

THIRD DIVISION

[G.R. No. 171496, March 03, 2014]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH),
PETITIONER, VS. ORTIGAS AND COMPANY LIMITED
PARTNERSHIP, RESPONDENT.**

DECISION

LEONEN, J.:

Owners whose properties were taken for public use are entitled to just compensation.

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to nullify and set aside the Court of Appeals' resolution dated October 14, 2005. The Court of Appeals' resolution dismissed petitioner Republic of the Philippines' appeal from the decision of the Regional Trial Court granting private respondent Ortigas' petition for authority to sell. This petition also seeks to nullify the Court of Appeals' resolution dated February 9, 2006, which denied petitioner Republic of the Philippines' motion for reconsideration.

Respondent, Ortigas and Company Limited Partnership, is the owner of a parcel of land known as Lot 5-B-2 with an area of 70,278 square meters in Pasig City.^[1]

Upon the request of the Department of Public Works and Highways, respondent Ortigas caused the segregation of its property into five lots and reserved one portion for road widening for the C-5 flyover project.^[2] It designated Lot 5-B-2-A, a 1,445-square-meter portion of its property, for the road widening of Ortigas Avenue.^[3] Respondent Ortigas also caused the annotation of the term "road widening" on its title. The title was then inscribed with an encumbrance that it was for road widening and subject to Section 50 of Presidential Decree No. 1529 or the Property Registration Decree.^[4]

The C-5-Ortigas Avenue flyover was completed in 1999, utilizing only 396 square meters of the 1,445-square-meter allotment for the project.^[5]

Consequently, respondent Ortigas further subdivided Lot 5-B-2-A into two lots: Lot 5-B-2-A-1, which was the portion actually used for road widening, and Lot 5-B-2-A-2, which was the unutilized portion of Lot 5-B-2-A.^[6]

On February 14, 2001, respondent Ortigas filed with the Regional Trial Court of Pasig a petition for authority to sell to the government Lot 5-B-2-A-1.^[7] Respondent Ortigas alleged that the Department of Public Works and Highways requested the

conveyance of the property for road widening purposes.^[8] The case was raffled to Branch 267.^[9]

In an order dated March 9, 2001,^[10] the Regional Trial Court set the case for hearing on April 27, 2001, giving opportunity to any interested person to appear, oppose, and show cause why respondent Ortigas' petition may not be granted. In the same order, respondent Ortigas was directed to cause the publication of both the Regional Trial Court's order and respondent Ortigas' petition. The trial court also directed the Sheriff to serve copies of its order and respondent Ortigas' petition to the Office of the Solicitor General, Office of the City Prosecutor, Department of Public Works and Highways, City Engineer of Pasig, and the Register of Deeds of Pasig.

Despite due notice to the public, including the Office of the Solicitor General and the Department of Public Works and Highways, no one appeared to oppose respondent Ortigas' petition in the hearing on April 27, 2001.^[11] Respondent Ortigas was able to establish the jurisdictional facts of the case and was allowed to present evidence ex parte before the appointed Commissioner, the Branch Clerk of Court, Atty. Edelyn M. Murillo.^[12]

Respondent Ortigas presented Mr. Romulo Rosete to support its allegations in its petition for authority to sell to the government.^[13] Rosete was respondent Ortigas' liaison officer who represented respondent Ortigas in government transactions.^[14] He testified that he was aware of respondent Ortigas' ownership of the 70,278-square-meter property in Pasig and its subdivision for the purpose of designating an area for the C-5-Ortigas Avenue flyover project.^[15] He also testified that only 396 square meters of the 1,445-square-meter designated lot was actually utilized after the road had been finished being constructed in 1999.^[16] This caused respondent Ortigas to further subdivide the designated property into two lots.^[17] Rosete presented a certified true copy of the title of the utilized portion of the lot to prove respondent Ortigas' ownership.^[18] He also alleged that respondent Ortigas was not compensated for the use of its property, and respondent Ortigas was requested by the Department of Public Works and Highways to convey the utilized property to the government.^[19] Hence, to facilitate the processing of its compensation, respondent Ortigas filed a petition with the Regional Trial Court.^[20]

