

SECOND DIVISION

[G.R. No. 181949, April 23, 2014]

HEIRS OF FRANCISCO BIHAG, NAMELY: ALEJANDRA BIHAG, NICOMEDES B. BIHAG, VERONICA B. ACOSTA, SUSANA B. MIÑOZA, PAULINO B. BIHAG, DANILO B. BIHAG, TIMOTEO B. BIHAG JR., EDILBERTO B. BIHAG, JOSEPHINE B. MIÑOZA, AND MA. FE B. ARDITA, * PETITIONERS, VS. HEIRS OF NICASIO BATHAN, NAMELY: PRIMITIVA B. BATHAN AND DUMININA B. GAMALIER, ** RESPONDENTS,

D E C I S I O N

DEL CASTILLO, J.:

The doctrine of finality of judgment dictates that, at the risk of occasional errors, judgments or orders must become final at some point in time.^[1]

This Petition for Review on *Certiorari*^[2] under Rule 45 of the Rules of Court assails the October 26, 2007^[3] and January 14, 2008^[4] Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 03019.

Factual Antecedents

On April 23, 1992, petitioners heirs of Francisco Bihag (Francisco), namely: Teofilo T. Bihag, Jorge T. Bihag, Leona B. Velasquez, Vivencia B. Suson and Timoteo T. Bihag,^[5] represented by his heirs Nicomedes Bihag, Alejandra Bihag, Veronica B. Acosta, Susana Miñoza, Paulino Bihag, Danilo Bihag, Edilberto Bihag, Timoteo Bihag, Jr., Josephine B. Miñoza, and Ma. Fe Bihag, filed with the Regional Trial Court (RTC) of Mandaue City a Complaint^[6] for Quieting of Title, Damages, and Writ of Injunction and Temporary Restraining Order (TRO), docketed as Civil Case No. MAN-1311, against respondents spouses Nicasio^[7] and Primitiva (Primitiva) Bathan and their daughter, Duminina Bathan Gamalier. Petitioners alleged that sometime in the 1960's, respondent Primitiva approached her brother, Francisco, to borrow money.^[8] But since he did not have money at that time, she instead asked him to mortgage his unregistered land in Casili, Mandaue City, to the Rural Bank of Mandaue City so that she could get a loan.^[9] She promised that she would pay the obligation to the bank and that she would return to him the documents, which were submitted to the bank in support of the loan application.^[10] Francisco agreed on the condition that respondent Primitiva would pay the real property tax of the subject land while it was mortgaged.^[11] When Francisco died on December 13, 1976, petitioners found out that the mortgage had long been cancelled.^[12] They confronted respondents to return the documents but to no avail.^[13] Petitioners

later discovered that respondents took possession of the land and were hauling materials and limestones from it to the prejudice of petitioners.^[14] Thus, petitioners prayed that a TRO be issued against the latter to enjoin them from entering the land and from hauling materials therefrom.^[15]

On the same day, the RTC issued a TRO^[16] against respondents for a period of 20 days, pending the resolution of petitioners' application for a Writ of Preliminary Injunction.

Respondents, in their Answer,^[17] denied the material allegations of the Complaint and interposed the defenses of lack of cause of action and laches. They claimed that respondent spouses already owned the land when it was mortgaged to the Rural Bank of Mandaue City in the 1960's.^[18] They alleged that in 1956, Francisco borrowed money from Primitiva using the tax declarations of the land as collateral;^[19] that he failed to pay the loan;^[20] and thus, in 1959, he verbally sold the land to respondent spouses.^[21] Respondents insisted that petitioners knew about the sale,^[22] as evidenced by the Extra-Judicial Declaration of Heirs with Deed of Sale,^[23] which was signed by some of the petitioners in 1984.

In response, petitioners countered that the signatures of those who signed the Extra-Judicial Declaration of Heirs with Deed of Sale were obtained through fraud as they barely know how to read and were in their twilight years when they signed the document.^[24]

On June 2, 1992, the RTC issued an Order^[25] granting petitioners' application for the issuance of a Writ of Preliminary Injunction.

Thereafter, trial ensued.

Ruling of the Regional Trial Court

On March 20, 2006, the RTC issued a Decision^[26] in favor of respondents. It gave credence to their version that Francisco sold the land to respondent Primitiva in 1959.^[27] In addition, the RTC ruled that petitioners are estopped from claiming ownership over the said land by reason of laches, pointing out that respondents have been in possession of the land for more than 30 years and that Francisco, during his lifetime, never disputed their public and peaceful possession of the land.^[28] Thus, the RTC decreed:

Foregoing considered, the Court decides in favor of the [respondents].

1. the dismissal of the case;
2. Plaintiffs to surrender possession and ownership of the property under consideration to Nicasio Bathan and Primitiva Bihag-Bathan;
3. Plaintiffs to pay moral damages of Fifty Thousand Pesos (P50,000.00); Attorney's fees of Fifty Thousand Pesos (P50,000.00) as well as litigation

expenses in the amount of Ten Thousand Pesos (P10,000.00).

SO ORDERED.^[29]

Petitioners moved for a reconsideration but the RTC denied the same in its August 11, 2006 Order.^[30]

Unfazed, petitioners filed a Notice of Appeal on October 2, 2006.^[31]

On January 5, 2007, the RTC issued an Order^[32] denying the Notice of Appeal. The RTC declared that:

A reading of the Notice of Appeal will show that [petitioners] received a copy of the Decision on April 20, 2006 but filed the Motion for Reconsideration on April 28, 2006 after the lapse of eight (8) days. Furthermore, [petitioners] received a copy of the Order denying their motion on September 22, 2006 but filed the Notice of Appeal on October 2, 2006 after the lapse of ten (10) days. Thus, the Notice of Appeal was filed after the lapse of [the] fifteen (15) days reglementary period or to be exact after the lapse of eighteen (18) days.

x x x x

[Based] on the case cited above, [petitioners] only [have] (7) seven days from the date of receipt of the Order denying the Motion for Reconsideration to file the Notice of Appeal.

