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SPECIAL SECOND DIVISION

[G.R. No. 131457, August 19, 1999]

HON. CARLOS O. FORTICH, PROVINCIAL GOVERNOR OF BUKIDNON, HON. REY B. BAULA, MUNICIPAL MAYOR OF SUMILAO, BUKIDNON, NQSR MANAGEMENT AND DEVELOPMENT CORPORATION, PETITIONERS, VS. HON. RENATO C. CORONA, DEPUTY EXECUTIVE SECRETARY, HON. ERNESTO D. GARILAO, SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, RESPONDENTS.

R E S O L U T I O N

YNARES-SANTIAGO, J.:

This resolves the pending incidents before us, namely, respondents' and intervenors' separate motions for reconsideration of our Resolution dated November 17, 1998, as well as their motions to refer this case to this Court *en banc*.

Respondents and intervenors jointly argue, in fine, that our Resolution dated November 17, 1998, wherein we voted two-two on the separate motions for reconsideration of our earlier Decision of April 24, 1998, as a result of which the Decision was deemed affirmed, did not effectively resolve the said motions for reconsideration inasmuch as the matter should have been referred to the Court sitting *en banc*, pursuant to Article VIII, Section 4(3) of the Constitution. Respondents and intervenors also assail our Resolution dated January 27, 1999, wherein we noted without action the intervenors' "Motion For Reconsideration With Motion To Refer The Matter To The Court *En Banc*" filed on December 3, 1998, on the following considerations, to wit:

> "the movants have no legal personality to further seek redress before the Court after their motion for leave to intervene in this case was denied in the April 24, 1998 Decision. Their subsequent motion for reconsideration of the said decision, with a prayer to resolve the motion to the Court *En Banc*, was also denied in the November 17, 1998 Resolution of the Court. Besides, their aforesaid motion of December 3, 1998 is in the nature of a second motion for reconsideration which is a forbidden motion (Section 2, Rule 52 in relation to Section 4, Rule 56 of the 1997 Rules of Civil Procedure). The impropriety of movants' December 3, 1998 motion becomes all the more glaring considering that all the respondents in this case did not anymore join them (movants) in seeking a reconsideration of the November 17, 1998 Resolution."[1]

Subsequently, respondents, through the Office of the Solicitor General, filed their "Motion For Reconsideration Of The Resolution Dated November 17, 1998 And For Referral Of The Case To This Honorable Court *En Banc* (With Urgent Prayer For Issuance Of A Restraining Order)" on December 3, 1998, accompanied by a

"Manifestation and Motion"[2] and a copy of the Registered Mail Bill[3] evidencing filing of the said motion for reconsideration to this Court by registered mail.

In their respective motions for reconsideration, both respondents and intervenors pray that this case be referred to this Court *en banc*. They contend that inasmuch as their earlier motions for reconsideration (of the Decision dated April 24, 1998) were resolved by a vote of two-two, the required number to carry a decision, *i.e.*, three, was not met. Consequently, the case should be referred to and be decided by this Court *en banc*, relying on the following constitutional provision:

> "Cases or matters heard by a division shall be decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided *en banc*: Provided, that no doctrine or principle of law laid down by the Court in a decision rendered *en banc* or in division may be modified or reversed except by the Court sitting *en banc*."[4]

A careful reading of the above constitutional provision, however, reveals the intention of the framers to draw a distinction between cases, on the one hand, and matters, on the other hand, such that cases are "decided" while matters, which include motions, are "resolved". Otherwise put, the word "decided" must refer to "cases"; while the word "resolved" must refer to "matters", applying the rule of *reddendo singula singulis*. This is true not only in the interpretation of the above-quoted Article VIII, Section 4(3), but also of the other provisions of the Constitution where these words appear.[5]

With the aforesaid rule of construction in mind, it is clear that only cases are referred to the Court *en banc* for decision whenever the required number of votes is not obtained. Conversely, the rule does not apply where, as in this case, the required three votes is not obtained in the resolution of a motion for reconsideration. Hence, the second sentence of the aforequoted provision speaks only of "case" and not "matter". The reason is simple. The above-quoted Article VIII, Section 4(3) pertains to the disposition of cases by a division. If there is a tie in the voting, there is no decision. The only way to dispose of the case then is to refer it to the Court *en banc*. On the other hand, if a case has already been decided by the division and the losing party files a motion for reconsideration, the failure of the division to resolve the motion because of a tie in the voting does not leave the case undecided. There is still the decision which must stand in view of the failure of the members of the division to muster the necessary vote for its reconsideration. Quite plainly, if the voting results in a tie, the motion for reconsideration is lost. The assailed decision is not reconsidered and must therefore be deemed affirmed. Such was the ruling of this Court in the Resolution of November 17, 1998.

