

## FIRST DIVISION

[ G.R. No. 218665, July 20, 2016 ]

**JULIUS BAUTTSTA, ARSENIO LARANANG, REYNALDO BALDEMOR, 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, VS. LT. COL. BENITO DONIEGO, JR., LT. COL. ALFREDO PATARATA, AND MAJOR GENERAL GREGORIO PIO CATAPANG, RESPONDENTS.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> is the Resolution<sup>[2]</sup> 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 (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,<sup>[3]</sup> Bienvinido Baldemor,<sup>[4]</sup> Carmelita Manayan, Rufino Flores,<sup>[5]</sup> Elizarde Estigoy,<sup>[6]</sup> Carmelita Valmonte, Gervacio Aregando,<sup>[7]</sup> Dalisay Gadian,<sup>[8]</sup> Jose Ginno Dela Merced, Florentina Silan,<sup>[9]</sup> 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 complaint<sup>[10]</sup> for forcible entry with prayer for the issuance of a TRO and award of damages before the Municipal Trial Court in Cities<sup>[11]</sup> 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.<sup>[12]</sup>

In defense, respondents denied<sup>[13]</sup> 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. 1955<sup>[14]</sup> of then President Ramon Magsaysay.<sup>[15]</sup> They also prayed for the award of moral and exemplary damages.

### The MTCC Ruling

After due proceedings, the MTCC rendered its Decision<sup>[17]</sup> dated October 8, 2013, directing the respondents and all persons acting on their behalf to vacate the subject land and to peacefully turn over the premises to Bautista, *et al.*<sup>[18]</sup> 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. 2006<sup>[19]</sup> 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.<sup>[20]</sup>

Dissatisfied, respondents, through the Office of the Solicitor General (OSG), appealed<sup>[21]</sup> to the RTC, docketed as Civil Case No. 0760-P-13.<sup>[22]</sup>

### The RTC Ruling and Subsequent Proceedings

In a Decision<sup>[23]</sup> 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.<sup>[24]</sup> 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.<sup>[25]</sup>

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 Review<sup>[26]</sup> (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.<sup>[27]</sup>

Subsequently, or on February 2, 2015, Bautista, *et al.* filed a Motion for Reconsideration<sup>[28]</sup> of the RTC's Decision.

Initially, the RTC, in an Order<sup>[29]</sup> dated February 9, 2015, deemed the said Motion for Reconsideration as abandoned in view of the filing of the Motion for Extension.<sup>[30]</sup> Subsequently, however, after having clarified that the Motion for Extension was filed *earlier* than the Motion for Reconsideration, the RTC issued an Order<sup>[31]</sup> dated February 24, 2015 declaring that the Motion for Reconsideration had superseded the Motion for Extension, which was deemed abandoned.<sup>[32]</sup>

Eventually, the RTC denied Bautista, *et al.*'s Motion for Reconsideration in an Order<sup>[33]</sup> 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 Execution<sup>[34]</sup> to implement the RTC's December 9, 2014 Decision. In their comment/opposition,<sup>[35]</sup> 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.<sup>[36]</sup>

In an Order<sup>[37]</sup> dated April 22, 2015, the RTC granted respondents' motion for the issuance of a writ of execution from which Bautista, *et al.* sought<sup>[38]</sup> reconsideration.

### **The Proceedings Before The CA**

Meanwhile, in a Resolution<sup>[39]</sup> 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 reglementary period without justifiable reason. Accordingly, it ordered the Motion for Extension expunged from the records.<sup>[40]</sup>

Subsequently, or on March 31, 2015, Bautista, *et al.* filed a Petition for Review<sup>[41]</sup> before the CA, with appropriate payment<sup>[42]</sup> 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**.<sup>[43]</sup> 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 Injunction<sup>[44]</sup> (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.<sup>[45]</sup>

Finally, on May 27, 2015, Bautista, *et al.* filed an Omnibus Motion for Clarification and Resolution (Re: Assigned Docket Numbers),<sup>[46]</sup> 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 Resolution<sup>[47]</sup> 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.<sup>[48]</sup>

Aggrieved, herein petitioners<sup>[49]</sup> elevated the matter before the Court *via* the instant petition.

### **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 42<sup>[50]</sup> 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 P500.00 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.<sup>[51]</sup> 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.<sup>[52]</sup> 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.<sup>[53]</sup> Consequently, without the petition, the CA cannot be said to have acquired jurisdiction over the case.

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