue of such award, he was issued on May 5, 1967, OCT No. P-13840.

Sometime in 1968, an investigation was conducted by the Bureau of Lands in connection with alleged land grabbing activities in Pagbilao. It appeared that some of the free patents, including that of Atienza's, were fraudulently acquired. Thus, on March 19, 1970, a criminal complaint for falsification of public documents was filed in the then Court of First Instance of Quezon, Branch II, against Atienza and four other persons for allegedly falsifying their applications for free patent, the survey plans, and other documents pertinent to said applications.

In its decision dated October 4, 1972, the court acquitted the accused of the crime charged but, finding that the land covered by the application for free patent of private respondent was within the forest zone, declared as null and void OCT No. P-13840 in Atienza's name and ordered the Register of Deeds of Quezon to cancel the same.

Meanwhile, before the promulgation of said decision, or on May 10, 1972, then Acting Solicitor General Conrado T. Limcaoco filed for the petitioner a complaint against Atienza, the Register of Deeds of Quezon, and the Rural Bank of Sariaya, which was later dropped as defendant and, in an amended complaint, substituted by the Development Bank of the Philippines as actual mortgagee of the subject parcel of land. Docketed as Civil Case No. 7555, the complaint prayed for the declaration of nullity of FP No. 324198 and OCT No. P-13840.

In his answer, Atienza claimed that the land in question was no longer within the unclassified public forest land because by the approval of his application for free patent by the Bureau of Lands, the land "was already alienable and disposable public agricultural land." Since the subject land was a very small portion of Lot 5139 of the Pagbilao Cadastre, an area which had been declared disposable public land by the cadastral court on March 9, 1932 in Cadastral Case No. 76 entitled "El Gobierno Filipino de las Islas Filipinas contra Jose Abastillas, et al., G.L.R.O. Cadastral Record No. 1124," he also averred that the Director of Lands had given due course to free and

homestead patent applications of claimants to Lot 5139. He further alleged that through a certain Sergio Castillo, he had been in possession of the land since the Japanese occupation, cultivating it and introducing improvements thereon. The DBP, after due and proper investigation and inspection of his title, even granted him a loan with the subject property as collateral. Finally, he stated that his acquittal in the criminal case proved that he committed no fraud in his application for free patent.

On July 27, 1981, the lower court rendered a decision with the categorical finding based on "solid evidence" that "the land in question was found definitely within the forest zone denominated as Project 21-A."

The dispositive portion thereof reads as follows:

"WHEREFORE, in view of the foregoing, (J)udgment is hereby rendered:

(a) Declaring as null and void Original Certificate of Title No. P-13840 in the name of defendant Manuel G. Atienza, as well as Free Patent No. V-324198;

(b) Ordering defendant Manuel G. Atienza to pay the Development Bank of the Philippines, Lucena City Branch, the sum of P15,053.97, and all interests due thereon; and

(c) Ordering defendant Manuel G. Atienza to pay the costs of this suit.

SO ORDERED."

On appeal, Atienza maintained that the land in question was not within the unclassified public forest land and therefore alienable land of the public domain. The then Intermediate Appellate Court relied only on the arguments he raised since petitioner had not filed any brief, and arrived at the conclusion that "(t)he litigated land is part of public land alienable and disposable for homestead and [F]ree Patent." On December 27, 1985, the appellate court set aside the lower court's decision, declared as valid and subsisting Atienza's OCT, and dismissed the cross-claim of the DBP.

After receiving a copy of said decision, Assistant Solicitor General Oswaldo D. Agcaoili informed the Director of Lands of the adverse decision of the appellate court, which noted that no appellee's brief had been filed in said court. Agcaoili also stated that the Office of the Solicitor General (OSG) had not been furnished with the appellant's brief; that the Bureau of Lands received notice of hearing of the record on appeal filed by the appellant but the OSG had not been informed of the "action taken thereon;" that since the Bureau of Lands had been furnished directly with relevant pleadings and orders, the same office should "take immediate appropriate action on the decision;" and that it may file a motion for reconsideration within fifteen (15) days from January 6, 1986, the date of receipt by the OSG of the copy of the decision sought to be appealed.

