

THIRD DIVISION

[G.R. No. 180993, January 27, 2016]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE LAND REGISTRATION AUTHORITY PETITIONER, VS. RAYMUNDO VIAJE, ET AL., RESPONDENTS.

DECISION

REYES, J.:

The Republic of the Philippines (Republic) filed the present Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Decision^[2] dated November 28, 2007 in CA-G.R. SP No. 90102, dismissing its petition for *certiorari*.

Facts

The Office of the Solicitor General (OSG), on behalf of the Republic and as represented by the Land Registration Authority (LRA), filed on July 10, 2000 a complaint^[3] for Cancellation of Title and Reconveyance with the Regional Trial Court (RTC) of Trece Martires City, docketed as Civil Case No. TM-1001 and raffled to Branch 23. The action mainly sought the nullity of the transfer certificate of title (TCT) individually issued in the name of the defendants therein, for having been issued in violation of law and for having dubious origins. The titles were allegedly derived from TCT No. T-39046 issued on October 1, 1969. TCT No. T-39046, in turn, was derived from Original Certificate of Title (OCT) No. 114 issued on March 9, 1910 covering 342,842 square meters. The Republic alleged, among others, that OCT No. 114 and the documents of transfer of TCT No. T-39046 do not exist in the records of the Registers of Deeds of Cavite and Trece Martires City.^[4]

The OSG entered its appearance on August 7, 2001 and deputized Atty. Artemio C. Legaspi and the members of the LRA legal staff to appear in Civil Case No. TM-1001, with the OSG exercising supervision and control over its deputized counsel.^[5] The OSG also requested that notices of hearings, orders, decisions and other processes be served on both the OSG and the deputized counsel.^[6] The Notice of Appearance, however, stated that "only notices of orders, resolutions, and decisions served on him will bind the party represented."^[7] Subsequently, Atty. Alexander N.V. Acosta (Atty. Acosta) of the LRA entered his appearance as deputized LRA lawyer, pursuant to the OSG Letter^[8] dated August 7, 2001.^[9] The letter also contained the statement, "only notices of orders, resolutions and decisions served on him will bind the [Republic], the entity, agency and/or official represented."^[10]

Thereafter, several re-settings of the pre-trial date were made due to the absence of either the counsel for the Republic or the counsel of one of the defendants, until finally, on April 11, 2003, the RTC dismissed the complaint due to the non-

appearance of the counsel for the Republic.^[11]

The OSG filed a motion for reconsideration,^[12] which was granted by the RTC in its Order dated July 22, 2003.^[13] Pre-trial was again set and re-set, and on January 23, 2004, the RTC finally dismissed Civil Case No. TM-1001 with prejudice.^[14] The order reads, in part:

WHEREFORE, in view of the above, and upon motion of the defendants through counsel, Atty. Eufrazio C. Fortuno, let this case be, as it is hereby, DISMISSED with prejudice.

SO ORDERED.^[15]

Having been informed of this, the OSG forthwith filed a Manifestation and Motion,^[16] informing the RTC that Atty. Acosta was not given notice of the pre-trial schedule. The OSG also stated that such lack of notice was pursuant to a verbal court order that notice to the OSG is sufficient notice to the deputized counsel, it being the lead counsel, and that they were not formally notified of such order. The OSG argued that its deputized counsel should have been notified of the settings made by the trial court as it is not merely a collaborating counsel who appears with an OSG lawyer during hearing; rather, its deputized counsel appears in behalf of the OSG and should be separately notified. Aside from this, the OSG pointed out that it particularly requested for a separate notice for the deputy counsel.^[17]

The RTC denied the OSG's Manifestation and Motion in its Order^[18] dated May 31, 2004, from which the OSG filed a Notice of Appeal,^[19] which was given due course by the RTC.^[20] Subsequently, the RTC, on motion of the defendants, issued Order^[21] dated October 4, 2004 recalling its previous order that gave due course to the OSG's appeal. The ground for the recall was the OSG's failure to indicate in its notice of appeal the court to which the appeal was being directed.^[22] The OSG moved for the reconsideration^[23] of the order but it was denied by the RTC on March 16, 2005.^[24]

Thus, the OSG filed a special civil action for *certiorari* with the CA. On November 28, 2007, the CA rendered the assailed decision dismissing the OSG's petition on the grounds that the petition was filed one day late and the RTC did not commit any grave abuse of discretion when it dismissed Civil Case No. TM-1001 and the OSG's notice of appeal. It ruled that the OSG's failure to indicate in its notice of appeal the court to which the appeal is being taken violated Section 5, Rule 41 of the Rules of Civil Procedure, which provides, among others, that "[t]he notice of appeal shall x x x specify the court to which the appeal is being taken x x x." The CA also ruled that the OSG cannot claim lack of due process when its deputized counsel was not served a notice of the pre-trial schedule. The CA disagreed with the OSG's contention that its deputized counsel should have been notified. According to the CA, the OSG remains the principal counsel of the Republic and it is service on them that is decisive, and having received the notice of pre-trial, it should have informed its deputized counsel of the date. Aside from this, the authority given by the OSG to its deputized counsel did not include the authority to enter into a compromise agreement, settle or stipulate on facts and admissions, which is a part of the pre-trial; hence, even if the deputized counsel was present, the case would still be

dismissed.^[25]

The OSG is now before the Court arguing that:

THE APPELLATE COURT ERRED IN NOT HOLDING THAT RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE COMPLAINT DESPITE THE JUSTIFIED FAILURE OF THE DEPUTIZED COUNSEL TO ATTEND THE PRE-TRIAL.

