

EDUARDO C. GUICO, PETITIONER, VS. ESTANISLAO MAYUGA AND HEIRS OF NARCISO MAYUGA, RESPONDENTS.

G. R. Nos. 45274 and 45275. August 21, 1936

Ponente: RECTO, J.

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RECTO, J.:

This is a petition for a writ of certiorari filed by Eduardo C. Guico praying for the review of the proceedings had by the Court of Appeals in his two petitions (G. R. Nos. 155 and 156) for the issuance of writs of mandamus addressed to the Court of First Instance of Rizal.

It appears that Eduardo C. Guico applied to the Court of Appeals for the issuance of a writ of mandamus ordering the Court of First Instance of Rizal to approve and certify the bills of exceptions filed by him in registration proceedings Nos. 657 and 976 of said court; that the Court of Appeals, denying the application, made the following findings of fact in its decision, to wit:

- On August 21, 1935, the herein petitioner received copy of the decision rendered on August 19, 1935, in cases Nos. 657 and 976 and filed an exception and a motion for new trial on September 5, 1935, based on the ground that the judgment is contrary to law and the weight of the evidence.
- On September 28, 1935, the herein petitioner received notice of the order of the court of September 26, 1935, denying his motion for new trial, and on the same date he filed an exception and a motion for reconsideration based on the same grounds as those upon which his first motion for new trial was founded.
- On November 7, 1935, the attorney for the herein petitioner was duly notified of the order of the court dated November 5, 1935, denying the motion for reconsideration, and filed an exception thereto on November 12, 1935.
- On November 21, 1935, the attorney for the herein petitioner filed a writing, dated November 18, 1935, entitled *Pieza de Excepciones Adicionales de Eduardo C. Guico*, whereby he makes as his own the joint bill of exceptions submitted by Azarraga and Ortega, attorneys for the other appellants, which was disapproved by the respondent court on the ground that it was presented out of time.

* * * * *

"It is contended by counsel for the petitioner that his bill of exceptions was erroneously disapproved by the respondent court, alleging that his motion for reconsideration presented September 28, 1935, had the effect of a motion for new trial inasmuch as the points raised by him in his previous motion (filed September 5, 1935),—one of which relates to an allegation of unavoidable accident in that the trial judge failed to consider in his decision certain documentary evidence, and the other relates to his prayer to clarify said decision with respect to the adjudication of certain lots mentioned therein,—were never decided at all.' Consequently, he argues, the running of the remaining period of 15 days, within which he could still perfect his appeal, is deemed to have been suspended from the date of filing the said motion.

"After reading the original motion for new trial and the motion for reconsideration in relation to the order of the court denying the previous motion, we find that both motions are based on identical grounds all of which,

including the petition contained in the prayer thereof, were passed upon and decided in the above cited order of the court. We hold, therefore, that the aforementioned motion for reconsideration did not suspend the running of the period for perfecting the appeal.

"Counting from September 28, 1935, when counsel for the petitioner was duly notified of the court's order denying his motion for new trial, we find that the remaining period of 15 days expired on October 13, 1935; but the bill of exceptions was not presented until November 21, 1935, that is 39 days after the expiration of the period prescribed by law. It is, therefore, evident that the allegation of the petitioner that his bill of exceptions was filed on time is not supported by the facts, and is wholly without merit." (Pages 2-4, decision of the Court of Appeals.)

The Court of Appeals, acting on said applications for the issuance of writs of mandamus, so did in the exercise of the original jurisdiction conferred upon it by section 145-G of the Administrative Code which provides that the Court of Appeals shall have original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and process in aid of its appellate jurisdiction.

Our appellate jurisdiction in this case is limited to reviewing and examining the errors of law incurred by the Court of Appeals, in accordance with the provisions of section 138, No. 6, of the Administrative Code, as amended by Commonwealth Act No. 3.

Inasmuch as the conclusions of fact of the Court of Appeals, quoted in one of the statements of this resolution, are conclusive, no question of law is raised before us by virtue of this petition because the question of whether or not the ruling laid down in *Levett vs. Sy Quia* (61 Phil., 847), is applicable to this case depends upon the findings on the scope and character of the motions for a new trial and reconsideration filed by the petitioner in the Court of First Instance of Rizal for the purposes of his appeal, and such findings, which implied the determination of a question of fact, were made by the Court of Appeals in the sense that both motions were identical, thus making the application of the rule in question imperative.

Rule 47 (a) of the Rules of the Supreme Court provides, in respect to cases brought to it in connection with its appellate jurisdiction, that only questions of law may be raised therein and that the court has the power to order *motu proprio* the dismissal thereof if in its opinion they are without merit.

In view of the foregoing, we are of the opinion and so hold that we are without jurisdiction to review the proceedings of the Court of Appeals, and the petition must be dismissed, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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