



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

HELEN LORENZO CUNANAN,
Petitioner,

G.R. No. 205573

Present:

- versus -

CARPIO, J., Chairperson,
BRION,*
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

COURT OF APPEALS,
Ninth Division, TEOFILO Q.
INOCENCIO, Regional Director,
Department of Agrarian Reform
Regional Office No. III, and
YOLANDA MERCADO,
Respondents.

Promulgated:

17 AUG 2016

X ----- X

RESOLUTION

MENDOZA, J.:

This petition for *certiorari* and prohibition under Rule 65 of the Rules of Court, with an application for the issuance of a temporary restraining order and/or a writ of preliminary injunction, assails 1) the July 31, 2012 Resolution¹ of the Court of Appeals (CA) in CA-G.R. SP No. 125543, which dismissed the petition for *certiorari* filed by petitioner Helen Lorenzo Cunanan (*Cunanan*); and 2) its November 26, 2012 Resolution² which denied her motion for reconsideration.

* On Leave.

¹ *Rollo*, pp. 34-35. Penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez.

² *Id.* at 37-37a.

W

The Antecedents

On January 27, 2009, private respondent Yolanda Mercado (*Mercado*) filed a petition³ for reallocation of a home lot originally awarded to Alejandro Lorenzo (*Lorenzo*), the father of Cunanan, with the Department of Agrarian Reform– Regional Office No. III (*DAR-R03*).

On April 8, 2010, the DAR-R03 issued the Order⁴ dismissing the petition of Mercado. The decretal portion of which reads:

WHEREFORE, premises considered, an ORDER is hereby issued DISMISSING the Petition of Yolanda Mercado for the reallocation, in her favor, of that 800 square meters located at Barangay Maligaya, Tarlac City, previously embraced by TCT No. 150056 registered in the name of Alejandro Lorenzo, now in the name of Helen Lorenzo, under TCT No. 288509, for utter want of merit.

SO ORDERED.⁵

On May 13, 2010, Mercado filed a motion for reconsideration,⁶ praying that the April 8, 2010 Order be reconsidered and set aside.

On October 13, 2010, the DAR-R03 issued the Order⁷ granting Mercado's motion for reconsideration. It explained that she was able to show that Lorenzo and his heirs were absentee landlords. The dispositive portion of the said order reads:

WHEREFORE, premises considered, an ORDER is hereby issued, as follows:

1. SETTING ASIDE the Order, dated April 8, 2010; and
2. RECOMMENDING the cancellation of TCT No. 288509 issued in the name of Helen Lorenzo, involving the subject property with an area of Eight Hundred (800) square meters, more or less, located at Barangay Maligaya, Tarlac City.

³ Id. at 39-41.

⁴ Id. at 45-46.

⁵ Id. at 46.

⁶ Id. at 47-48.

⁷ Id. at 49-51.

This Office reserves the right to cancel or revoke this Order in case of misrepresentation, or violation of pertinent existing DAR policies, rules and regulations.

SO ORDERED. [Emphasis Supplied]

On December 1, 2010, the DAR-R03 issued the Order of Finality⁸ declaring the October 13, 2010 Order final and executory.

Sometime in April 2011, Cunanan inquired with the DAR Provincial Office in Tarlac City regarding the status of the home lot covered by Transfer Certificate of Title (*TCT*) No. 150056 (now TCT No. 288509). She was surprised to learn that an order of finality of the October 13, 2010 Order had already been issued.

On May 13, 2011, Cunanan filed with the DAR-R03 her Motion to Quash Order of Finality and Other Orders.⁹ She averred that **she was neither informed of the proceedings before the DAR nor was furnished copies of any pleading or notice.** Thus, according to her, **the DAR never acquired jurisdiction over her person.** She further asserted that **such order deprived her of her property without due process of law in violation of her constitutional right** which made all proceedings and orders null and void.

On June 13, 2011, without waiting for the resolution on the said motion, Cunanan filed her Petition for Relief from Judgment¹⁰ pertaining to the October 13, 2010 Order. She stated, among others, that she came to know of the decision, which was based solely on the evidence presented by Mercado, only on April 14, 2011; that she could not have possibly answered the subject petition for reallocation and gone to trial because she was not served the summons and notices or furnished copies of orders; that she had a good and substantial defense, and the property should not be reallocated; that she inherited the subject property from her father and never abandoned the same; and, that if given the opportunity, she would present proof in support of her position.

On June 14, 2011, Cunanan filed her Petition¹¹ for Injunction and Prohibition with Preliminary Injunction before the CA which was docketed as CA-G.R. SP No. 120083. She again averred that she was the registered owner of the subject property; that she only came to know of the decision on April 14, 2011; and that she was not served summons or sent notices of

⁸ Id.at 52.