Considering that the Notice of Appeal was filed on the 15th day from receipt of the Order denying Motion for Reconsideration which is beyond the reglementary period to file the Notice of Appeal, the same is DENIED due course.

Notify counsels.

SO ORDERED.^[33]

Thereafter, respondents filed a Motion for the Issuance of a Writ of Execution,^[34] which petitioners did not oppose.

On April 24, 2007, the RTC issued an Order^[35] granting the Motion and on May 2, 2007, it issued a Writ of Execution.^[36]

Ruling of the Court of Appeals

On October 10, 2007, petitioners filed with the CA a Petition for *Certiorari* with prayer for the issuance of a TRO and/or Writ of Preliminary Injunction^[37] under Rule 65 of the Rules of Court.

On October 26, 2007, the CA issued a Resolution^[38] dismissing the Petition for being insufficient in form and substance. It found that the Petition failed to indicate the material dates as required under Section 3,^[39] Rule 46 of the Rules of Court; that no prior motion for reconsideration was taken; that one of the petitioners, Jorge T. Bihag, failed to sign the verification and certification of non-forum shopping; that the verification appended to the Petition was a photocopy; that affiants failed to indicate the date of issue of their Community Tax Certificate; and that petitioners failed to submit the certified true copy of the RTC's April 24, 2007 Order, granting the issuance of a Writ of Execution.

Aggrieved, petitioners filed a Motion for Reconsideration^[40] attaching a copy of the RTC's August 24, 2007 Order and explaining that no motion for reconsideration was filed since they never received a copy of the RTC's January 5, 2007 Order, denying their Notice of Appeal.

Respondents opposed the Motion, contending that petitioners received a copy of the RTC's January 5, 2007 Order as evidenced by the Certification issued by the assistant postmaster, attesting that petitioners, through their counsel's receiving clerk, received a copy of the Order on January 22, 2007.^[41]

On January 14, 2008, the CA issued a Resolution^[42] denying the Motion for Reconsideration filed by petitioners for lack of merit.

Issue

Hence, the instant Petition for Review on *Certiorari* with Application for Preliminary Injunction with the sole issue of "whether x x x the disapproval of the Notice of Appeal undertaken by petitioners from the judgment of the [RTC] was in accordance with law."^[43]

Acting on petitioners' application for Preliminary Injunction, this Court, in its April 2, 2008 Resolution,^[44] issued a TRO enjoining respondents from implementing the May 2, 2007 Writ of Execution issued by the RTC in Civil Case No. MAN-1311.

Petitioners' Arguments

Petitioners' sole contention is that the RTC's denial of their Notice of Appeal contravenes the ruling in *Neypes v. Court of Appeals*,^[45] which grants an aggrieved party a fresh period of 15 days from receipt of the denial of a motion for new trial or motion for reconsideration within which to file the notice of appeal.^[46] Petitioners claim that their Notice of Appeal was timely filed on October 2, 2006 or within 10 days after they received the Order denying their Motion for Reconsideration on September 22, 2006.^[47]

Respondents' Arguments

Instead of responding to petitioners' contention, respondents put in issue petitioners' failure to move for a reconsideration of the denial of their Notice of Appeal.^[48] Respondents assert that the absence of a motion for reconsideration

justifies the CA's denial of the Petition for *Certiorari* filed by petitioners.^[49]

Anent petitioners' alleged non-receipt of the January 5, 2007 Order, respondents insist that this is belied by the Certification issued by the assistant postmaster certifying that on January 22, 2007, the receiving clerk of the office of petitioners' counsel received a copy of the January 5, 2007 Order.^[50] Respondents further contend that even if petitioners did not receive a copy of the said Order, they should have at least opposed the Motion for Issuance of a Writ of Execution filed by respondents or moved for a reconsideration of the RTC's April 24, 2007 Order granting respondents' Motion for the Issuance of a Writ of Execution.^[51] Failing to do so, petitioners lost the right to question the RTC's Orders.^[52] Thus, the CA correctly dismissed the Petition for *Certiorari* filed by petitioners under Rule 65 of the Rules of Court.

Our Ruling

The Petition must fail.

An aggrieved party is allowed a fresh period of 15 days counted from receipt of the order denying a motion for a new trial or motion for reconsideration within which to file the notice of appeal in the RTC.

In *Neypes*, the Supreme Court, in order to standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, declared that an aggrieved party has a fresh period of 15 days counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration, within which to file the notice of appeal in the RTC.^[53]

In light of the foregoing jurisprudence, we agree with petitioners that their Notice of Appeal was timely filed as they had a fresh 15-day period from the time they received the Order denying their Motion for Reconsideration within which to file their Notice of Appeal.

The January 5, 2007 Order has attained finality.

But while we agree with petitioners that their Notice of Appeal was erroneously denied by the RTC, we are nevertheless constrained to deny the instant Petition as the January 5, 2007 Order, denying petitioners' Notice of Appeal, has attained finality. It is a settled rule that a decision or order becomes final and executory if the aggrieved party fails to appeal or move for a reconsideration within 15 days from his receipt of the court's decision or order disposing of the action or proceeding.^[54] Once it becomes final and executory, the decision or order may no longer be amended or modified, not even by an appellate court.^[55]