

## SECOND DIVISION

[ G.R. No. 168726, March 05, 2010 ]

**PIO DELOS REYES (DECEASED), REPRESENTED BY HEIRS FIDEL DELOS REYES, MAURO DELOS REYES AND IRENE BONGCO (DECEASED), REPRESENTED BY SURVIVING SPOUSE RODOLFO BONGCO, PETITIONERS, VS. HONORABLE WALDO Q. FLORES, IN HIS CAPACITY AS SENIOR DEPUTY EXECUTIVE SECRETARY, OFFICE OF THE PRESIDENT, HONORABLE RENE C. VILLA, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF LAND REFORM (FORMERLY DEPARTMENT OF AGRARIAN REFORM), THE PROVINCIAL AGRARIAN REFORM OFFICER (PARO) OF DINALUPIHAN BATAAN, THE MUNICIPAL AGRARIAN REFORM OFFICER (MARO) OF HERMOSA AND ORANI, BATAAN, AND FORTUNATO QUIAMBAO, RESPONDENTS.**

### R E S O L U T I O N

**CARPIO, J.:**

#### The Case

This is a petition for review<sup>[1]</sup> of the 7 January 2005 and 17 June 2005 Resolutions<sup>[2]</sup> of the Court of Appeals in CA-G.R. No. 87584. In its 7 January 2005 Resolution, the Court of Appeals dismissed the petition for certiorari<sup>[3]</sup> of Pio delos Reyes, represented by surviving heirs Fidel delos Reyes, Mauro delos Reyes, and Irene delos Reyes Bongco, who was represented by her surviving spouse, Rodolfo Bongco (collectively referred to as "petitioners"). In its 17 June 2005 Resolution, the Court of Appeals denied the motion for reconsideration filed by petitioners.

#### The Facts

In 1985, Pio delos Reyes applied for exclusion from the coverage of operation land transfer, under Presidential Decree (P.D.) No. 27<sup>[4]</sup> and Letter of Instruction (LOI) No. 474,<sup>[5]</sup> parcels of land situated in Hermosa and Ornani, Bataan, covered by Transfer Certificate of Title Nos. T-2058 on Lots 2 and 3, T-4581, and T-2057 on Lots 1156 and 1159. Alternatively, he applied for the right of retention of seven hectares if the properties mentioned would be subject of operation land transfer. He claimed that the properties remained undivided and were still under co-ownership pending the extrajudicial settlement of the estate of his late wife, Margarita Manalili.<sup>[6]</sup>

In 1988, Pio and his children, Fidel, Mauro, and Irene, executed a deed of extrajudicial partition,<sup>[7]</sup> which included the properties subject of the application for exclusion or retention. Under the extrajudicial partition, Pio became the owner of 11.4842 hectares of tenanted rice and corn land, Fidel of 4.5212 hectares, Mauro of 4.5212 hectares, and Irene of 4.3740 hectares. Aside from their shares in the

extrajudicial partition, Fidel co-owned 2.5212 hectares of rice land and Mauro co-owned 2.5273 hectares.<sup>[8]</sup> However, in the proceedings for his application for exclusion or retention, Pio failed to submit vital documents such as the deed of extrajudicial partition. Thus, the Department of Agrarian Reform (DAR) placed the subject landholdings within the coverage of P.D. No. 27 and LOI No. 474. The DAR wasted no time effecting operation land transfer and issuing emancipation permits in favor of farmer beneficiaries.<sup>[9]</sup>

In April 1989, the Provincial Agrarian Reform Officer recommended approval of Pio's application for (i) retention of not more than seven hectares of his tenanted land planted to rice and corn, (ii) exclusion of his children's properties from the coverage of operation land transfer, (iii) cancellation of certificates of land transfer covering the properties of his children issued in favor of farmer beneficiaries, and (iv) cancellation of certificates of land transfer covering his retention area.<sup>[10]</sup> The Legal Officer and the Regional Director of the DAR approved the recommendation.<sup>[11]</sup>

