

DIRECTOR OF LANDS, PETITIONER, VS. SPOUSES FRANCISCO K. REDOR AND ANGELITA CASTRO, AND HON. SALVADOR P. DE GUZMAN, JR., PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH XXVII...

G.R. No. 76303. December 17, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

The instant petition for certiorari and mandamus seeks to annul the orders of the respondent lower court dismissing the appeal interposed by the Director of Lands in a land registration case on the ground of nonperfection thereof for failure to file a record on appeal; and consequently to have the court a quo give due course to said appeal.

The lower court, in a decision[1] dated July 21, 1981, ordered the issuance of a decree of registration of title over a 27-hectare land in Siniloan, Laguna in favor of the applicants, spouses Francisco K. Redor[2] and Angelita Castro.[3] A copy of the decision was received by the Solicitor General for the oppositor Director of Lands on September 29, 1981 and thereafter, he filed a notice of appeal dated October 12, 1981.[4]

The applicants filed a motion to dismiss the appeal for being pro forma inasmuch as the oppositor Director of Lands did not introduce any evidence during the trial.[5]

In compliance with an order of the court,[6] the Director of Lands filed an opposition to said motion to dismiss the appeal. He contended that the ruling cited by the applicants to the effect that a party who did not introduce evidence during the trial has no right to appeal the decision, was applicable only to an ordinary civil case. He averred that it was not necessary for him to adduce evidence in support of his opposition because the burden of proof to establish their title was on the applicants and should they fail to do so, the land would remain part of the public domain.[7] On January 14, 1982, the lower court denied the motion to dismiss the appeal.[8]

The applicants then moved to set aside the order of January 14, 1982 asserting that their right to due process was violated by such denial order as it was made without trial on the merits of their motion to dismiss.[9]

The incident was therefore heard by the court. The applicants explained therein that they failed to appear at the hearing of the motion to dismiss the appeal because their counsel (applicant Redor himself) was then out of the country. The court found the explanation to be well-taken but, inasmuch as the motion to set aside the order denying the motion to dismiss did not raise any new matters, it denied said motion on June 18, 1982.[10]

Four years later, or on June 26, 1986, the Solicitor General received a copy of the applicants' motion for execution of the July 21, 1981 decision on the ground that the appeal of the Director of Lands had not been perfected pursuant to Section 23 of the Interim Rules of Court which states that "(i)n cases where appeal is taken, the perfection of the appeal shall be upon the expiration of the last day to appeal by any party." [11]

While noting that the notice of appeal was filed within the 30-day reglementary period and that no appeal bond was necessary as the Director of Lands was exempted from posting the same, the lower court,[12] in its order of August 15, 1986, nonetheless dismissed the appeal on the ground that it was "never perfected" because the Director of Lands failed to file the record on appeal required by Rule 41 of the Rules of Court.[13]

The Solicitor General filed a motion for the reconsideration of said order arguing that no record on appeal is required under Section 39 of Batas Pambansa Blg. 129; that although the reorgan-ization of the courts was implemented only on July 17, 1983 by the appointment of judges through Executive Order No. 864, said Section 39 took effect upon the approval of B.P. Blg. 129 on August 14, 1981 because Section 48 thereof provides for its immediate effectivity; and that, since Section 39 does not require a record on appeal, the Director of Lands perfected the appeal when he filed his notice of appeal.[14]

The Solicitor General's motion for reconsideration having been denied for lack of merit on September 26, 1986, he interposed the instant petition for the Director of Lands. The petitioner contends that: (a) the lower court acted without or in excess of jurisdiction or with grave abuse of discretion in dismissing his appeal despite the timely filing on October 12, 1981 of the notice of appeal because under Section 39 of B.P. Blg. 129, a record of appeal is no longer required, and (b) since his appeal had been perfected, the lower court unlawfully neglected to perform its clear duty to give due course to the appeal when it issued the orders of August 15, 1986 and September 26, 1986 dismissing the appeal.

In their comment on the petition, private respondents argue that no appeal was perfected by the petitioner either under B.P. Blg. 129 or Presidential Decree No. 1529.[15] While they admit that Section 39 of B.P. 129 is controlling in this case,[16] private respondents contend that the notice of appeal was filed beyond the 15-day period provided for by said section because the notice was filed only on October 21, 1981 or twenty-two (22) days after the Solicitor General had received a copy of the decision on September 12, 1981. On the other hand, private respondents argue should P.D. No. 1529 be made applicable in this case, still the Solicitor General failed to file a record on appeal even if the notice of appeal was filed within the 30-day period stated in Section 30 of P.D. No. 1529.[17]

In his reply to said comment, the petitioner avers that the notice of appeal was actually sent by registered mail on October 13, 1981 as evidenced by a copy of the registry receipt showing that the letter addressed to the clerk of court of the then Court of First Instance in Sta. Cruz, Laguna (Item No. 2275) was mailed at the Ermita Pilot Post Office.[18] Hence, the petitioner argues, the notice was filed within the reglementary period of fifteen (15) days set by Section 39 of B. P. Blg. 129 inasmuch as a copy of the decision was received by the Office of the Solicitor General on September 29, 1981.

