



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

**JULIUS BAUTISTA, ARSENIO
 LARANANG, REYNALDO
 BALDEMOR, CARMELITA
 MANAYAN, NORMA FLORES,
 CONSUELO ESTIGOY,
 CARMELITA VALMONTE,
 SIMEON MARTIN,
 MAGDALENA GADIAN, JOSE
 GINNO DELA MERCED,
 JOVEN SILAN, JR., JULIO
 DIAZ, GIDEON ACOSTA, and
 WENCESLA BAUTISTA,**
 Petitioners,

G.R. No. 218665

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Promulgated:

JUL 20 2016

- versus -

**LT. COL. BENITO DONIEGO,
 JR., LT. COL. ALFREDO
 PATARATA, and MAJOR
 GENERAL GREGORIO PIO
 CATAPANG,**
 Respondents.

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ is the Resolution² dated June 16, 2015 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 139159-UDK noting without action: (a) the Petition for Review filed before it on March 31, 2015 with payment of docket fees on even date; (b) the Manifestation filed by herein respondents Lt. Col. Benito Doniego, Jr., Lt. Col. Alfredo Patarata, and Major General Gregorio Pio Catapang

¹ *Rollo*, Vol. I, pp. 5-57.

² *Id.* at 64. Signed by Division Clerk of Court Tammy Ann C. Reyes-Mendillo.

(respondents) before the Regional Trial Court of Palayan City, Branch 40 (RTC) copy furnished the CA by registered mail on April 6, 2015; (c) the Urgent Motion for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction filed by Julius Bautista (J. Bautista), Florentina Juan,³ Bienvenido Baldemor,⁴ Carmelita Manayan, Rufino Flores,⁵ Elizarde Estigoy,⁶ Carmelita Valmonte, Gervacio Aregando,⁷ Dalisay Gadian,⁸ Jose Ginno Dela Merced, Florentina Silan,⁹ Julio Diaz, Gideon Acosta, and Wencesla Bautista (Bautista, *et al.*) on May 21, 2015; and (d) Bautista *et al.*'s Omnibus Motion for Clarification and Resolution (Re: Assigned Docket Numbers) filed on May 27, 2015.

The Facts

On June 24, 2013, Bautista *et al.* filed a complaint¹⁰ for forcible entry with prayer for the issuance of a TRO and award of damages before the Municipal Trial Court in Cities¹¹ of Palayan City (MTCC) against respondents. They alleged that beginning March 2013, respondents, with the help of soldiers from Fort Magsaysay, by means of stealth, strategy, force, threat, and intimidation, entered the parcels of land located at Fort Magsaysay, Palayan City (subject land) which they have been occupying in the concept of owner for more than ten (10) years.¹²

In defense, respondents denied¹³ the allegations and claimed that it was Bautista, *et al.* who surreptitiously entered the subject land despite knowledge that it was part of the Fort Magsaysay Military Reservation since December 19, 1955 pursuant to Presidential Proclamation No. 237, s. 1955¹⁴ of then President Ramon Magsaysay.¹⁵ They also prayed for the award of moral and exemplary damages.¹⁶

The MTCC Ruling

After due proceedings, the MTCC rendered its Decision¹⁷ dated October 8, 2013, directing the respondents and all persons acting on their

³ Represented by Arsenio Laranang.

⁴ Represented by Reynaldo Baldemor.

⁵ Represented by Norma Flores.

⁶ Represented by Consuelo Estigoy.

⁷ Represented by Simeon Martin.

⁸ Represented by Magdalena Gadian.

⁹ Represented by Joven Silan, Jr.

¹⁰ Docketed as Civil Case No. 640 dated June 21, 2013. *Rollo*, Vol. I, pp. 65-70.

¹¹ "Municipal Trial Court" in the complaint; see *id.* at 65.

¹² See *id.* at 66.

¹³ See Answer with Counterclaim dated June 29, 2013; *id.* at 88-93.

¹⁴ Entitled "RESERVING FOR MILITARY PURPOSES A PORTION OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITIES OF PAPAYA, STA. ROSA, AND LAUR, PROVINCE OF NUEVA ECIJA AND PORTION OF QUEZON PROVINCE, PHILIPPINES" dated December 19, 1955; *id.* at 94-95.

¹⁵ *Id.* at 88-89.

¹⁶ *Id.* at 92.

