

SECOND DIVISION

[G.R. No. 192908, August 22, 2012]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH),
PETITIONER, VS. ST. VINCENT DE PAUL COLLEGES, INC.,
RESPONDENT.**

DECISION

REYES, J.:

Before the Court is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court, where petitioner Republic of the Philippines (Republic), represented by the Department of Public Works and Highways through the Office of the Solicitor General, questions the resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 108499, to wit:

1. Resolution dated October 30, 2009^[2] dismissing petitioner's petition for *certiorari* under Rule 65 for being filed out of time; and
2. Resolution dated July 15, 2010^[3] denying petitioner's motion for reconsideration.

Antecedent Facts

The instant case arose from two cases filed by the Republic seeking expropriation of certain properties in the name of St. Vincent de Paul Colleges, Inc. (St. Vincent). In Civil Case No. 0062-04, the Republic sought to expropriate 1,992 square meters out of a total area of 6,068 square meters of land for the construction of the Manila-Cavite Toll Expressway Project (MCTEP). Said property belongs to St. Vincent covered by TCT No. T-821169 and located in Binakayan, Kawit, Cavite. In Civil Case No. 0100-04, on the other hand, the Republic sought to expropriate 2,450 square meters out of a total area of 9,039 square meters, also belonging to St. Vincent and covered by TCT No. T-821170. Said property adjoins the property subject of Civil Case No. 0062-04.

Subsequently, the Republic filed in both cases an amended complaint alleging that the subject land originated from a free patent title and should be adjudicated to it without payment of just compensation pursuant to Section 112 of Commonwealth Act No. 141.

On August 9, 2005, the Republic filed in Civil Case No. 0062-04 a motion for the issuance of an order of expropriation.^[4] It was granted by the trial court per Order^[5] dated August 16, 2005, ruling that the Republic has a lawful right to take the 1,992 square meters portion of the subject property, with "no pronouncement as

to just compensation” since the subject property originated from a free patent.^[6] A motion for the issuance of an order of expropriation was likewise filed by the Republic in Civil Case No. 0100-04 but before this could be resolved, the Republic moved to consolidate the two cases, which was granted by the trial court.^[7]

On November 16, 2006, the trial court denied St. Vincent’s motion for reconsideration of its Order dated August 16, 2005 granting expropriation.^[8] As alleged in the petition, no appeal was taken by St. Vincent from said orders.^[9]

After almost 2 years, or on July 28, 2008, St. Vincent filed a Manifestation with Motion for Clarification of the Order dated August 16, 2005,^[10] contending that although it does not oppose the ruling regarding the determination of public purpose and the Republic’s right to expropriate the subject land, it, however, claims that it is entitled to just compensation.

Meanwhile, the Republic attempted to implement the Order dated August 16, 2005 by entering the subject portion of St. Vincent’s property. Aggrieved, the latter demanded upon the Republic and its agents to immediately vacate, and remove any and all equipment or structures they introduced on its property in a demand-letter^[11] dated October 3, 2008.

Due to St. Vincent’s refusal to honor the order of expropriation, the Republic filed an urgent motion for the issuance of a writ of possession, which was denied by the lower court in its Order^[12] dated November 25, 2006 [2008]. The lower court, however, modified its Order dated August 16, 2005 and required the Republic to immediately pay St. Vincent in an amount equivalent to one hundred percent (100%) of the value of the property sought to be expropriated. The Republic moved for reconsideration but it was denied by the lower court per Order^[13] dated January 29, 2009 for lack of factual and legal basis.

Seeking to avail the extra ordinary remedy of *certiorari* under Rule 65 of the Rules of Court, the Republic filed with the CA a motion for additional time of fifteen (15) days within which to file its petition. The CA granted the motion in its Resolution^[14] dated April 30, 2009 and the Republic was given a non-extensible period of fifteen (15) days or until May 4, 2009 within which to file its petition for *certiorari*.

On April 30, 2009, the Republic filed its petition for *certiorari* assailing the lower court’s orders dated November 25, 2008 and January 29, 2009 for having been issued with grave abuse of discretion amounting to lack or in excess of jurisdiction.

On June 19, 2009, the CA, *motu proprio*, issued a Resolution^[15] ordering the Republic to show cause why its petition for *certiorari* should not be dismissed for being filed out of time, pursuant to A.M. No. 07-7-12SC.

The Republic filed its Compliance with Explanation^[16] dated July 1, 2009 pleading for the relaxation of the rules by reason of the transcendental importance of the issues involved in the case and in consideration of substantial justice. St. Vincent filed its Comment/Opposition^[17] dated July 15, 2009 alleging among others that the said explanation is merely *pro forma* due to the Republic’s failure to justify its

explanation.