On January 28, 1986, petitioner filed a motion for extension of time to file motion for reconsideration which was denied in a resolution dated February 12, 1986. Petitioner's motion for reconsideration of said resolution was likewise denied.

The instant petition for review on certiorari raises the following arguments: (a) petitioner was denied due process and fair play when Atienza did not furnish it with a copy of his appellant's brief before the then Intermediate Appellate Court thereby depriving it of the opportunity to rebut his assertions which later became the sole basis of the assailed decision of December 27, 1985; (b) the appellate court erred in holding that the land in question is part of the alienable and disposable public land in complete disregard of the trial court's finding that it forms part of the unclassified public forest zone; and (c) the appellate court erred in declaring that the land in question could be alienated and disposed of in favor of Atienza.

We find for the petitioner.

Appeal is an essential part of our judicial system. As such, courts should proceed with caution so as not to deprive a party of the right to appeal, particularly if the appeal is meritorious.[3] Respect for the appellant's right, however, carries with it the corresponding respect for the appellee's similar rights to fair play and justice. Thus, appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court.[4]

Of paramount importance is the duty of an appellant to serve a copy of his brief upon the appellee with proof of service thereof.[5] This procedural requirement is consonant with Section 2 of Rule 13, which mandates that all pleadings and papers "shall be filed with the court, and served upon the parties affected thereby." The importance of serving copies of the brief upon the adverse party is underscored in *Mozar v. Court of Appeals*,[6] where the Court held that the appellees "should have been given an opportunity to file their appellee's brief in the Court of Appeals if only to emphasize the necessity of due process."

In this case, however, the Court of Appeals, oblivious of the fact that this case involves public lands requiring as it does the exercise of extraordinary caution lest said lands be dissipated and erroneously alienated to undeserving or unqualified private individuals, decided the appeal without hearing the government's side.

Atienza avers that he furnished Atty. Francisco Torres, a lawyer in the Bureau of Lands and designated special attorney for the Office of the Solicitor General, with two copies of the appellant's brief, thereby implying that it was not his fault that petitioner failed to file its appellee's brief.

Such an assertion betrays a lack of comprehension of the role of the Solicitor General as government counsel or of the OSG as the government's "law office." [7] Only the Solicitor General, as the lawyer of the government, can bring or defend actions on behalf of the Republic of the Philippines and, therefore, actions filed in the name of the Republic, if not initiated by the Solicitor General, will be summarily dismissed.[8] Specifically, he is empowered to represent the Government in all land registration and related proceedings,[9] such as, an action for cancellation of title and for reversion of a homestead to the government.[10] Hence, he is entitled to be furnished with copies of all court orders, notices and decisions. Consequently, service of decisions on the Solicitor General is the proper basis for computing the reglementary period for filing appeals and for finality of decisions. His representative, who may be a lawyer from the Bureau of Lands, has no legal authority to decide whether or not an appeal should be made.[11]

Service of the appellant's brief on Atty. Torres was no service at all upon the Solicitor General. It may be argued that Atty. Torres could have transmitted one of the two copies of appellant's brief upon the Solicitor General, but such omission does not excuse Atienza's failure to serve a copy of his brief directly on the Solicitor General.