Finding merit in respondent Ortigas' petition, the Regional Trial Court issued an order on June 11, 2001, authorizing the sale of Lot 5-B-2-A-1 to petitioner Republic of the Philippines.^[21]

On June 27, 2001, petitioner Republic of the Philippines, represented by the Office of the Solicitor General, filed an opposition, alleging that respondent Ortigas' property can only be conveyed by way of donation to the government, citing Section 50 of Presidential Decree No. 1529, also known as the Property Registration Decree.^[22]

On June 29, 2001, petitioner Republic of the Philippines filed a motion for reconsideration of the Regional Trial Court order dated June 11, 2001, reiterating its argument in its opposition.^[23]

In an order dated October 3, 2001, the Regional Trial Court denied petitioner Republic of the Philippines' motion for reconsideration.^[24]

Petitioner Republic of the Philippines filed a notice of appeal on October 24, 2001, which reads:

The REPUBLIC OF THE PHILIPPINES, by counsel, hereby respectfully serves notice of appeal to the Court of Appeals from this Honorable Court's Order dated **October 3, 2001** (copy of which was received by the Office of the Solicitor General on October 15, 2001) on the ground that said Order is contrary to law and evidence.^[25] (Emphasis supplied)

In its appellant's brief, petitioner Republic of the Philippines argued that the Regional Trial Court erred in granting respondent Ortigas the authority to sell its property to the government because the lot can only be conveyed by donation to the government.^[26]

In a resolution dated October 14, 2005, the Court of Appeals dismissed petitioner Republic of the Philippines' appeal on the ground that an order or judgment denying a motion for reconsideration is not appealable.^[27]

Petitioner Republic of the Philippines filed a motion for reconsideration of the Court of Appeals' resolution. In its motion for reconsideration, petitioner Republic of the Philippines pointed out that its reference in the notice of appeal to the October 3, 2001 order denying the motion for reconsideration of the trial court's decision was merely due to inadvertence. In any case, Rule 37, Section 9 of the Rules of Procedure contemplates as non-appealable only those orders which are not yet final. The October 3, 2001 order was already final as it confirmed the June 11, 2001 judgment of the court.^[28]

In its resolution dated February 9, 2006, the Court of Appeals denied the motion for reconsideration on the ground of lack of jurisdiction. The Court of Appeals noted that even if the order denying the motion for reconsideration was appealable, the appeal was still dismissible for lack of jurisdiction because petitioner Republic of the Philippines raised only a question of law.^[29]

The issues for our consideration are the following:^[30]

- a) Whether the Court of Appeals gravely erred in denying petitioner Republic of the Philippines' appeal based on technicalities;
- b) Whether the Court of Appeals gravely erred in dismissing the appeal from the trial court order granting respondent Ortigas authority to sell the land to the Republic of the Philippines.

The Office of the Solicitor General argued that strict application of the rules of procedure overrides substantial justice, in this case, to the detriment of petitioner Republic of the Philippines.^[31]

On the trial court's grant of authority to respondent Ortigas to sell its property to

the government, the Office of the Solicitor General stated while citing *Young v. City of Manila*^[32] that respondent Ortigas' subdivision of its land for road widening automatically withdrew the land from the commerce of man.^[33] Further, a piece of land segregated by a private owner for public use may only be conveyed by donation to the government based on Section 50 of Presidential Decree No. 1529.^[34] "Presently, said land is already being used by the public as part of the 'widened' road beside the C-5 [flyover] x x x."^[35]

In its comment dated July 25, 2006, respondent Ortigas argued that the Office of the Solicitor General committed a fatal mistake when it brought by way of appeal the denial of its motion for reconsideration before the Court of Appeals.^[36]

This petition lacks merit.