¹⁷ *Id.* at 323-338. Penned by Presiding Judge Angel M. Merez, Jr.

behalf to vacate the subject land and to peacefully turn over the premises to Bautista, *et al.*¹⁸ The MTCC ruled that Bautista, *et al.* were in prior possession of the subject land and that respondents had no right to enter the same without authority and consent of the lawful possessors. It found that the subject land had been segregated from the military reservation by virtue of Presidential Proclamation No. 1033, s. 2006¹⁹ issued by then President Gloria Macapagal-Arroyo, which legally removed the administration and disposition of the subject land from them and transferred the same to the National Housing Authority.²⁰

Dissatisfied, respondents, through the Office of the Solicitor General (OSG), appealed²¹ to the RTC, docketed as Civil Case No. 0760-P-13.²²

The RTC Ruling and Subsequent Proceedings

In a Decision²³ dated December 9, 2014, the RTC reversed and set aside the MTCC Decision. Finding respondents to be the lawful possessors of the subject land, it ordered Bautista, *et al.* to vacate and peacefully turn over the same to the former.²⁴ In so ruling, the RTC declared that Presidential Proclamation No. 1033, s. 2006 did not state, expressly or impliedly, that the Armed Forces of the Philippines (AFP) was to be dispossessed of the subject land and that the purpose thereof was merely changed from military reservation to off-base housing.²⁵

On January 28, 2015, herein petitioner J. Bautista, ostensibly for and on behalf of his co-petitioners in the courts *a quo*, filed a Motion for Extension of Time to File a Petition for Review²⁶ (Motion for Extension) before the CA, copy furnished the RTC. In his motion, J. Bautista alleged that the RTC's Decision was received by Bautista, *et al.*'s counsel on January 16, 2015 and that they had until January 31, 2015 within which to file a petition for review. However, because of their counsel's illness, they prayed for an additional period of thirty (30) days to secure a new counsel and to file their petition for review.²⁷

¹⁸ Id. at 338.

¹⁹ Entitled "AMENDING PROCLAMATION NO. 257, SERIES OF 1955 BY EXCLUDING CERTAIN PORTION OF THE LAND EMBRACED THEREIN SITUATED IN THE MUNICIPALITIES OF GEN. TINIO, STA. ROSA, LAUR AND GABALDON AND THE CITY OF PALAYAN, PROVINCE OF NUEVA ECJA AND THE MUNICIPALITY OF DINGALAN, PROVINCE OF AURORA, ISLAND OF LUZON RESERVING THE SAME FOR OFF-BASE HOUSING SITE AND DECLARING SAME OPEN FOR DISPOSITION TO QUALIFIED BENEFICIARIES" dated March 13, 2006; id. at 97-98.

²⁰ See id. at 335-337.

²¹ See Notice of Appeal dated November 22, 2013; id. at 339-340.

²² See id. at 407.

²³ Id. at 407-416. Penned by Presiding Judge Evelyn A. Atienza-Turla.

²⁴ Id. at 416.

²⁵ See id. at 415.

²⁶ Id. at 417-419.

²⁷ See id. at 417.

Subsequently, or on February 2, 2015, Bautista, *et al.* filed a Motion for Reconsideration²⁸ of the RTC's Decision.

Initially, the RTC, in an Order²⁹ dated February 9, 2015, deemed the said Motion for Reconsideration as abandoned in view of the filing of the Motion for Extension.³⁰ Subsequently, however, after having clarified that the Motion for Extension was filed *earlier* than the Motion for Reconsideration, the RTC issued an Order³¹ dated February 24, 2015 declaring that the Motion for Reconsideration had superseded the Motion for Extension, which was deemed abandoned.³²

Eventually, the RTC denied Bautista, *et al.*'s Motion for Reconsideration in an Order³³ dated March 10, 2015 for lack of merit.

In view of the RTC's reversal of the MTCC Decision, respondents filed a Motion for the Issuance of [a] Writ of Execution³⁴ to implement the RTC's December 9, 2014 Decision. In their comment/opposition,³⁵ Bautista, *et al.* contended that the immediate execution pending appeal of the judgment of the RTC in forcible entry and unlawful detainer cases is applicable only if the judgment is rendered *against* the defendants, *i.e.*, herein respondents, which does not obtain in this case, as the judgment was rendered against Bautista, *et al.*, as plaintiffs.³⁶

In an Order³⁷ dated April 22, 2015, the RTC granted respondents' motion for the issuance of a writ of execution from which Bautista, *et al.* sought³⁸ reconsideration.

The Proceedings Before The CA

Meanwhile, in a Resolution³⁹ dated March 9, 2015, the CA acted on J. Bautista's Motion for Extension, docketed as **CA-G.R. SP No. 139159-UDK**, denying the same for failure to pay the required docket fees within the

²⁸ Dated February 2, 2015. *Id.* at 420-425.