⁹ Id. at 53-55.

¹⁰ Id. at 56-70.

¹¹ Id. at 71-92.

hearing. To stress the importance of her petition, she claimed that the case was a matter of extreme urgency and she would suffer grave and irreparable injury or damage unless Mercado and the DAR were enjoined immediately from proceeding with the cancellation of TCT No. 288509 in her name and its transfer to Mercado.

On October 5, 2011, Cunanan received a copy of the September 26, 2011 Resolution,¹² which dismissed her petition for injunction and prohibition with preliminary injunction for failing to comply with the rules. Thus:

It appearing from the JRD report dated August 31, 2011 that petitioner failed to comply with Our Resolution dated July 8, 2011 requiring petitioner: (1) to pay the deficient amount of ₱150.00 as payment for docket and other legal fees; (2) to indicate the date of issuance of counsel for petitioner's MCLE Certificate of Compliance; and (3) to submit an affidavit of service and registry receipts issued by the mailing office as proof that copies of the pleading were sent to the other parties as required under Sec. 13, Rule 13 of the 1997 Rules of Civil Procedure, despite the fact that counsel for petitioner received on July 20, 2011 the aforesaid resolution per Registry Return Receipt No. 594, for failure to comply therewith, the instant petition is hereby DISMISSED.

SO ORDERED.

On February 8, 2012, Cunanan received the January 17, 2012 Entry of Judgment¹³ certifying that the September 26, 2011 Resolution in CA-G.R. SP No. 120083 had become final and executory, and was recorded in the Book of Entries of Judgments.

Meanwhile, the DAR-R03 was furnished a copy of the CA resolution stating that its September 26, 2011 Resolution had attained finality on October 21, 2011. The CA also sent to the said office a copy of the Entry of Judgment reciting the dispositive part of the September 26, 2011 Resolution. Thereafter, the DAR-R03 issued the Order,¹⁴ dated March 9, 2012, dismissing the motion to quash order of finality and the petition for relief from judgment, filed by Cunanan, for being *moot and academic*.

¹² Id. at 96-98.

¹³ Id. at 99-100.

¹⁴ Id. at 101-104.

Cunanan filed a motion for reconsideration¹⁵ of the March 9, 2012 Order of the DAR-R03 but the said motion was denied in its April 9, 2012 Order¹⁶ for lack of merit.

Aggrieved, Cunanan filed a petition for *certiorari*¹⁷ with the CA and prayed that the March 9, 2012 Order of the DAR-R03, which dismissed her motion to quash order of finality and her petition for relief from judgment, and its April 19, 2012 Order, which denied her motion for reconsideration, be set aside for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. She also prayed that a decision be issued to annul and set aside the proceedings conducted by the DAR-R03 on Mercado's petition for reallocation of home lot awarded to Lorenzo for being violative of her right to due process. She stated that the DAR-R03 committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its assailed March 9, 2012 and April 19, 2012 orders.

Cunanan disagreed with the position of the DAR-R03 that the issues she raised in her petition for injunction and prohibition before the CA, on one hand, and in her motion to quash and petition for relief of judgment before the DAR, on the other, were the same. Citing *Strong vs. Castro*,¹⁸ she argued that the petition for injunction and prohibition with prayer for preliminary injunction was filed to prevent the unlawful and oppressive exercise of legal authority and to provide for a fair and orderly administration of justice. Conversely, relying upon *Bueno v. Patanao*,¹⁹ she contended that the provisional remedy of injunction, a judicial weapon to preserve the status quo until the merits of the case could be heard, and which preceded the pending controversy, must be executed promptly and expeditiously to avert trouble or its recurrence. In fine, she sought for the CA to enjoin the DAR from awarding her property to Mercado without due process, as it was against what was ordained by the Constitution.²⁰

In contrast, she continued, the motion to quash order of finality and the petition for relief from judgment were initiated for the DAR-R03 to annul and set aside all the proceedings and the judgment it rendered in Mercado's petition for reallocation, the same being null and void for violating her constitutional right to due process.

On July 31, 2012, the abovementioned petition for *certiorari* was dismissed by the CA. The latter stated in its resolution that because the subject orders were rendered by the DAR-R03 in the exercise of its quasi-judicial functions and the petition involved questions of fact and law, the

¹⁵ Id. at 105-107.

¹⁶ Id. at 108-109.

¹⁷ Id. at 111-128.

¹⁸ 221 Phil. 673, 679 (1985).