On the part of the appellate court, its decision based solely on, and even quoting verbatim from, the appellant's brief was certainly arrived at in grave abuse of discretion. It denied appellee (petitioner herein) of the opportunity to be heard and to rebut Atienza's allegations, in rank disregard of its right to due process. Such violation of due process could have been rectified with the granting of petitioner's motion for reconsideration by the appellate court,[12] but even the door to this recourse was slammed by the appellate court with the denial of petitioner's motion for extension of time to file motion for reconsideration in a resolution dated February 12, 1986, which ruling erroneously applied the *Habaluyas* doctrine.[13]

Such denial notwithstanding, petitioner filed its motion for reconsideration. Considering the clear allegations thereunder, the appellate court would have done well, in the interest of justice, not to blindly adhere to technical rules of procedure by dismissing outright said motion. As we declared in *Villareal v. Court of Appeals*: [14]

"x x x. The requirements of due process are satisfied when the parties are afforded a fair and reasonable opportunity to explain and air their side. The essence of due process is simply the opportunity to be heard or as

applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling taken." (Underscoring supplied)

In view of the foregoing and the long-standing procedural rule that this Court may review the findings of facts of the Court of Appeals in the event that they may be contrary to those of the trial court,[15] in order to attain substantial justice, the Court now reviews the facts of the case.

Under the Regalian Doctrine, all lands not otherwise clearly appearing to be privately-owned are presumed to belong to the State. Forest lands, like mineral or timber lands which are public lands, are not subject to private ownership unless they under the Constitution, become private properties. In the absence of such classification, the land remains unclassified public land until released therefrom and rendered open to disposition.[16]

In our jurisdiction, the task of administering and disposing lands of the public domain belongs to the Director of Lands, and ultimately, the Secretary of Agriculture and Natural Resources[17] (now the Secretary of Environment and Natural Resources).[18] Classification of public lands is, thus, an exclusive prerogative of the Executive Department through the Office of the President.[19] Courts have no authority to do so.[20]

Thus, in controversies involving the disposition of public agricultural lands, the burden of overcoming the presumption of state ownership of lands of the public domain lies upon the private claimant[21] who, in this case, is Atienza. The records show, however, that he failed to present clear, positive and absolute evidence[22] to overcome said presumption and to support his claim.

Atienza's claim is rooted in the March 9, 1932 decision of the then Court of First Instance of Tayabas in Cadastral Case No. 76, which was not given much weight by the court a quo, and for good reasons.

Apart from his assertions before this Court, Atienza failed to present proof that he or his predecessor-in-interest was one of the claimants who answered the petition filed by the then Attorney-General in the said cadastral proceedings. The document reflecting said cadastral decision, a xerox copy, indicated the claimants simply, as "Jose Abastillas et al." In support of that decision, Atienza presented a certification purportedly issued by someone from the Technical Reference Section of the Surveys Division, apparently of the Bureau of Lands, stating that "Lot 5886 is a portion of Lot 5139 Pagbilao Cadastre," which evidence is, however, directly controverted by the sketch plan showing that the land in controversy is actually outside the alienable and disposable public lands, although part of Lot 5139.

The fact that Atienza acquired a title to the land is of no moment, notwithstanding the indefeasibility of titles issued under the Torrens system. In *Bornales v. Intermediate Appellate Court*,[23] we ruled that the indefeasibility of a certificate of title cannot be invoked by one who procured the same by means of fraud. The "fraud" contemplated by the law (Sec. 32, P.D. 1529) is actual and extrinsic, that is, "an intentional omission of fact required by law,"[24] which in the case at bench consisted in the failure of Atienza to state that the land sought to be registered still formed part of the unclassified forest lands.

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE and the decision of the court a quo dated July 27, 1981, is REINSTATED.

SO ORDERED.

Feliciano, (Chairman), Melo, Vitug, and Francisco, JJ., concur.

[1] Penned by Associate Justice Mariano A. Zosa and concurred in by Associate Justices Jorge R. Coquia, Floreliana Castro-Bartolome and Bienvenido C. Ejercito.

[2] Presided by Judge Benigno M. Puno.

[3] *Goulds Pumps (Phils.), Inc. v. Court of Appeals*, G.R. No. 102748, June 30, 1993, 224 SCRA 127.