²⁹ *Id.* at 426.

³⁰ *Id.*

³¹ *Id.* at 434.

³² *Id.*

³³ *Id.* at 435.

³⁴ Dated March 4, 2015. *Rollo*, Vol. II, pp. 857-859.

³⁵ See Comment/Opposition (to the Motion for Issuance of the Writ of Execution) dated March 20, 2015; *id.* at 860-862.

³⁶ See *id.* at 860-861.

³⁷ *Id.* at 872.

³⁸ See Omnibus Motion *Ad Abundante Cautelam* [(i) for Reconsideration of the Order dated April 22, 2015 and (ii) to Inhibit the Honorable Presiding Judge Evelyn Atienza-Turla from Taking Cognizance of the Case] dated May 7, 2015; *id.* at 873-881.

³⁹ *Id.* at 854-855. Penned by Associate Justice Zenaida T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino concurring.

reglementary period without justifiable reason. Accordingly, it ordered the Motion for Extension expunged from the records.⁴⁰

Subsequently, or on March 31, 2015, Bautista, *et al.* filed a Petition for Review⁴¹ before the CA, with appropriate payment⁴² of the prescribed docket fees, assailing the December 9, 2014 Decision of the RTC, as well as the March 10, 2015 Order denying the motion for reconsideration thereof. The petition was docketed as **CA-G.R. 139764**.⁴³ Later, or on May 21, 2015, Bautista, *et al.* filed an Urgent Motion for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction⁴⁴ (Urgent Motion for Issuance of TRO) seeking to enjoin the enforcement of the RTC's April 22, 2015 Order directing the issuance of a writ of execution in favor of respondents.⁴⁵

Finally, on May 27, 2015, Bautista, *et al.* filed an Omnibus Motion for Clarification and Resolution (Re: Assigned Docket Numbers),⁴⁶ seeking, *inter alia*, explanation from the CA on why their Petition for Review, which was docketed as **CA-G.R. 139764**, was given the docket number of J. Bautista's abandoned Motion for Extension, **CA-G.R. SP No. 139159**.

On June 16, 2015, the CA issued its assailed Resolution⁴⁷ merely *noting without action, inter alia*: (a) Bautista, *et al.*'s Petition for Review with the payment of docket fees; (b) Bautista, *et al.*'s Urgent Motion for the Issuance of a TRO; and (c) Bautista, *et al.*'s Omnibus Motion for Clarification and Resolution (Re: Assigned Docket Numbers). The CA's action was in connection with its earlier Resolution dated March 9, 2015 denying J. Bautista's Motion for Extension and consequently, expunged the case from the records.⁴⁸

Aggrieved, herein petitioners⁴⁹ elevated the matter before the Court *via* the instant petition.

⁴⁰ See *id.*

⁴¹ Dated March 18, 2015; *id.* at 436-474.

⁴² See *id.* at 852-853.

⁴³ *Id.* at 436.

⁴⁴ Dated May 19, 2015. *Rollo*, Vol. III, pp. 903-921.

⁴⁵ See *id.* at 917.

⁴⁶ Dated May 26, 2015. *Id.* at 950-957.

⁴⁷ *Rollo*, Vol. I, p. 64.

⁴⁸ See *id.*

⁴⁹ The petition before the Court was filed by Julius Bautista, Carmelita Manayan, Carmelita Valmonte, Jose Ginno Dela Merced, Julio Diaz, Gideon Acosta, Wencesla Bautista, and the representatives of the other petitioner in the courts *a quo*, *i.e.*, Arsenio Laranang, Reynaldo Baldemor, Norma Flores, Consuelo Estigoy, Simeon Martin, Magdalena Gadian, and Joven Silan, Jr.

The Issue Before the Court

The issue to be resolved by the Court is whether or not the CA erred in merely *noting without action* Bautista, *et al.*'s Petition for Review and other subsequent pleadings, thus, denying them due course.

The Court's Ruling

The petition is partly meritorious.

Section 1, Rule 42⁵⁰ of the Rules of Court provides:

Section 1. *How appeal taken; time for filing.* – A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ₱500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

Thus, for appellate jurisdiction to attach, the following requisites must be complied with: (a) the petitioner must have invoked the jurisdiction of the CA within the time for doing so; (b) he must have filed his petition for review within the reglementary period; (c) he must have paid the necessary docket fees; and (d) the other parties must have perfected their appeals in due time.⁵¹ In this regard, the Rules of Court require that in an appeal by way of a petition for review, the appeal is deemed perfected as to the petitioner upon the timely filing of the petition and the payment of docket and other lawful fees.⁵² To perfect the appeal, the party has to file the petition for review and to pay the docket fees within the prescribed period. The law and its intent are clear and unequivocal that the petition is perfected upon its filing and the payment of the docket fees.⁵³ Consequently, without the petition, the CA cannot be said to have acquired jurisdiction over the case.

