

THIRD DIVISION

[G.R. No. 191694, December 03, 2014]

NARCISO ZAPANTA, EDILBERTO CAPULONG AND CLARITA CAPULONG, PETITIONERS, VS. CO KING KI AS REPRESENTED BY HIS ATTORNEY-IN-FACT WILLIAM CO, RESPONDENT.

RESOLUTION

VILLARAMA, JR., J.:

Before this Court is a petition^[1] for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the November 20, 2009 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 106882 which dismissed the petition^[3] for *certiorari* filed by herein petitioners Narciso Zapanta, Edilberto Capulong and Clarita Capulong (petitioners) together with Ernesto de Guzman (Ernesto) and Marciano Martin (Marciano). Also assailed is the CA Resolution^[4] dated March 22, 2010 denying the motion for reconsideration.

The essential facts follow:

On September 7, 2000, respondent Co King Ki (respondent), through his Attorney-in-Fact William Co, filed a Complaint^[5] for Ejectment against petitioners, Ernesto, Marciano and one Lawrence Smith (defendants) before the Provincial Agrarian Reform Adjudicator (PARAD) of San Fernando, Pampanga. Respondent alleged that he is the owner of a parcel of land covered by Transfer Certificate of Title No. RT-501 (90470)^[6] and located at Barangay San Francisco, Lubao, Pampanga, with an area of 68,483 square meters more or less (subject property).

The defendants filed their Answer with Compulsory Counterclaim,^[7] averring, among others, that they are qualified farmer beneficiaries of the subject property and that respondent was no longer the owner thereof as early as August 15, 1983 as the same was already foreclosed by the Philippine Veterans Bank.

On December 27, 2007, the Regional Agrarian Reform Adjudicator (RARAD) rendered a Decision^[8] in favor of respondent, declaring defendants as illegal occupants and not tenants of the subject property, and directing them to vacate the same. The said decision was received by the defendants' former counsel, Atty. Rolando Miranda (Atty. Miranda) on February 15, 2008.

On February 29, 2008, defendants filed their Motion for Reconsideration^[9] which the RARAD, however, denied in his Order/Resolution^[10] dated June 5, 2008. Said Order/Resolution was received by Atty. Miranda on June 18, 2008.

On June 30, 2008, defendants' new counsel Atty. Marc Terry C. Perez (Atty. Perez)

filed a Notice of Appeal and Formal Entry of Appearance,^[11] attaching therewith the Withdrawal of Appearance^[12] of Atty. Miranda as defendants' counsel. Respondent moved to dismiss said appeal for being filed out of time. Defendants opposed the motion to dismiss appeal.^[13]

On September 18, 2008, the PARAD issued an Order,^[14] denying the notice of appeal filed by defendants for having been filed out of time. Invoking the Department of Agrarian Reform Adjudication Board (DARAB) Rules of Procedure, the PARAD opined that the period within which defendants should have interposed their appeal expired on June 23, 2008. Thus, the notice of appeal filed by the defendants on June 30, 2008 was filed out of time.

Defendants sought reconsideration of the September 18, 2008 Order while respondent moved for the execution of the December 27, 2007 Decision. In his Joint Order^[15] dated November 17, 2008, the PARAD denied the defendants' Motion for Reconsideration and granted respondent's Motion for Execution. On December 4, 2008, the PARAD issued the Writ of Execution.^[16]

Petitioners, together with Ernesto and Marciano, filed a petition for *certiorari* before the CA on January 9, 2009.^[17]

On November 20, 2009, the CA issued a Resolution,^[18] dismissing the petition for *certiorari* because petitioners failed to append a clearly legible duplicate original/certified true copy of the assailed PARAD Order dated September 18, 2008 and PARAD Joint Order dated November 17, 2008 in violation of Section 3, Rule 46 of the 1997 Rules of Civil Procedure, as amended. Likewise, the CA held that petitioners should have elevated their case before the DARAB on appeal as provided by Section 1, Rule XIV of the 2003 DARAB Rules of Procedure.

The CA denied petitioners' motion for reconsideration in its Resolution^[19] dated March 22, 2010.

Hence, this petition which raises the following issues:

1. Whether the CA committed a serious reversible error in dismissing the petition for *certiorari* on the basis of a strict application of Section 3, Rule 46 of the 1997 Rules of Civil Procedure, as amended, on the attachment of clearly legible duplicate original/certified true copy of the judgment, order, resolution or ruling subject thereof; and
2. Whether the CA committed a serious reversible error in ruling that petitioners' remedy was to elevate their case to the DARAB and not through the petition for *certiorari* filed before the CA.^[20]

Petitioners assert that what was attached to the petition for *certiorari* which they filed before the CA was the copy of the September 18, 2008 Order that was furnished to them by the PARAD through registered mail. They also assert that the attached November 17, 2008 Joint Order had been signed by the officer having custody thereof. Thus, they submit that said petition for *certiorari* substantially

complied with the requirements of the rules. Moreover, petitioners opine that appeal would be slow and inadequate in their case as they are under threat of the immediate execution of the assailed orders and of the demolition of their properties. Hence, they resorted to *certiorari*. Lastly, petitioners appeal for the liberal construction of the rules because they will suffer insurmountably if the case would be dismissed based on a technicality.^[21]

On the other hand, respondent avers that petitioners had ample time to appeal the December 27, 2007 Decision to the DARAB in accordance with the latter's rules. Since petitioners failed to file their appeal on time, respondent submits that said decision has become final and executory. Respondent also relies on the CA's ruling that the special civil action of *certiorari* cannot be a substitute for an appeal.^[22]

We deny the petition.

The complaint in this case was filed on September 7, 2000, during the effectivity of the 1994 DARAB New Rules of Procedure which is applicable in this case. It bears noting that the 2003 DARAB Rules of Procedure, which was effective at the time when petitioners filed their motion for reconsideration and notice of appeal, expressly provides in Section 1, Rule XXIV (Miscellaneous Provisions) thereof that "[a]ll cases pending with the Board and the Adjudicators, prior to the date of effectivity of these Rules, shall be governed by the DARAB Rules prevailing at the time of their filing."

Pertinently, the 1994 DARAB New Rules of Procedure provides:

Rule XIII

APPEALS

SECTION 1. Appeal to the Board. a) An appeal may be taken from an order, resolution or decision of the Adjudicator to the Board by either of the parties or both, orally or in writing, **within a period of fifteen (15) days from the receipt of the order, resolution or decision appealed from**, and serving a copy thereof on the adverse party, if the appeal is in writing.

b) An oral appeal shall be reduced into writing by the Adjudicator to be signed by the appellant, and a copy thereof shall be served upon the adverse party within ten (10) days from the taking of the oral appeal. (Emphasis supplied)

However, petitioners failed to consider the effect on their appeal of the motion for reconsideration which they filed to assail the December 27, 2007 Decision. Section 12, Rule VIII of the same DARAB Rules clearly provides that if a motion for reconsideration is denied, the movant shall have the right to perfect his appeal during the remainder of the period for appeal, reckoned from receipt of the resolution of denial, to wit:

SECTION 12. Motion for Reconsideration. Within fifteen (15) days from receipt of notice of the order, resolution or decision of the Board or Adjudicator, a party may file a motion for reconsideration of such order or