On October 30, 2009, the CA rendered the assailed resolution dismissing the Republic's petition for *certiorari* on the ground that the petition was filed out of time inasmuch as extensions of time are now disallowed by A.M. No. 07-7-12-SC^[18] and as applied in *Laguna Metts Corporation v. Court of Appeals*.^[19]

On November 26, 2009, the Republic filed its motion for reconsideration alleging that it merely relied in good faith on the appellate court's resolution granting the former an additional period of fifteen (15) days within which to file the subject petition.

On July 15, 2010, the CA rendered the assailed resolution denying the Republic's motion for reconsideration, stating that it cannot disobey the ruling in *Laguna Metts Corporation*.^[20]

Hence, this petition.

The Republic relies on the CA resolution granting its motion for extension of time and upon the strength of the substantial merits of its petition. The Republic also invokes *Domdom v. Third and Fifth Divisions of the Sandiganbayan*,^[21] where the Court ruled that absent a prohibition, motions for extensions are allowed, subject to the Court's sound discretion.

St. Vincent, however, contends that the present petition fails to neither allege any circumstance nor state any justification for the deliberate disregard of a very elementary rule of procedure like Section 4 of Rule 65 of the Rules of Court. And in the absence of any such circumstance or justification, the general rule on *pro forma* motions/pleadings must apply.

The Issue

The Republic discussed the substantial merits of its case; however, the CA did no more than include such matters in its narration of facts, and neither did St. Vincent dwell on said issues. Hence, the only issue to be resolved in this petition is whether the CA committed a reversible error when it dismissed the Republic's petition for *certiorari* for being filed out of time, pursuant to A.M. No. 07-7-12-SC.

The Court's Ruling

We GRANT the petition.

The Court notes that the CA Resolution dated April 30, 2009, which initially granted the Republic's motion for extension, was premised on the mistaken notion that the petition filed by the latter was one for petition for review as a mode of appeal. The CA resolution stated, among others: "[P]rovided that this Motion for Extension of Time to File Petition for Review is seasonably filed, as prayed for, x x x."^[22] Thus, the CA granted extension inasmuch as motions for this purpose are allowed by the rules.^[23] On this score alone, the CA should have admitted the petition filed by the Republic since the latter merely relied on its Resolution dated April 30, 2009 granting the extension prayed for.

Nevertheless, the CA subsequently dismissed the petition filed by the Republic on the ground that the same was filed out of time, following A.M. No. 07-7-12-SC. In its Resolution dated July 15, 2010, which dismissed the Republic's motion for reconsideration, the CA also relied on the ruling in *Laguna Metts Corporation* that the sixty (60)-day period within which to file a petition for *certiorari* is non-extendible. The petitioner, however, insists that *Domdom* allows extensions of time to file a petition.

In order to resolve the instant controversy, the Court deems it necessary to discuss the relationship between its respective rulings in *Laguna Metts Corporation* and *Domdom* with respect to the application of the amendment introduced by A.M. No. 07-7-12-SC to Section 4, Rule 65 of the Rules of Court.

Before said amendment, Section 4 of Rule 65 originally provides:

Sec. 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days

As amended by A.M. No. 07-7-12-SC, Section 4 of Rule 65 now reads:

Sec. 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or

these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.

In interpreting said amendment, the Court, in *Laguna Metts Corporation*, held that:

As a rule, an amendment by the deletion of certain words or phrases indicates an intention to change its meaning. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment.

If the Court intended to retain the authority of the proper courts to grant extensions under Section 4 of Rule 65, the paragraph providing for such authority would have been preserved. The removal of the said paragraph under the amendment by A.M. No. 07-7-12-SC of Section 4, Rule 65 simply meant that there can no longer be any extension of the 60day period within which to file a petition for *certiorari*.

The rationale for the amendments under A.M. No. 07-7-12-SC is essentially to prevent the use (or abuse) of the petition for *certiorari* under Rule 65 to delay a case or even defeat the ends of justice. Deleting the paragraph allowing extensions to file petition on compelling grounds did away with the filing of such motions. **As the Rule now stands, petitions for *certiorari* must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration.**^[24] (Citation omitted and emphasis ours)

Nevertheless, *Domdom* later stated:

On the People's argument that a motion for extension of time to file a petition for *certiorari* is no longer allowed, the same rests on shaky grounds. Supposedly, the deletion of the following provision in Section 4 of Rule 65 by A.M. No. 07-7-12-SC evinces an intention to absolutely prohibit motions for extension:

"No extension of time to file the petition shall be granted except for the most compelling reason and in no case exceeding fifteen (15) days."

The full text of Section 4 of Rule 65, as *amended* by A.M. No. 077- 12-SC, reads:

x x x x