⁵⁰ Petition for Review from the Regional Trial Courts to the Court of Appeals.

⁵¹ *Fernandez v. CA*, 497 Phil. 748, 756-757 (2005).

⁵² *Id.* at 757, citing the Minutes of the meeting of the Rules of Court Revision Committee, September 18, 1991, p. 11.

⁵³ *Id.*

Applying the foregoing parameters, the appellate jurisdiction did not attach with the filing of J. Bautista's Motion for Extension. Notably, the pleading filed was a mere motion for extension and not a petition for review, and there was no payment of the required docket fees. Besides, J. Bautista filed the motion ostensibly on behalf of the rest of the petitioners in the courts *a quo* but records are bereft of evidence to show that they had authorized him to do so. The Court also notes that J. Bautista filed the motion after receipt *only* of the RTC's December 9, 2014 Decision, from which *all* of the petitioners (Bautista, *et al.*) seasonably filed their Motion for Reconsideration. Thus, in **CA-G.R. SP No. 139159-UDK**, the CA did not acquire appellate jurisdiction for two (2) reasons: *one*, it was merely a Motion for Extension and not a proper Petition for Review, and *two*, there was no payment of the required docket fees.

However, the same does not hold true with respect to the Petition for Review subsequently filed by Bautista, *et al.*, which was originally docketed as **CA-G.R. 139764**. The said petition was filed together with the payment of docket and other lawful fees and assailed not only the December 9, 2014 Decision of the RTC, but also the March 10, 2015 Order denying their Motion for Reconsideration. Records show that Bautista, *et al.* filed their Petition for Review within the fifteen (15) day period after their receipt of the Order denying their Motion for Reconsideration. Clearly, therefore, the Petition for Review was properly filed, and the CA acquired appellate jurisdiction over the case.

In view of the foregoing, the CA committed reversible error in merely noting without action the Petition for Review, as well as the subsequent pleadings that Bautista, *et al.* had filed. The Petition for Review initially docketed as **CA-G.R. 139764** was an entirely new and distinct pleading assailing the RTC's issuances and did not proceed from the Motion for Extension filed by J. Bautista, which the CA had already ordered expunged from the records. As such, with the expunction of J. Bautista's Motion for Extension, the docket number previously assigned to it should not have been re-assigned to the properly and seasonably-filed Petition for Review. To note, the CA would not have designated the appropriate docket number to the Petition for Review had it not found the same to be in order.

In fine, considering that Bautista, *et al.* had duly perfected their appeal upon the timely filing of their Petition for Review together with payment of the prescribed docket and other lawful fees, the CA had already acquired appellate jurisdiction over the case. Consequently, it is only proper that the CA reinstate and re-docket the same.


WHEREFORE, the petition is **PARTLY GRANTED**. The Court of Appeals is directed to **REINSTATE** and **RE-DOCKET** the Petition for Review filed before it by Julius Bautista, Florentina Juan (Arsenio

Laranang), Bienvinido Baldemor (Reynaldo Baldemor), Carmelita Manayan, Rufino Flores (Norma Flores), Elizarde Estigoy (Consuelo Estigoy), Carmelita Valmonte, Gervacio Aregando (Simeon Martin), Dalisay Gadian (Magdalena Gadian), Jose Ginno Dela Merced, Florentina Silan (Joven Silan, Jr.), Julio Diaz, Gideon Acosta, and Wencesla Bautista.

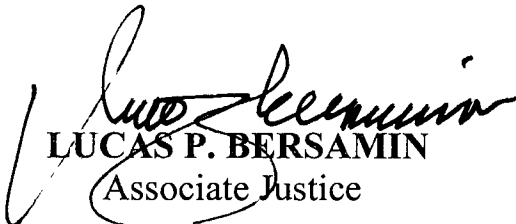
SO ORDERED.

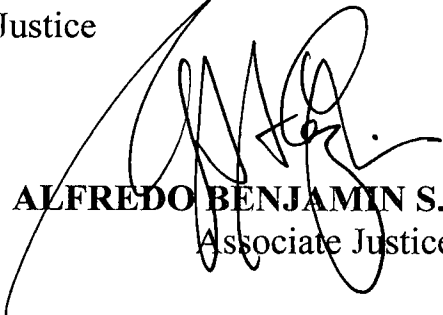

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision 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