

SECOND DIVISION

[G.R. No. 126099, March 12, 2001]

**ROBERTO MITO, PETITIONER, VS. HON. COURT OF APPEALS,
SPECIAL FORMER SIXTH DIVISION; HONORABLE ADJUDICATION
BOARD, DEPARTMENT OF AGRARIAN REFORM AND VICTORINO
FLORES, RESPONDENTS.**

R E S O L U T I O N

QUISUMBING, J.:

Petitioner assails the resolutions dated August 21, 1995^[1] and August 20, 1996,^[2] of the Court of Appeals in CA-G.R. SP-No. 37574, which denied due course to his petition for certiorari.

The facts of this case are as follows:

In an administrative transfer action in May 1985, the Gapan-Penaranda Agrarian Reform Team Office No. 077, with station at Gapan, Nueva Ecija, cancelled a Certificate of Land Transfer (CLT) in the name of Leonardo Flores now deceased. Subsequently, it was re-issued in the name of petitioner, Roberto G. Mito. Private respondent Victorino Flores, brother of Leonardo Flores, filed a letter-complaint with the Department of Agrarian Reform (DAR) Region III, alleging that the transferred lot was actually his, and that its transfer to petitioner, was unlawful.^[3]

Acting on the letter-complaint, the Regional Director of DAR Region III rendered his Order dated January 4, 1990 in favor of petitioner. The DAR dismissed the claim of private respondent Flores, declared petitioner Mito as tenant-beneficiary of the land, and directed the MARO to issue a CLT or an Emancipation Patent in favor of Mito.^[4]

Private respondent appealed to the DAR Adjudication Board (DARAB), Diliman, Quezon City, on the ground that "there is a grave abuse of discretion on the part of the Regional/Provincial Adjudicator and that errors in the findings of facts or conclusions of laws were committed x x x."

On October 12, 1994, the DARAB promulgated its decision reversing the Regional Director of DAR Region III. It ordered petitioner to vacate the land and deliver the same to private respondent. It also ordered the DAR Provincial Officer to issue an Emancipation Patent in favor of private respondent.^[5]

Petitioner filed a motion to reconsider the DARAB decision, to which private respondent filed an opposition. On June 1, 1995, the DARAB issued a resolution denying petitioner's motion.

Aggrieved by the DARAB resolution, petitioner filed a petition for certiorari with the

Court of Appeals. On August 21, 1995, respondent court through its Sixth Division promulgated its assailed resolution as follows:

The petition, filed on June 27, 1995, is not well-taken. The correct remedy is petition for review, in seven legible copies, to this Court, without impleading the agency *a quo*. Among others, it is also required that certified true copies of the material portions of the record referred to be submitted, which was not complied with in this case. (SC Revised Administrative Circular 1-95 dated May 16, 1995 which took effect June 1, 1995).

ACCORDINGLY, the petition is denied due course and DISMISSED.

SO ORDERED.^[6]

Petitioner subsequently filed his motion for reconsideration, denied on August 20, 1996, thus:

Movant submits that the petition for certiorari was filed pursuant to the 1994 Rules of Procedure of the DARAB and that said Rules and Supreme Court Adm. Circular No. 1-95 'can hold together' We do not agree. The latter circular should prevail and non-compliance therewith, especially with respect to the correct mode of appeal, cannot be countenanced.

ACCORDINGLY, the motion for reconsideration is denied for lack of merit.

SO ORDERED.^[7]

Petitioner now raises in his appeal^[8] the issue of whether or not the order dated January 4, 1990 of the Regional Director of DAR is supported by substantial evidence.^[9]

At the outset, we note that at the time of the promulgation of the DARAB decision on June 1, 1995, appeals from quasi-judicial agencies like the DAR were governed by Supreme Court Administrative Circular No. 1-95 (Revised Circular No. 1-91).^[10] As ruled by the Court of Appeals, the remedy should have been a petition for review, filed by petitioner in seven legible copies, without impleading the DARAB, the agency *a quo*, as required by Circular No. 1-95. As found by the respondent court, not only did petitioner implead the DARAB, all his annexes other than the assailed resolutions of the DARAB were not certified true copies. In addition, it did not state the date petitioner received a copy of each resolution, such that it could not determine if the appeal was filed on time.^[11] Petitioner's failure to comply with the requirements for perfecting an appeal merited the dismissal of his petition before the Court of Appeals.^[12]

Moreover, we note that before us, petitioner raises exactly the same issue be raised before the appellate court. Said issue was not resolved due to his non-compliance with the requirements to perfect an appeal. Petitioner ignores the dismissal of his petition on technical grounds, and asks us to proceed with the discussion of the merits of his case. This we cannot allow. Certiorari cannot be resorted to as a substitute for the lost remedy of appeal.^[13] An appeal is a statutory privilege and it