¹⁹ 119 Phil. 106, 113 (1963).

²⁰ *Rollo*, p. 120.

appropriate mode of appeal was a petition for review under Rule 43 of the Rules of Court. The period for the filing of a petition for review, however, had already lapsed. The assailed order was received on May 4, 2012, so the petition for review should have been filed on May 19, 2012. Moreover, the petition for *certiorari* was filed out of time on July 5, 2012 because it was due on July 3, 2012.

On August 31, 2012, Cunanan filed a motion for reconsideration²¹ pointing out that her petition for *certiorari* sought to annul and set aside the subject orders of the DAR-R03 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction as it denied her the right to due process when she was not given an opportunity to be heard in the proceedings pertaining to Mercado's petition for reallocation. Cunanan also provided proof that the petition for *certiorari* was filed on time, by attaching documentary exhibits that showed that it was filed on July 3, 2012, and not on July 5, 2012.

On November 26, 2012, the CA denied her motion for reconsideration.²²

Hence, this petition.

ISSUE

XXX WHETHER OR NOT THE ASSAILED JULY 31, 2012 RESOLUTION AND NOVEMBER 26, 2012 RESOLUTION OF THE RESPONDENT COURT OF APPEALS IN CA-G.R. SP NO. 125543 DISMISSING THE PETITION FOR CERTIORARI ARE NULL AND VOID FOR HAVING BEEN RENDERED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND IN DENIAL OF DUE PROCESS.²³

Petitioner Cunanan ascribes grave abuse of discretion on the part of the CA when it denied her due process by summarily dismissing her petition for *certiorari*, docketed as CA-G.R. SP No. 125543, and denying her consequent motion for reconsideration on procedural grounds.

Cunanan avers that she filed this petition for *certiorari* under Rule 65 of the Rules of Court against the Regional Director of the DAR-R03 after the latter issued orders cancelling TCT No. 288509 issued in her name and denying the subsequent motion to quash order of finality and the petition for

²¹ Id. at 129-136.

²² Id. at 37-37a.

²³ Id. at 15.

relief from judgment. She claims that she was never notified at any stage of the proceedings; and that she was not furnished a copy of the petition or sent notices of hearings and copies of orders. Thus, she stresses that she was denied due process.

She reiterates that contrary to the CA pronouncement, a petition for review on *certiorari* under Rule 65 was the proper and appropriate mode of appeal as this petition was filed on the ground of denial of due process and grave abuse of discretion. Such denial results in the loss or lack of jurisdiction of the tribunal so that any decision rendered therein would be void.

Public respondents, through the Office of the Solicitor General (*OSG*), counter that a petition for *certiorari* filed under Rule 65 is a wrong remedy because it is limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. Moreover, a petition for *certiorari* may only be resorted to in the absence of an appeal or any plain, speedy and adequate remedy in the ordinary course of law as the two remedies are mutually exclusive. A petition for *certiorari* cannot co-exist with an appeal or any other adequate remedy. Thus, they invoke the rule that “where the rules prescribe a particular remedy for the vindication of rights, such remedy should be availed of.”²⁴

The *OSG* further avers that the assailed resolutions of the *CA*, which dismissed Cunanan’s petition for *certiorari*, were final judgments as there was nothing more left to be done by the *CA* with respect to the said case. Thus, Cunanan should have filed an appeal by way of petition for review on *certiorari* under Rule 45 of the Rules.

Even assuming that a petition for *certiorari* under Rule 65 was the correct remedy in the present case, the *OSG* argues that petitioner Cunanan failed to establish grave abuse of discretion on the part of the *CA*. Aside from the sweeping allegation of grave abuse of discretion of the *CA*, nowhere in the petition was it shown that the abuse of discretion in the issuance of the assailed resolutions by the *CA* was so patent and gross that it would warrant the issuance of the extraordinary writ of *certiorari*.

The Court’s Ruling

A petition for *certiorari* under Rule 65 is proper to correct errors of jurisdiction committed by the lower court, or grave abuse of discretion which is tantamount to lack of jurisdiction. This remedy can be availed of

²⁴ *Id.* at 188-198.

when there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.

