343 Phil. 115

EN BANC

[G.R. No. 109645, August 15, 1997]

ORTIGAS & CO. LTD. PARTNERSHIP, PETITIONER, VS. JUDGE TIRSO VELASCO AND DOLORES MOLINA, RESPONDENTS.

[G.R. NO. 112564. AUGUST 15, 1997]

DOLORES V. MOLINA, PETITIONER, VS. HON. PRESIDING JUDGE OF RTC, QUEZON CITY, BR. 105 AND MANILA BANKING CORPORATION, RESPONDENTS. RE: ADMINISTRATIVE PROCEEDINGS FOR DISMISSAL FROM THE JUDICIARY OF JUDGE TIRSO D' C. VELASCO, BR. 105, REGIONAL TRIAL COURT, QUEZON CITY

R E S O L U T I O N

PER CURIAM:

Shortly after notice of the judgment of July 25, 1994 in the consolidated cases at bar was served on counsel of Ortigas & Co. Ltd., it filed a "Motion for Reconsideration (Re: Dismissal of Respondent Judge)." Dated August 15, 1994, pointing out that while it had been awarded the basic reliefs it sought, the prayer set out in tits Memorandum[1] -- that Hon. Judge Tirso D'C. Velasco be purged from the judiciary – had not been granted. It made reference to a "litany of glaring errors committed by respondent Judge" – disregarding the mandatory notice requirement in reconstitution proceedings; "reviving a long interred petition; disregarding the Decisions of the Court and its warning to take extra care in reconstitution proceedings; relying on incredible and unbelievable evidence; bad faith in disallowing the appeals of Ortigas and the Republic of the Philippines; and allowing execution pending appeal – and argued that collectively, these errors amply establish Judge Velasco's "gross bad faith and connivance in the fraudulent reconstitution of the fake titles."[2]

The Manila Banking Corporation (TMBC) joined Ortigas in the petition for Velasco's removal from the Judiciary.[3] In fact, as early as July 12, 1993, it had filed an administrative complaint against the Judge for gross ignorance of the law, serious misconduct prejudicial to the interest of the service, patent bias and partially in favor of Dolores Molina, and hostility to those opposing her claims – involving the same orders and rulings which were annulled by this Court Decision of July 25, 1995. The case was docketed as Administrative Matter No. RTJ-93-1108, entitled "Epimaco V. Oreta (On Behalf of the Manila Banking Corporation) v. Hon Tirso D.C. Velasco, etc." It was, however, dismissed without prejudice by the First Division in a Resolution dated October 18, 1995 principally for being premature.[4]

II. Relevant Pleadings Prior to Submission of Case for Resolution

The Court required Judge Velasco to file a comment on the petition for his removal within ten (10) days,[5] but filing thereof was, his instance, held in abeyance" ** pending resolution of petitioner Molina's motion for reconsideration of the said decision of July 25, 1994 **."[6] That motion for reconsideration was denied with finality by Resolution of January 23, 1995, which also accordingly ordered Judge Velasco "to SUBMIT within ten (10) days from notice ** his comment on the 'Motion for Reconsideration (Re: Dismissal of Respondent Judge)' ** dated August 15, 1994." In a subsequent Resolution,[7] the Court directed inter alia that "no further pleadings, motions or papers be henceforth filed in these cases except only as regards the issues directly involved in the 'Motion for Reconsideration (Re: Dismissal of Respondent Judge)' of Ortigas & Co. Ltd., dated August 15, 1994."

Judge Velasco submitted his Comment on March 17, 1995.

By Resolution dated July 24, 1995, the Court declared the consolidated cases at bar "closed and terminated;" directed entry of judgment; reiterated the order that no further pleadings, motions or papers be henceforth filed except only as regards the issues directly involved in the motion for the dismissal of the Judge, dated August 15, 1994; and directed the Clerk of Court to transmit the mittimus in both cases to the corresponding Courts of origin for appropriate action. Then, after passing upon and disposing of other incidents, including inter alia the liability of Dolores Molina and her lawyers for contempt of court,[8] the Court promulgated another Resolution (dated May 20, 1996) granting the parties thirty (30) days from notice within which to file memoranda, if they be so minded, in relation to the application for Judge Velasco's removal from the Judiciary. Judge Velasco filed his memorandum on June 26, 1996; TMBC and Ortigas filed theirs on July 15, 1996 and September 11, 1996, respectively. No hearing was conducted. The parties did not ask for it. Having raised no issue of fact requiring presentation of proof, they were evidently disposed to submit the case for resolution on the basis of their pleadings and memoranda in relation to the facts on record.