Fortunato Quiambao, a tenant-farmer in Pio's landholdings, appealed to the DAR Secretary. He claimed that Pio was guilty of misrepresentation amounting to fraud for not stating the totality of his landholdings. He averred Pio and his children owned lands used for residential, commercial, industrial, or other urban purposes from which they derived adequate income to support themselves and their families. He further alleged that during the pendency of the petition for exclusion or retention, Pio converted portions of their landholdings into residential lands.<sup>[12]</sup>

After examining the records of the case and the evidence submitted by the parties, the DAR Secretary concluded that the subject landholdings fell under the government's operation land transfer program. In its order,<sup>[13]</sup> the DAR Secretary ruled that Pio and his children actually owned landholdings used for residential, commercial, industrial, or other urban purposes from which they derived adequate income, as evidenced by certifications issued by the Office of the Provincial Assessor of Bataan and the various certificates of title submitted on record. Pio and his children moved for reconsideration, which the DAR Secretary dismissed.<sup>[14]</sup>

Meanwhile, Pio died and was substituted by his surviving heirs, Fidel delos Reyes, Mauro delos Reyes, and Irene delos Reyes Bongco, represented by her surviving spouse, Rodolfo Bongco.

Petitioners appealed to the Office of the President.<sup>[15]</sup> In its 20 June 2003 Resolution,<sup>[16]</sup> the Office of the President dismissed petitioners' appeal for being filed out of time. Petitioners' motion for reconsideration was denied.<sup>[17]</sup> Petitioners then filed a petition for relief from denial of appeal arguing that the failure of their so-called provisional lawyer to advise them of the receipt of the 20 June 2003 resolution was justifiable. The Office of the President dismissed the same in its 30 September 2004 order, to wit:

WHEREFORE, the instant petition is hereby DISMISSED for lack of merit. The finality of the Resolution dated June 20, 2003, pursuant to Sec. 7 of Presidential A.O. No. 18, S. 1987, is hereby reiterated. The Department of Agrarian Reform is hereby directed to implement the said resolution.

No further pleadings shall be entertained.

SO ORDERED.<sup>[18]</sup>

Instead of filing in the Office of the President a motion for reconsideration of the 30 September 2004 order, petitioners filed in the Court of Appeals a petition for certiorari and mandamus with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction.

### **The Ruling of the Court of Appeals**

In its 7 January 2005 Resolution, the Court of Appeals dismissed for prematurity the petition for certiorari and mandamus filed by petitioners. The appellate court found that petitioners failed to exhaust the administrative remedies available from the dismissal of their petition for relief. According to the appellate court, petitioners failed to file in the Office of the President a motion for reconsideration of the assailed order. In its 17 June 2005 Resolution, the Court of Appeals denied petitioners' motion for reconsideration.

### **The Issue**

The sole issue is whether the Court of Appeals erred when it dismissed for prematurity the petition for certiorari and mandamus filed by petitioners.

### **The Court's Ruling**

The petition has no merit.

Petitioners contend the Court of Appeals erred when it dismissed the petition for certiorari and mandamus despite sufficient allegation in the petition why the motion for reconsideration would be useless, one of the exceptions to the rule on exhaustion of administrative remedies. Petitioners claim they no longer filed a motion for reconsideration of the 30 September 2004 order because it was already final and executory on its face as the order itself stated that no further pleadings would be entertained. Petitioners submit that a disposition of controversies through resolution on the merits is preferred over a peremptory dismissal by reason of a technicality.

Respondents maintain that the filing of a motion for reconsideration is a condition *sine qua non* to the filing of a petition for certiorari, being the plain and adequate remedy referred to in Section 1 of Rule 65 of the Rules of Court. Respondents argue that a petition for certiorari will not prosper unless the administrative agency has been given, through a motion for reconsideration, a chance to correct the errors imputed to it. Respondents insist the law intends to afford the administrative agency an opportunity to rectify the errors it may have lapsed into before resort to the courts of justice can be had.

At the outset, we must point out that petitioners' arguments are a mere rehash of their arguments in the petition for certiorari and mandamus filed in the Court of Appeals. We agree with the Court of Appeals that petitioners ignored the procedural requirement of filing a motion for reconsideration and simply went ahead with the