Appeals from the Regional Trial Court to the Court of Appeals under Rule 41 must raise both questions of fact and law

Section 2 of Rule 50 of the Rules of Court provides that appeals taken from the Regional Trial Court to the Court of Appeals raising only pure questions of law are not reviewable by the Court of Appeals. In which case, the appeal shall not be transferred to the appropriate court. Instead, it shall be dismissed outright.

Appeals from the decisions of the Regional Trial Court, raising purely questions of law must, in all cases, be taken to the Supreme Court on a petition for review on certiorari in accordance with Rule 45.^[37] An appeal by notice of appeal from the decision of the Regional Trial Court in the exercise of its original jurisdiction to the Court of Appeals is proper if the appellant raises questions of fact or both questions of fact and questions of law.^[38]

There is a question of law when the appellant raises an issue as to what law shall be applied on a given set of facts.^[39] Questions of law do "not involve an examination of the probative value of the evidence presented."^[40] Its resolution rests solely on the application of a law given the circumstances.^[41] There is a question of fact when the court is required to examine the truth or falsity of the facts presented.^[42] A question of fact "invites a review of the evidence."^[43]

The sole issue raised by petitioner Republic of the Philippines to the Court of Appeals is whether respondent Ortigas' property should be conveyed to it only by donation, in accordance with Section 50 of Presidential Decree No. 1529. This question involves the interpretation and application of the provision. It does not require the Court of Appeals to examine the truth or falsity of the facts presented. Neither does it invite a review of the evidence. The issue raised before the Court of Appeals was, therefore, a question purely of law. The proper mode of appeal is through a petition for review under Rule 45. Hence, the Court of Appeals did not err in dismissing the appeal on this ground.

Nevertheless, we take time to emphasize that Rule 41, Section 1, paragraph (a) of the Rules of Court, which provides that “[n]o appeal may be taken from [a]n order denying a x x x motion for reconsideration,” is based on the implied premise in the same section that the judgment or order does not completely dispose of the case. The pertinent portion of Rule 41, Section 1 provides:

Section 1. *Subject of appeal.* – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

In other words, what Section 1 of Rule 41 prohibits is an appeal taken from an interlocutory order. An interlocutory order or judgment, unlike a final order or judgment, does “not completely dispose of the case [because it leaves to the court] something else to be decided upon.”^[44] Appeals from interlocutory orders are generally prohibited to prevent delay in the administration of justice and to prevent “undue burden upon the courts.”^[45]

Orders denying motions for reconsideration are not always interlocutory orders. A motion for reconsideration may be considered a final decision, subject to an appeal, if “it puts an end to a particular matter,”^[46] leaving the court with nothing else to do but to execute the decision.

“An appeal from an order denying a motion for reconsideration of an order of dismissal of a complaint is effectively an appeal of the order of dismissal itself.”^[47] It is an appeal from a final decision or order.

The trial court’s order denying petitioner Republic of the Philippines’ motion for reconsideration of the decision granting respondent Ortigas the authority to sell its property to the government was not an interlocutory order because it completely disposed of a particular matter. An appeal from it would not cause delay in the administration of justice. Petitioner Republic of the Philippines’ appeal to the Court of Appeals, however, was properly dismissed because the former used the wrong mode of appeal.

In any event, we resolve the substantive issue on whether respondent Ortigas may not sell and may only donate its property to the government in accordance with Section 50 of Presidential Decree No. 1529.

Section 50 of Presidential Decree No. 1529 does not apply in a case that is the proper subject of an expropriation proceeding

Respondent Ortigas may sell its property to the government. It must be compensated because its property was taken and utilized for public road purposes.

Petitioner Republic of the Philippines insists that the subject property may not be conveyed to the government through modes other than by donation. It relies on Section 50 of the Property Registration Decree, which provides that delineated