

## FIRST DIVISION

[ G.R. No. 167215, October 08, 2008 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HEIRS OF  
EVARISTO TIOTIOEN, RESPONDENTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Before us is a *Petition for Review on Certiorari* filed by the Republic of the Philippines, represented by the Department of Environment and Natural Resources and the Office of the Solicitor General (OSG), seeking to set aside a part of the *Decision*<sup>[1]</sup> dated February 15, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 71358 insofar as it sustained the denial of the *Notice of Appeal*<sup>[2]</sup> filed on January 11, 2002 by the petitioner from the *Decision*<sup>[3]</sup> dated August 30, 2001 of Branch 63 of the Regional Trial Court (RTC) of La Trinidad, Benguet, in Land Registration Case (LRC) No. 93-LRC-0008.

LRC No. 93-LRC-0008 involves the second application filed by Evaristo Tiotioen on September 6, 1993 for judicial confirmation and registration under the Torrens System of two parcels of land denominated as Lot Nos. 1 and 2 of Plan PSU-230646, situated in Pico, La Trinidad, Benguet, with an aggregate area of 180,488 square meters. Evaristo Tiotioen was substituted by his heirs in the case when he died on June 21, 1997. Santiago A. Santiago, the Municipality of La Trinidad, Benguet, and the petitioner opposed the aforesaid application.

In a *Notice of Appearance*<sup>[4]</sup> dated October 20, 1994, the OSG formally requested that its appearance be entered as counsel for the petitioner and that all notices of hearings, orders, resolutions and decision be served to the OSG at its given address. The said notice of appearance informed the court that the OSG authorized the Provincial Prosecutor of Benguet to appear in the case, subject to the conditions quoted hereunder:

The Provincial Prosecutor, La Trinidad, Benguet, is authorized to appear in this case, and therefore, should also be furnished notices of hearing, orders, resolutions, decisions and other processes. However, as the Solicitor General retains supervision and control of the representation in this case and has to approve withdrawal of the case, non-appeal, or other actions which appear to compromise the interest of the Government, only notices of orders, resolutions, and decisions served on him will bind the party represented.

The petitioner filed its *Opposition*<sup>[5]</sup> dated October 20, 1994 and *Supplemental Opposition*<sup>[6]</sup> dated June 20, 1995 on the ground that the parcels of land, applied for registration by the respondents, belong to the communal forest of La Trinidad, Benguet, and are therefore inalienable land of the public domain, which have not

been classified and considered as disposable and alienable.

After trial, the land registration court rendered its *Decision* dated August 30, 2001 which granted the application. The dispositive portion of the decision reads:

WHEREFORE, the Court, finding that the Applicants have shown their adverse, continuous and notorious possession and in the concept of owners of the land applied for since time immemorial, and thus their title thereto is proper to be confirmed, and is hereby confirmed.

The applicants, namely: NICOLAS TIOTIOEN, single; ILDEFONSO TIOTIOEN, married to Adelaida Tiotioen; CONCEPCION TIOTIOEN-DIAZ, married; NANCY TIOTIOEN-OGOY, married and FILOMENA TIOTIOEN-DULNUAN, married; all of legal age, Filipinos and residents of Pico, La Trinidad, Benguet are hereby declared owners pro indiviso of a parcel of land situated at Pico, La Trinidad, Benguet containing an area of ONE HUNDRED TWENTY THREE THOUSAND NINE HUNDRED THIRTY FIVE (123,935) SQUARE METERS for Lot 1 and FIFTY SIX THOUSAND FIVE HUNDRED FIFTY THREE (56,553) SQUARE METERS for Lot 2. The subject land is particularly described in the Original Tracing Cloth Plan (Exh. "AA-1"), Survey Plan (Exh. "A"), and in the Technical Description (Exhs. "B" & "B-2), subject to the claim of oppositor Santiago A. Santiago as per agreement with the applicants and when the decision becomes final and executory, let a final decree be issued for the issuance of title accordingly.

SO ORDERED.

The petitioner and the municipality received their respective notices of the above-mentioned decision on September 6 and 7, 2001. The municipality filed its *Motion for Reconsideration* thereto on September 20, 2001. The petitioner, on the other hand, filed a *Motion and Manifestation*<sup>[7]</sup> on October 5, 2001 adopting the said motion of the municipality.

In the *Resolution*<sup>[8]</sup> dated December 6, 2001, the land registration court denied for lack of merit the motion for reconsideration of the municipality and declared the same as *pro forma* because the issues cited were already passed upon in the decision sought for reconsideration. The municipality filed its notice of appeal on the following day it received its notice of the said resolution. The OSG was not furnished by the land registration court with a copy of this resolution but it was informed of the said resolution only by the provincial prosecutor on January 4, 2002<sup>[9]</sup>, through a *Letter*<sup>[10]</sup> dated December 19, 2001. Consequently, the OSG filed its subject notice of appeal for the petitioner on January 11, 2002.