Appeal by *certiorari* under Rule 45, on the other hand, is a mode of appeal available to a party desiring to raise only questions of law from a judgment or final order or resolution of the CA, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law.²⁵

As can be gleaned from above, one of the essential requisites of a petition for *certiorari* is that there is neither appeal nor any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the questioned proceeding. Thus, the respondents were correct in pointing out that it cannot co-exist with an appeal or any other particular remedy. Indeed, where the rules prescribe a particular remedy for the vindication of rights, such remedy should be availed of.²⁶

A petitioner must allege in his or her petition and establish facts to show that any other existing remedy is not speedy or adequate.²⁷ Where the existence of a remedy by appeal or some other plain, speedy and adequate remedy precludes the granting of the writ, a petitioner must allege facts showing that any existing remedy is impossible or unavailing. A petition for *certiorari* which does not comply with the requirements of the Rules may be dismissed.²⁸

In the present case, Cunanan had not shown that there was no other speedy and adequate remedy. She simply alleged that grave abuse of discretion was committed.

Nonetheless, in the interest of substantial justice, the Court is inclined to suspend the rules considering the circumstances of the case.

A review of the case discloses that when Cunanan learned that the DAR- R03 had cancelled TCT No. 288509 in her name and that it had issued an order of finality, she lost no time in questioning the order. As earlier pointed out, she averred that she was never notified of the proceedings or furnished copies of any pleadings. For said reason, she argues that the DAR- R03 never acquired jurisdiction over her person and that its assailed order deprived her of her property in violation of her constitutional right to due process, rendering all proceedings and orders null and void.

²⁵ *De Guzman v Filinvest Development Corporation*, G.R. No. 191710, January 14, 2015, 746 SCRA 65, 80.

²⁶ *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*, 716 Phil. 500, 512 (2013).

²⁷ *Lee v. People*, 483 Phil. 684, 699 (2004).

²⁸ *Visca v. Secretary of Agriculture and Natural Resources*, 255 Phil. 213, 217 (1989).

As the decision could be implemented anytime, she also filed a petition for injunction and prohibition with prayer for preliminary injunction.

Thereafter, as recited heretofore, Cunanan's quest to secure justice was frustrated in every stage and in every forum, in the DAR-R03 and the CA. As in every instance, her petitions and prayers were denied on technical grounds.

A review of the orders of the DAR-R03 and the resolutions of the CA discloses that neither of the two tackled the lament of Cunanan that she was denied her constitutional right to due process because she was never notified of the proceedings and furnished copies of the pleadings. The DAR-R03 and the CA took the shortcut by denying her pleas for justice on the ground of technicalities. Neither of the two stated that she was notified or that she was furnished copies of the pleadings. She was not even furnished a copy of the order cancelling TCT No. 288509 in her name. Doubtless, she was deprived of her property without due process of law.

The Court cannot rest easy if such a travesty of justice would be perpetuated and made permanent. It is simply unconscionable.

To correct an injustice, all the orders of the DAR-R03 and the resolutions of the CA should be vacated and set aside for being issued with grave abuse of discretion. The DAR-R03 and the CA might have correctly cited pertinent technical rules to justify their actions due to the ignorance or negligence of the petitioner's counsel but the bottom line is that Cunanan was deprived of her property in violation of her constitutional right to due process.

Cunanan should, thus, be allowed to present her position on the reallocation ordered in favor of Mercado. Whether or not she has a meritorious defense is immaterial. After all, the October 13, 2010 Order of the DAR-R03 was qualified as follows:

This Office reserves the right to cancel or revoke this Order in case of misrepresentation, or violation of pertinent existing DAR policies, rules and regulations.

In rendering decisions, courts have always been conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always

within the power of the Court to suspend the rules, or except a particular case from their operation.²⁹

The Court has, time and again, reiterated the rationale behind the exercise of its power to relax, or even suspend, the application of the rules of procedure:

Let it be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflect this principle. **The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final x x x.**

The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, this Court has consistently held that rules must not be applied rigidly so as not to override substantial justice.³⁰

WHEREFORE, the petition is **GRANTED**. The July 31, 2012 and November 26, 2012 Resolutions of the Court of Appeals in CA-G.R. SP No. 125543 are **REVERSED** and **SET ASIDE**. Accordingly, all the proceedings and orders of the Department of Agrarian Reform, Regional Office No. III, in Docket No. A-0306-MR-0522-09 (A.R. Case No. LSD-0167-10) are vacated and set aside for being void.

The records of the case are hereby ordered **REMANDED** to the Department of Agrarian Reform, Regional Office No. III, for appropriate proceedings. At all times, due process must be accorded to petitioner Helen Lorenzo Cunanan.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

²⁹ *Nala v. Judge Barroso*, G.R. No. 153087, August 7, 2003, 408 SCRA 529, 534.

³⁰ *Dela Cruz v. CA*, 539 Phil. 158 (2006), citing *Barnes v. Padilla*, G.R. No. 160753, June 28, 2005, 461 SCRA 533, 541.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson

(On Leave)

ARTURO D. BRION

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Associate Justice

Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice