

SECOND DIVISION

[G.R. No. 117408, March 26, 1997]

**NATIONAL INVESTMENT AND DEVELOPMENT CORPORATION-
PHILIPPINE NATIONAL BANK (NIDC-PNB), PETITIONER, VS.
COURT OF APPEALS AND SPS. FRANCISCO BAUTISTA AND
BASILISA FRANCISCO BAUTISTA, RESPONDENTS.**

DECISION

MENDOZA, J.:

On September 12, 1979, private respondents, the spouses Francisco Bautista and Basilisa Bautista, filed a complaint for reconveyance and damages against petitioner National Investment and Development Corporation-Philippine National Bank (NIDC-PNB) and Banco Filipino. The complaint was eventually filed with the Court of First Instance of Rizal and later assigned to Branch 94 of the Regional Trial Court of Quezon City upon the reorganization of the judiciary in 1983. Private respondents claimed that they were the owners of a parcel of land located in Pasong Tamo, Quezon City, but that the land was mistakenly included in the list of properties mortgaged by them to Banco Filipino, with the result that when the mortgage was foreclosed, the property was sold to Banco Filipino together with the other properties. The land was later redeemed by petitioner from Banco Filipino. Private respondents blamed Banco Filipino for the inclusion of their land in the list of mortgaged properties.

The RTC gave judgment for private respondents. The dispositive portion of its decision, dated November 18, 1991, reads:

WHEREFORE, premises considered, a judgment is hereby rendered:

1. Dismissing the complaint against Banco Filipino;
2. Ordering National Investment and Development Corporation to reconvey the 5,546 square meters to plaintiffs after reimbursement by the latter;
3. Ordering plaintiffs to reimburse National Investment and Development Corporation the amount of P431,470.66 plus legal interest of 6% from date of redemption, October 27, 1972 until fully paid; and
4. Ordering National Investment and Development Corporation to pay the costs of suit.

On January 29, 1992, petitioner filed a notice of appeal, alleging that it received a copy of the decision on January 16, 1992. This claim was disputed by private

respondents who alleged that petitioner actually received the decision on December 6, 1991 and, therefore, the decision of the RTC had become final and executory. Consequently, private respondents moved for the execution of the decision in their favor.

In a resolution, dated March 9, 1992, the RTC declared its decision to have become final and executory on the ground that the first registry notice of the mail containing the decision had been placed in the post office box of the PNB on December 6, 1991 and therefore the 15-day period of appeal expired on December 21, 1991. As petitioner filed its notice of appeal on January 29, 1992, it was filed late. Petitioner's notice of appeal was therefore denied due course. The RTC cited the rules and regulations of the Post Office which provide that "mail matter is considered delivered from the time it is placed in a box, or notice in the case of registered articles, because such box is an extension of the addressee's office or residence."

Petitioner filed a petition for certiorari, but its petition was dismissed by the Court of Appeals on the ground that petitioner's remedy was to file a motion for reconsideration in the RTC. Petitioner's motion for reconsideration was later denied. Hence this petition.

Petitioner claims that its failure to file a motion for reconsideration should not be deemed fatal because the error complained against was patent and resulted in depriving it of due process, specifically its right to appeal. Petitioner argues that it has spent millions of pesos to develop the subject property for housing of its employees and that it stands to lose its investment if its right of appeal is lost.

The petition is meritorious.

First. The preliminary issue is whether the present petition was filed on time. Private respondents contend that petitioner had only eight (8) days from its receipt on October 4, 1994 (October 12, 1994) of the resolution of the Court of Appeals denying its motion for reconsideration within which to file this petition, since seven (7) days had already elapsed when petitioner moved for reconsideration of the CA decision.

The contention is without merit. Rule 45, §1 expressly provides that a party may appeal "from a judgment of the Court of Appeals by filing with the Supreme Court a petition for certiorari, within fifteen (15) days from notice of judgment of denial of his motion for reconsideration." In this case, petitioner received the Court of Appeals resolution denying its motion for reconsideration on October 4, 1994. Hence, the filing of its present petition on October 19, 1994 was timely made.

Second. The main issue in this case is whether petitioner's notice of appeal from the decision of the RTC was timely filed. Petitioner argues that the 15-day appeal period should be counted from January 16, 1992, because this was the date the first registry notice of the mail containing the decision was received by its administrative service officer III, Danilo Masajo, who claimed the registered letter containing the decision that same day. Petitioner contends that the RTC erred in ruling that service on it was completed five (5) days after the first registry notice was placed inside PNB's P.O. Box on December 6, 1991.

Petitioner's contention is well taken. The post office box in which the notice was