Traversing the factual issue of the timeliness of the filing of the notice of appeal, private respondents filed a rejoinder to the petitioner's reply to which a copy of the letter of the Postmaster of Sta. Cruz, Laguna is attached.[19] Said letter states that registered letter No. 2275 sent by the Office of the Solicitor General in Manila was received by the post office in Sta. Cruz, Laguna on October 20, 1981 and delivered to the clerk of court of the then Court of First Instance in Sta. Cruz on October 21, 1981. Also attached to the rejoinder is another letter sent by the branch clerk of court of Branch 27 of the Regional Trial Court in Sta. Cruz to the private respondents' counsel informing him that the docket of the court does not reflect the manner in which the notice of appeal was filed and neither can an envelop indicating when it was mailed, be found.[20]

The Court takes judicial notice of the fact that for reasons of economy and expediency, the Solicitor General avails himself of the postal service in sending notices and pleadings to places outside the Metro Manila area. More so in this case where there is proof that the notice of appeal was sent by registered mail on October 13,

1981.

The question that needs the attention of the Court is whether an appeal has been perfected by petitioner by the mere filing of a notice of appeal.

The issue has been discussed in *Alday vs. Camilon*[21] wherein the Court held that the provisions of B.P. Blg. 129 on appeals have retroactive effect. Thus, although under Section 44 of said law its provisions "shall be carried out in accordance with an Executive Order to be issued by the President" and for which Executive Order No. 864 abolishing all courts and declaring the completion of the reorganization of the judiciary was issued only on January 17, 1983, the effectivity of the procedural provisions of B.P. Blg. 129 took effect upon its approval on August 14, 1981. Consequently, a record on appeal was no longer required to perfect his appeal when the petitioner herein filed the notice of appeal.[22]

The fact that the decision subject of the appeal involves a land registration case does not affect the petitioner's claim for the law's beneficial effects. The requirements for the perfection of an appeal in an ordinary case apply in the same manner and with equal force and effect to appeals from a decision in a land registration case.[23]

While the perfection of an appeal is to be reckoned not from the filing of the notice of appeal but from the payment of docket fees,[24] petitioner may be deemed to have perfected his appeal by the mere filing of the notice of appeal on October 12, 1981 or on the 13th day of the 15-day reglementary period because under Section 16 of Rule 141 of the Rules of Court, he is exempted from paying the legal fees.

WHEREFORE, the orders of August 15, 1986 and September 26, 1986 are hereby reversed and set aside. The lower court is ordered to give due course to the appeal and to elevate the entire records of LRC Case No. N-107 to the Court of Appeals for determination and disposition of petitioner's appeal on the merits. This decision is immediately executory.

SO ORDERED.

Gutierrez, Jr. and Bidin, JJ., concur.
Feliciano, J., on leave.

[1] Penned by Judge Maximo A. Maceren.

[2] Francisco K. Redor, who died on August 27, 1986, is now substituted in this case by his children named Dr. Rolando C. Redor, Mercedita Redor Foz, Marietta Redor Gregorio and Juliet Redor Bautista (Rollo, pp. 50-51).

[3] LRC Case No. N-107.

[4] Rollo, p. 22.

[5] *Ibid*, pp. 23-25.

[6] *Ibid*, p. 26.

[7] *Ibid*, pp. 27-28.

[8] *Ibid*, p. 29.

[9] *Ibid*, pp. 30-31.

[10] *Ibid*, p. 35.

[11] Ibid, p. 36.

[12] Presided by Judge Salvador P. de Guzman, Jr.

[13] Ibid, p. 39.

[14] Ibid, pp. 40-42.

[15] Property Registration Decree.

[16] Rollo, p. 76.

[17] Ibid, p. 77.

[18] Ibid, pp. 123 & 127.

[19] Ibid, p. 146.

[20] Ibid, p. 148.

[21] G.R. No. 60316, January 31, 1983, 120 SCRA 521.

[22] Acosta vs. Plan, L-44466, January 30, 1989, 169 SCRA 591.

[23] Republic vs. Estenzo, L-35512, February 29, 1988, 158 SCRA 282 citing Singbengco vs. Arellano, 99 Phil. 952.

[24] Eternal Gardens Memorial Park Corporation vs. Court of Appeals, G.R. No. 50054, August 17, 1988, 164 SCRA 421.

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