THE APPELLATE COURT ERRED IN NOT HOLDING THAT RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE NOTICE OF APPEAL.^[26]

The OSG contends that the rule that notice to the OSG is sufficient notice to its deputized counsel applies only to collaborating counsels who appear with the lead counsel. In case of deputized counsels, a separate notice is necessary since they appear in behalf of the OSG. Also, the OSG pointed out that it specifically requested that separate notices be furnished to its deputized counsel.^[27]

The OSG also argues that the RTC committed grave abuse of discretion when it dismissed the notice of appeal despite the fact that the defendants did not ask for its recall and merely sought clarification as to which court the case was being appealed to. Moreover, the OSG maintains that its inadvertence is not fatal as it did not create any ambiguity as to which court the appeal shall be made, and that the interest of due process should prevail over an inadvertent violation of procedural rules.^[28]

Ruling of the Court

The power of the OSG to deputize legal officers of government departments, bureaus, agencies and offices to assist it in representing the government is well settled. The Administrative Code of 1987 explicitly states that the OSG shall have the power to "deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts and exercise supervision and control over such legal officers with respect to such cases."^[29] But it is likewise settled that **the OSG's deputized counsel is "no more than the 'surrogate' of the Solicitor General in any particular proceeding" and the latter remains the principal counsel entitled to be furnished copies of all court orders, notices, and decisions.**^[30] In this case, records show that it was the OSG that first entered an appearance in behalf of the Republic; hence, it remains the principal counsel of record. The appearance of the deputized counsel did not divest the OSG of control over the case and did not make the deputized special attorney the counsel of record.^[31] Thus, the RTC properly acted within bounds when it relied on the rule that it is the notice to the OSG that is binding.^[32]

Nonetheless, the OSG also pointed out that it specifically requested the RTC to likewise furnish its deputized counsel with a copy of its notices. Records show that the deputized counsel also requested that copies of notices and pleadings be furnished to him.^[33] Despite these requests, it was only the OSG that the RTC furnished with copies of its notices. It would have been more prudent for the RTC to

have furnished the deputized counsel of its notices. All the same, doing so does not necessarily clear the OSG from its obligation to oversee the efficient handling of the case. And even if the deputized counsel was served with copies of the court's notices, orders and decisions, these will not be binding until they are actually received by the OSG. More so in this case where the OSG's Notice of Appearance and its Letter deputizing the LRA even contained the *caveat* that it is **only notices of orders, resolutions and decisions served on the OSG that will bind the Republic, the entity, agency and/or official represented.**^[34] In fact, the proper basis for computing a reglementary period and for determining whether a decision had attained finality is service on the OSG.^[35] As was stated in *National Power Corporation v. National Labor Relations Commission*:^[36]

The underlying justification for compelling service of pleadings, orders, notices and decisions on the OSG as principal counsel is one and the same. As the lawyer for the government or the government corporation involved, **the OSG is entitled to the service of said pleadings and decisions, whether the case is before the courts or before a quasi-judicial agency such as respondent commission. Needless to say, a uniform rule for all cases handled by the OSG simplifies procedure, prevents confusion and thus facilitates the orderly administration of justice.**^[37] (Emphasis ours)

The CA, therefore, cannot be limited for upholding the RTC's dismissal of Civil Case No. TM-1001 due to the failure of the counsel for the Republic to appear during pre-trial despite due notice.

The Court, likewise, cannot attribute error to the CA when it affirmed the RTC's recall of its order granting the OSG's notice of appeal. The RTC simply applied the clear provisions of Section 5, Rule 41 of the Rules of Court, which mandated that a "notice of appeal shall x x x **specify the court to which the appeal is being taken** x x x."

Nevertheless, under the circumstances obtaining in this case, the Court resolves to relax the stringent application of the rules, both on the matter of service of notices to the OSG and its deputized counsel, and on the notice of appeal. Such relaxation of the rules is not unprecedented.

In *Cariaga v. People of the Philippines*,^[38] the Court ruled that rules of procedure must be viewed as tools to facilitate the attainment of justice such that its rigid and strict application which results in technicalities tending to frustrate substantial justice must always be avoided.^[39] In *Ulep v. People of the Philippines*,^[40] meanwhile, the Court ordered the remand of the case to the proper appellate court, stating that the "petitioner's failure to designate the proper forum for her appeal was inadvertent," and that "[t]he omission did not appear to be a dilatory tactic on her part."^[41]

Similarly in this case, the OSG's omission should not work against the Republic. For one, the OSG availed of the proper remedy in seeking a review of the RTC's order of dismissal by pursuing an ordinary appeal and filing a notice of appeal, albeit without stating where the appeal will be taken. For another, it is quite elementary that an ordinary appeal from a final decision/order of the RTC rendered in the exercise of its