[4] *U-Sing Button and Buckle Industry v. NLRC*, G.R. No. 94754, May 11, 1993, 221 SCRA 680, citing *Ozaeta v. Court of Appeals*, G.R. No. 83281, December 4, 1989, 179 SCRA 800.

[5] Section 10, Rule 96, Rules of Court.

[6] G.R. No. 79403, November 13, 1989, 179 SCRA 353.

[7] Section 35, Title III, Chapter 12, Revised Administrative Code of 1987.

[8] *Republic v. Court of Appeals*, G.R. No. 90482, August 5, 1991, 200 SCRA 226, citing *Republic v. Partisala*, G.R. No. 61997, November 15, 1982, 118 SCRA 370.

[9] Sec. 35[5], Title III, Chapter 12, Revised Administrative Code of 1987.

[10] *Causapin v. Court of Appeals*, G.R. No. 107432, July 4, 1994, 233 SCRA 615.

[11] *Republic v. Court of Appeals*, L-48327, August 21, 1991, 201 SCRA 1; *Republic v. Andaya*, G.R. No. 55854, February 23, 1990, 182 SCRA 524.

[12] *German Management & Services, Inc. v. Court of Appeals*, G.R. No. 76216, September 14, 1989, 177 SCRA 495.

[13] The ruling in *Habaluyas Enterprises, Inc. v. Habaluyas* (G.R. No. 70895, August 5, 1985, 138 SCRA 46) - that the fifteen-day period within which a party may file a motion for reconsideration of a final order or ruling of the Regional Trial Court may not be extended - has been reconsidered in the resolution of May 30, 1986 (142 SCRA 208), where the Court, after categorically stating that "the law and the Rules of Court do not expressly prohibit the filing of a motion for extension of time to file a motion for reconsideration of a final order or judgment," held that the rule that "no motion for extension of time to file a motion for new trial or reconsideration may be filed with the x x x Intermediate Appellate Court" shall be strictly enforced "beginning one month after the promulgation of this Resolution" (or more than four months after the resolution of February 12, 1986 was issued). The Court later clarified the modes and periods of appeal in *Lacsamana v. Second Special Cases Division of the Intermediate Appellate Court* (G.R. No. 73146-53, August 26, 1986, 143 SCRA 643). It was only on April 7, 1988, however, that the Court resolved to formally adopt "as a general policy" the rule that "no motion for extension of time to file a motion for reconsideration shall be granted after the Court (or the Court of Appeals) has rendered its judgment."

[14] G.R. No. 97505, March 1, 1993, 219 SCRA 293.

[15] *Gaw v. Intermediate Appellate Court*, G.R. No. 70451, March 24, 1993, 220 SCRA 405; *Massive Construction, Inc. v. Intermediate Appellate Court*, G.R. Nos. 70310-11, June 1, 1993, 223 SCRA 1; *Crisostomo v. Court of Appeals*, G.R. Nos. 91383-84, May 31, 1991, 197 SCRA 833.

[16] *Director of Lands v. Intermediate Appellate Court*, G.R. No. 73246, March 2, 1993, 219 SCRA 339.

[17] *Busante v. Court of Appeals*, G.R. No. 97389, October 20, 1992, 214 SCRA 774.

[18] Under Section 15, Title XIV of the Revised Administrative Code of 1987, the Lands Management Bureau "shall absorb the functions and powers of the Bureau of Lands abolished by Executive Order No. 131," including the "management and disposition of alienable and disposable lands of the public domain."

[19] Director of Lands v. Aquino, G.R. No. 31688, December 17, 1990, 192 SCRA 296.

[20] Director of Lands v. Intermediate Appellate Court, *supra*.

[21] *Ibid*.

[22] National Power Corporation v. Court of Appeals, G.R. No. 45664, January 29, 1993, 218 SCRA 31.

[23] G.R. No. L-75336, October 18, 1988, 166 SCRA 519.

[24] Peña, Registration of Land Titles and Deeds, 1982, p. 113.

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