It is the movants' further contention in support of their plea for the referral of this case to the Court *en banc* that the issues submitted in their separate motions are of first impression. In the opinion penned by Mr. Justice Antonio M. Martinez during the resolution of the motions for reconsideration on November 17, 1998, the following was expressed:

"Regrettably, the issues presented before us by the movants are matters of no extraordinary import to merit the attention of the Court *en banc*. Specifically, the issue of whether or not the power of the local government units to reclassify lands is subject to the approval of the DAR is no longer novel, this having been decided by this Court in the case of ***Province of Camarines Sur, et al. vs. Court of Appeals*** wherein we held that local government units need not obtain the approval of the DAR to convert or reclassify lands from agricultural to non-agricultural use. The dispositive portion of the Decision in the aforecited case states:

> `WHEREFORE, the petition is GRANTED and **the questioned decision of the Court of Appeals is set aside insofar as it** (a) nullifies the trial court's order allowing the Province of Camarines Sur to take possession of private respondents' property; (b) orders the trial court to suspend the expropriation proceedings; and (c) **requires the Province of Camarines Sur to obtain the approval of the Department of Agrarian Reform to convert or reclassify private respondents' property from agricultural to non-agricultural use.**
>
> `xxx xxx xxx' (Emphasis supplied)

"Moreover, the Decision sought to be reconsidered was arrived at by a unanimous vote of all five (5) members of the Second Division of this Court. Stated otherwise, this Second Division is of the opinion that the matters raised by movants are nothing new and do not deserve the consideration of the Court en banc. Thus, the participation of the full Court in the resolution of movants' motions for reconsideration would be inappropriate."[6]

The contention, therefore, that our Resolution of November 17, 1998 did not dispose of the earlier motions for reconsideration of the Decision dated April 24, 1998 is flawed. Consequently, the present motions for reconsideration necessarily partake of the nature of a second motion for reconsideration which, according to the clear and unambiguous language of Rule 56, Section 4, in relation to Rule 52, Section 2, of the 1997 Rules of Civil Procedure, is prohibited.

True, there are exceptional cases when this Court may entertain a second motion for reconsideration, such as where there are extraordinarily persuasive reasons. Even then, we have ruled that such second motions for reconsideration must be filed with express leave of court first obtained.[7] In this case, not only did movants fail to ask for prior leave of court, but more importantly, they have been unable to show that there are exceptional reasons for us to give due course to their second motions for reconsideration. Stripped of the arguments for referral of this incident to the Court *en banc*, the motions subject of this resolution are nothing more but rehashes of the motions for reconsideration which have been denied in the Resolution of November 17, 1998. To be sure, the allegations contained therein have already been raised before and passed upon by this Court in the said Resolution.

The crux of the controversy is the validity of the "Win-Win" Resolution dated November 7, 1997. We maintain that the same is void and of no legal effect

considering that the March 29, 1996 decision of the Office of the President had already become final and executory even prior to the filing of the motion for reconsideration which became the basis of the said "Win-Win" Resolution. This ruling, quite understandably, sparked a litany of protestations on the part of respondents and intervenors including entreaties for a liberal interpretation of the rules. The sentiment was that notwithstanding its importance and far-reaching effects, the case was disposed of on a technicality. The situation, however, is not as simple as what the movants purport it to be. While it may be true that on its face the nullification of the "Win-Win" Resolution was grounded on a procedural rule pertaining to the reglementary period to appeal or move for reconsideration, the underlying consideration therefor was the protection of the substantive rights of petitioners. The succinct words of Mr. Justice Artemio V. Panganiban are quoted in the November 17, 1998 opinion of Mr. Justice Martinez, *viz*: "Just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his/her case."[8]

In other words, the finality of the March 29, 1996 OP Decision accordingly vested appurtenant rights to the land in dispute on petitioners as well as on the people of Bukidnon and other parts of the country who stand to be benefited by the development of the property. The issue in this case, therefore, is not a question of technicality but of substance and merit.[9]

Before finally disposing of these pending matters, we feel it necessary to rule once and for all on the legal standing of intervenors in this case. In their present motions, intervenors insist that they are real parties in interest inasmuch as they have already been issued certificates of land ownership award, or CLOAs, and that while they are seasonal farmworkers at the plantation, they have been identified by the DAR as qualified beneficiaries of the property. These arguments are, however, nothing new as in fact they have already been raised in intervenors' earlier motion for reconsideration of our April 24, 1998 Decision. Again as expressed in the opinion of Mr. Justice Martinez, intervenors, who are admittedly not regular but seasonal farmworkers, have no legal or actual and substantive interest over the subject land inasmuch as they have no right to own the land. Rather, their right is limited only to a just share of the fruits of the land.[10] Moreover, the "Win-Win" Resolution itself states that the qualified beneficiaries have yet to be carefully and meticulously determined by the Department of Agrarian Reform.[11] Absent any definitive finding of the Department of Agrarian Reform, intervenors cannot as yet be deemed vested with sufficient interest in the controversy as to be qualified to intervene in this case. Likewise, the issuance of the CLOA's to them does not grant them the requisite standing in view of the nullity of the "Win-Win" Resolution. No legal rights can emanate from a resolution that is null and void.

WHEREFORE, based on the foregoing, the following incidents, namely: intervenors' "Motion For Reconsideration With Motion To Refer The Matter To The Court *En Banc*," dated December 3, 1998; respondents' "Motion For Reconsideration Of The Resolution Dated November 17, 1998 And For Referral Of The Case To This Honorable Court *En Banc* (With Urgent Prayer For Issuance Of A Restraining Order)," dated December 2, 1998; and intervenors' "Urgent Omnibus Motion For The Supreme Court Sitting *En Banc* To Annul The Second Division's Resolution Dated 27 January 1999 And Immediately Resolve The 28 May 1998 Motion For Reconsideration Filed By The Intervenors," dated March 2, 1999; are all **DENIED**