

SECOND DIVISION

[G.R. NO. 160214, December 16, 2005]

GAUDENCIA NAVARRO VDA. DE TAROMA, BENEDICTO N. TAROMA, ANGELINA T. GUARDION, CONSOLACION T. CABUTE, OFELIA N. TAROMA AND NOEL N. TAROMA, PETITIONERS, VS. SPS. FELINO N. TAROMA AND LYDIA MARTINEZ, SPS. JOSE N. TAROMA AND IMELDA NOVERO AND THE REGISTER OF DEEDS OF THE PROVINCE OF TARLAC, RESPONDENTS,

DECISION

CHICO-NAZARIO, J.:

This Court has said quite often enough that although a party may avail himself of the remedies prescribed by the Rules of Court, he is not free to resort to these remedies simultaneously lest he be guilty of forum shopping. Neither is he free to wage a battle already long lost as this is proscribed by the rule on finality of judgments.

Before us is a petition filed under Rule 45 of the Rules of Court seeking the nullification of a Resolution of the Court of Appeals dated 03 October 2003 in CA-G.R. SP No. 70017 which noted without action petitioners' "Brief Motion for Reconsideration" on the ground that it had already lost jurisdiction over the case upon the filing by petitioners of a Petition for Review on *Certiorari* with the Supreme Court.

As culled from the records of the case, the facts are as follows:

On 25 August 1997, herein petitioners Gaudencia Navarro Vda. De Taroma, Benedicto N. Taroma, Angelina T. Guardion, Consolacion T. Cabute, Ofelia N. Taroma and Noel N. Taroma instituted a complaint for annulment of title and damages against herein private respondents before the Municipal Circuit Trial Court (MCTC) of Moncada, Tarlac. After trial on the merits, the MCTC dismissed the complaint. The dispositive portion of the decision reads:

WHEREFORE, premises considered, let this case be DISMISSED. With costs against plaintiffs.^[1]

Petitioners appealed before the Regional Trial Court (RTC) of Paniqui, Tarlac. On 26 March 2002, the RTC affirmed the decision of the MCTC, Presiding Judge Cesar M. Sotero disposing that:

WHEREFORE, in view of all the foregoing, the appealed decision is AFFIRMED.^[2]

A copy of the RTC decision was received by petitioners, thru counsel, on 27 March 2002. A motion for extension of time to file petition for review was thereafter filed.

On 24 April 2002, within the period of extension, petitioners, through their counsel Atty. Leonel L. Yasay, filed a Petition for Review.^[3] In a Resolution dated 30 May 2002, the Court of Appeals directed private respondents to file their comment to the petition without necessarily giving due course thereto.^[4] On 13 June 2002, petitioners, through collaborating counsel, Atty. Esmeraldo U. Guloy, filed an "Urgent Motion Ex-Parte" to amend the petition attaching therewith the said Amended Petition.^[5] On 12 July 2002, private respondents filed their Comment to the original petition.^[6]

In a Resolution dated 06 August 2002, the Court of Appeals, among other things, required counsel for private respondents to comment on the Amended Petition.^[7] Private respondents filed their comment to the amended petition on 06 September 2002.^[8]

On 27 February 2003, the Court of Appeals rendered its Decision,^[9] the dispositive portion of which reads:

WHEREFORE, premises considered, the *Petition* is DISMISSED for lack of merit and the assailed 26 March 2002 *Decision* of the Regional Trial Court in Civil Case No. 556 is hereby AFFIRMED *in toto*. No costs.^[10]

A copy of the decision was received by petitioners, through their counsels, on 06 March 2003. On 19 March 2003, they filed a motion for reconsideration of said decision before the Court of Appeals essentially arguing that the decision was invalid as it was based on the original petition for review and not on the amended petition filed soon thereafter.^[11]

The next day, or on 20 March 2003, petitioners filed before the Supreme Court a "Petition (Ex-Abundante Cautela)" under Rule 45 of the Rules of Court seeking to annul and set aside the very same decision under reconsideration in the Court of Appeals.^[12] This case was docketed as G.R. No. 157393 and was raffled to the First Division of this Court.

On 28 April 2003, the First Division resolved to deny the petition for failure to submit proof of authority to sign the verification and certification on non-forum shopping.^[13] Petitioners moved for reconsideration on 03 June 2003.^[14] On 25 June 2003, the petition was denied with finality.^[15]

Refusing to accept the Court's ruling, petitioners filed on 29 July 2003 a "Motion for Referral of the Case to the Supreme Court En Banc in the Interest of Justice and for the Maintenance of the Rule of Law."^[16] Among the reasons cited by petitioners for their request was the pendency of the motion for reconsideration of the 27 February 2003 Decision before the Court of Appeals. In a Resolution dated 13 August 2003, the First Division noted without action the motion for referral, "the petition for review on certiorari having been denied in the resolution of April 28, 2003 and the motion for reconsideration thereof denied with finality in the resolution of June 25, 2003."^[17]

In the meantime, on 20 August 2003, the Court of Appeals resolved the motion for reconsideration filed therein by declaring the same as abandoned in accordance with

Section 15, Rule VI of the 2002 Internal Rules of the Court of Appeals.^[18]

Still undeterred by the resolutions of both the Supreme Court and the Court of Appeals, petitioners subsequently did the following:

1. Before the Court of Appeals: On 04 September 2003, petitioners filed a "Brief Motion for Reconsideration" of the 20 August 2003 Resolution essentially arguing that in filing a petition for review in the Supreme Court, they cannot be deemed to have abandoned their motion for reconsideration before the Court of Appeals as different subject matters were involved;^[19] and
2. Before the Supreme Court *en banc*: On 17 September 2003, petitioners transmitted a copy of the 13 August 2003 Resolution of the First Division in the hope that the Court *en banc* will accept their motion for referral.^[20]

In response to this latest barrage by petitioners, the First Division of this Court held in a Resolution dated 01 October 2003 that:

The transmittal of counsel for petitioners of the resolution of August 13, 2003 to the Court En Banc for referral thereto is **NOTED WITHOUT ACTION**.

Let an **ENTRY** of judgment in this case be made in due course.

NO FURTHER pleadings shall be entertained herein.^[21]

In the meantime, on 22 July 2003, the Decision in G.R. No. 157393 became final and executory and was thereafter recorded in the Book of Entries of Judgment.^[22]

For its part, the Court of Appeals resolved petitioners' "Brief Motion for Reconsideration" in this wise:

Petitioners filed an Amendment Petition for Review and respondents were made to comment thereon, but the Court has taken no action on said prayer for admission of the Amended Petition for Review.

Moreover, Sec. 15 of Rule VI of the IRCA clearly provides that if a petition is filed with the Supreme Court subsequent to the filing of a Motion for Reconsideration with this Court, the latter should be deemed ABANDONED. Clearly, when petitioner filed the Supreme Court Petition, on the justification that it has to be filed within 15 days otherwise the decision will become final, the pending Motion for Reconsideration is deemed ABANDONED.

The Motion for Reconsideration seeks for the nullification of the 27 February 2003 Decision rendered by the Former Sixth Division. The Petition for Review on Certiorari filed with the Supreme Court likewise prays for the nullification of the same decision. Thus, the Brief Motion for Reconsideration filed by the petitioners is NOTED without action considering that this Court already lost jurisdiction over the case upon filing of the petition with the Supreme Court by herein petitioners.^[23]