The land registration court denied the notice of appeal of the municipality on the ground that the latter's *pro forma* motion for reconsideration did not interrupt the reglementary period to appeal. The petitioner's notice of appeal was also denied supposedly for having been filed out of time<sup>[11]</sup>.

The petitioner sought the reconsideration of the denial of its notice of appeal which

was again denied by the land registration court in an *Order*<sup>[12]</sup> dated April 23, 2002, quoted hereunder:

### ORDER

For resolution is the Motion for Reconsideration filed by the Office of the Solicitor General (OSG) of the Order of the Court dated January 29, 2002 denying their Notice of Appeal having been filed beyond the reglementary period.

**Be it noted that the OSG received the Decision dated August 30, 2001 on September 06, 2001 and filed its Notice of Appeal on January 11, 2002. Conformably with Section 3, Rule 41 of the Rules of Civil Procedure, prescribing a 15-day appeal period, the last day for the perfection of an appeal by OSG should have been on the 21<sup>st</sup> day of September 2001. Per se, it was filed beyond the reglementary period for which to perfect an appeal.**

It is well-settled in our jurisdiction that the right to appeal is a statutory right and a party who seeks to avail of the right must comply with the rules. These rules, particularly the statutory requirement for perfecting an appeal within the reglementary period laid down by law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business (*Ben Sta. Rita v. C.A., et al., G.R. No. 119891, August 21, 1995*).

In view of the foregoing, the Court finds no convincing and logical reasons to reconsider its Order dated January 29, 2002 and hereby denies the Motion for Reconsideration. [Emphasis supplied]

The municipality and petitioner separately assailed before the CA the orders of the land registration court denying their respective notices of appeal. The CA granted the petition filed by the municipality and gave due course to its appeal but denied the one filed by the petitioner. The CA pointed out that the petitioner filed its motion and manifestation adopting the adverted motion for reconsideration of the municipality beyond the reglementary period to file an appeal and, thus, the decision of the land registration court already attained finality insofar as the petitioner was concerned. The "strong grounds" alleged by the petitioner were likewise rejected by the CA which explained and ruled as follows:

**The merit impressed in petitioner Republic of the Philippines ' position is, however, more apparent than real. Notwithstanding the studied avoidance of direct references thereto, the fact remains that the Solicitor General received its copy of the 30 August 2001 decision rendered in the case on 6 September 2001 and thus only had until the 21<sup>st</sup> of the same month to either move for a reconsideration of said decision or perfect an appeal therefrom. There is, therefore, no gainsaying the ineluctable fact that the selfsame decision had already attained finality as against petitioner Republic of the Philippines by the time the Office of the Provincial Prosecutor of Benguet filed the 4 October 2001 manifestation adopting petitioner municipality's motion for**

**reconsideration.**

It thus matters little that the Office of the Provincial Prosecutor of Benguet appears to have been duly furnished with a copy of the aforesaid 6 December 2001 resolution on December 10, 2001 or that it only informed the Office of the Solicitor General of said adverse ruling through the 19 December 2001 missive the latter received on January 4, 2002. **The rule that copies or orders and decisions served on the deputized counsel, acting as agent or representative of the Office of the Solicitor General, are not binding until they are actually received by the latter has little application where, as in the case at bench, said office had been duly furnished a copy of the decision in the main case which, for reasons it alone can explain, it allowed to attain finality.** Under the factual and legal milieu of the case, public respondent cannot be faulted with grave abuse of discretion tantamount to lack of or excess of jurisdiction for denying the 10 January 2002 Notice of Appeal filed by the Office of the Solicitor General way beyond the reglementary period for petitioner Republic of the Philippines' appeal.

**Neither are we, finally, swayed by the strong grounds petitioner Republic of the Philippines purportedly has to pursue an appeal from public respondent's 30 August 2001 decision. Except on jurisdictional grounds, correction of a lower court's decision could, for one, only be done by regular appeal within the period allowed by law. Our perusal of the grounds cited by petitioner Republic of the Philippines , for another, yielded nothing which had not yet been raised and will once again be raised by petitioner municipality.**

WHEREFORE, the petition filed by petitioner Municipality of La Trinidad, Benguet is GRANTED and the assailed 23 January 2002 order and 30 April 2002 resolution are, accordingly, NULLIFIED and SET ASIDE. In lieu thereof, another is entered GIVING DUE COURSE to said petitioner's appeal.

**The petition filed by the Office of the Solicitor General for and in behalf of petitioner Republic of the Philippines is, however, DENIED for lack of merit.** [Emphasis supplied]

Hence, the present petition for review on *certiorari*.

The petitioner claims that the OSG, as its principal counsel in the subject land registration case, is entitled to be furnished with copies of orders, notices, and decision of the trial court, and that the date of service of such copies to the OSG is the reckoning period in counting the timeliness of its appeal<sup>[13]</sup>. The petitioner contends that the OSG was not furnished with a notice of the *Order* [Resolution] dated December 6, 2001 of the land registration court which denied the adverted motion for reconsideration of the municipality. The prescribed period within which to file petitioner's appeal did not commence to run and, therefore, its notice of appeal should not be treated as filed out of time.