The seriousness of the charges and the penalty thereto corresponding have impelled the referral of the case to the Court En Banc.

III. Judge's Theory that Case Moot and Academic

In his memorandum, judge Velasco theorizes that "the recycled petition for ** (his) dismissal in the THIRD DIVISION of the Supreme Court (had been rendered) moot and academic" by: (1) the dismissal on October 18, 1995 of the administrative case against him (Adm. Matter No. RTJ-93-1108), and (2) the entry of the final and executory judgment of the Second Division "dated July 25, 1994 in G.R. No. 109645 and G.R. No. 112564 **." The theory is utterly untenable.

The dismissal of the complaints in Adm. Matter No. RTJ-93-1108 was "without prejudice to their revival should the Court in its adjudication of the cases now pending before it pertaining to these cases find the Decisions/Orders issued by respondent Judges to have been issued in violation of judicial norms of conduct warranting disciplinary action."[9] And other pertinent Resolutions have made clear that Judge Velasco's administrative liability would be dealt with separately from the merits of the consolidated cases; that the finality and entry of the consolidated

judgment would have no effect on the determination of said liability; that the proceedings, in other words, would be kept open solely as regards the petition for the Judge's removal. The Resolution of January 23, 1995, for instance, which denied with finality Molina's motion for reconsideration of the consolidated decision of July 25, 1994 (inclusive of said motion's supplements), not only ordered the Judge to submit his comment on the petition foe his dismissal from the service (its filing having been deferred pending resolution of Molina's aforesaid motion for reconsideration), but also directed that "no further pleadings, motions or papers (should) be henceforth filed in these cases except only as regards the issues directly involved in the 'Motion for Reconsideration (Re: Dismissal of Respondent Judge)' of Ortigas & Co. Ltd., dated August 15, 1994." –indubitably indicating that the inquiry into Judge Velasco's administrative liability would be pursued despite the attainment of finality of the judgment, then quite imminent. These dispositions were reiterated in the Resolutions of March 1, 1995 and July 24, 1995.[10] All this, apart from the fact that Judge Velasco's administrative liability was never directly in issue in the proceedings leading to the rendition of the consolidated judgment in the cases at bar.

IV. Specific Accusations

At Judge Velasco's door are laid accusations of grievous transgressions of quite elementary procedural and jurisdictional rules.

A. Proceeding with Reconstitution Case Without Jurisdiction

The first of these is that he acted on and indeed favorably resolved the reconstitution proceeding instituted by Molina despite full awareness that he had no jurisdiction over it, the pre-requisites therefor not having been complied with. The validity of the accusation cannot but be conceded.

Section 13 of Republic Act No. 26,[11] sets down the indispensable requisites[12] for the acquisition by the court of jurisdiction over a proceeding for reconstitution of title, these being:

> 1.) publication, at petitioner's expense, of notice of the petition for reconstitution twice in successive issues of the Official Gazette and posting thereof on the main entrance of the provincial building and of the municipal building of the municipality or city in which the land is situated, at least thirty days prior to the date hearing;
>
> 2.) specific statement in the notice of the number of the lost or destroyed certificates of title if known, the name of the registered owner, the name of the occupants or persons in possession of the property, the owner of the adjoining properties and all other interested, parties ,the location, area and boundaries of the property, and the date on which all persons having any interest therein must appear and file their claim or objection to the petition;
>
> 3.) sending, by registered mail or otherwise, at the expense of the petitioner, of a copy of the notice to every person named therein (i.e., the occupants or persons in possession of the property, the owner of the adjoining properties and all other interested parties) whose address is

known, at least thirty days prior to the date of the hearing; and

4.) submission by petitioner at the hearing of proof of the publication, posting and service of the notice as directed by the court

Judge Velasco was made aware of the petitioner's failure to comply with these peremptory requirements. In truth, in his Order of July 3, 1992, he confessed his inability to "declare as of now that ** (his Court) had already acquired jurisdiction over **(the) case considering the manifestation of ** (Solicitor) Ma. Eloisa Castro that the requirement of notice to the other adjacent owners has not as yet been submitted to the Court **." Having thus been put on guard that an essential feature of the proceeding was fatally flawed – essential because it affected his very power to act thereon – he became unavoidably obliged to review the record and, of course, the legal provisions laying down the germane jurisdictional requirements. Had he done so, he would have quickly discovered that the notice of the petition for reconstitution, as published and posted, did not state the names of the occupants or persons of the property, the owner of the adjoining properties and all other interested parties, and that petitioner had not (as she could not have) sent copies of the notice to said persons. These omissions are clearly albeit implicitly conceded by petitioner herself – when she filed an ex parte motion dated July 13, 1992 praying that notices be sent to certain individuals – and by His Honor – when he granted that motion by Order dated July 16, 1992. However, what the Velasco Court actually did, through the Clerk of Court, was to send notices of the hearing scheduled on July 16, 1992 to persons OTHER than those mentioned by the law, namely:

1.) the "president of the Corinthian Neighborhood Association or Corinthian Homeowners Association thru the Barangay Chairman of Barangay Corinthian because the adjoining property designated as Vicente Madrigal is now part of this Barangay Corinthian;"

2.) the "Director, Bureau of Lands, Plaza Cervantes, Manila, as adjoining owner designated as Public Land;" and

3.) the "City Engineer of Quezon City for the adjoining boundaries designated as Roads or Road Lot."

By no means may these notices be deemed to meet the fundamental prerequisites for acquisition of jurisdiction in reconstitution cases. For clearly, as this Court said in its Decision of July 25, 1994, the officers of the neighborhood or homeowners association "are not the adjoining owners contemplated by law, on whom notice of the reconstitution proceedings must be served **; nor did they, by their receipt of notice of the petition (or the process server's admonition) incur the obligation to transmit such notice to the actual owners of the adjoining lots, assuming they had knowledge of the latter's identities."[13] Nor may said notices be considered substantially satisfactory, simply on the basis of respondent Judge's claim of "honest belief" that notice on the officers of the Corinthian Neighborhood Association was sufficient because the "occupants or homeowners (whom the law required to be notified) are themselves, bonafide members of the Association," and said officers "were specifically charged by the process server to inform their respective constituents about the notice." The claim is put forth with no little effrontery, considering its patent, and underscores the Judge's cavalier attitude towards the stringent jurisdictional; requirements of the law.

His Honor advances the equally preposterous theory that since Atty. Ongkiko appeared "in behalf of the Association" – which shows, he says, that the latter had received the notice of hearing, it was "up to him to make further inquiries ** (this being) his own lookout as representative of the Association." Of the same ilk his excuse for omitting to serve any notice on Ortigas, i.e., that its "claims can be properly determined in a separate, ordinary action where the issue of ownership can be threshed out, and not in a reconstitution proceeding **." That excuse is a flimsy attempt to mask his deliberate refusal to take cognizance of the allegations of the oppositors, including the Government itself, that there was nothing to reconstitute because Molina's title fabricated and completely void.

It is thus abundantly clear that no notice of the reconstitution petition was given to the owners of the adjoining properties and other interested parties, and no publication in the Official Gazette, or posting in the indicated public places, of notices of the petition stating the names of these persons was ever accomplished. Respondent Judge ignored these patent defects – which effectively precluded his Court's acquiring jurisdiction over the reconstitution proceeding – and proceeded to act on the case and preside, in fine, over a proceeding void ab initio.

B. Unwarranted Dismissal of Appeals

Respondent Judge moreover disregarded well-known and firmly established doctrines respecting dismissal of appeals and execution of judgments, in a manner that clearly favored petitioner Molina.

A rule of long standing and uniform application is that dismissals by Regional Trial Courts of appeals from their judgments are allowed only under the conditions stated in Sections 13 and 14, Rule 41 of the Rules of Court. Section 14 provides that a "motion to dismiss an appeal may be filed ** prior to the transmittal of the record to the appellate court," the grounds being limited to those "mentioned in the preceding section," i.e., Section 13, to wit: "where the notice of appeal, appeals bond, or record on appeal is not filed within the period of time herein provided." In other words, the only ground for dismissal of an appeal from the Regional Trial Court is the failure of an appellant to file the notice of appeal, or the record on appeal – in cases of multiple appeals – the requirement of an appeal bond having been eliminated. It has no power to disallow an appeal on any other ground, e.g., that it is frivolous, or the case has become moot, etc. The reason is obvious: otherwise," the way would be opened for courts ** to forestall review or reversal of their decisions by higher courts, no matter how erroneous or improper such decisions should be."[14]

Neither may the Trial Court dismiss appeals on the grounds mentioned in Rule 50 of the Rules of Court, or other recognized grounds, e.g., that the cause has become moot, or the appeal is frivolous or manifestly dilatory – for authority to do so "is not certainly with the court a quo whose decision is in issue, but with the appellate court."[15]

But in defiance of these familiar precepts, respondents Judge dismissed appeals attempted to be taken from judgment in favor of Molina by Ortigas and the Solicitor General.