

SECOND DIVISION

[G.R. No. 158093, June 05, 2009]

**ALBERTO IMPERIAL, PETITIONER, VS. HON. COURT OF APPEALS
AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

DECISION

BRION, J.:

Alberto Imperial (*petitioner*) filed this petition for *certiorari*^[1] to seek the reversal of the January 16, 2003 Decision^[2] of the Court of Appeals (CA), which in turn reversed and set aside the Order^[3] dated March 27, 1996 of the Regional Trial Court (RTC),^[4] and its subsequent Resolution dated April 10, 2003^[5] denying the petitioner's motion for extension of time to file a motion for reconsideration.

BACKGROUND FACTS

Together with Obdulia Cocatana Quintan and Sulpicio Cocatana, the petitioner filed with the RTC a petition for reconstitution of Original Certificate of Title (OCT) No. 35796, covering Lot No. 2395 of the Cadastral Survey of Ligao, Albay. The title covered a 3,675-square meter property registered under the names of Sabina Cocatana, Francisco Cocatana and Crispo Cocatana, all of Ligao, Albay.

Sabina died on January 4, 1952 and was survived by two daughters - Obdulia Cocatana Quintan and Dalmacia Cocatana. Francisco, who died on October 30, 1936, was survived by Sulpicio, Consorcia, Marcelina, Marcelino, Trinidad and Jaime. Crispo sold his undivided share to Trinidad Cocatana Gribialde, who subsequently sold this share to Alberto Imperial.

The original copy of OCT No. 35796 was lost or destroyed during the last world war; hence, the petition for its reconstitution. The source of the reconstitution was the owner's duplicate of the certificate of title.

The RTC scheduled the initial hearing on May 10, 1995 and the notice of initial hearing was published in the March 27, 1995 (Vol. 91, No. 13) and April 3, 1995 (Vol. 91, No. 14) issues of the Official Gazette. On March 27, 1996, the RTC issued an Order granting the petition for reconstitution.^[6]

The Office of the Solicitor General (OSG) appealed the RTC decision with the CA after noting an irregularity in the Certificate of Publication.^[7] The OSG argued that the trial court failed to acquire jurisdiction over the petition for reconstitution because the jurisdictional requirements set by Section 13 of Republic Act (RA) No. 26^[8] were not sufficiently met, particularly the requirement that the notice of initial hearing be published twice in successive issues of the Official Gazette at least 30 days prior to the hearing. The Certificate of Publication indicated that the two

notices of initial hearing were published in the March 27, 1995 and April 3, 1995 issues of the Official Gazette. The OSG found the Certificate of Publication to be irregular because it was dated April 3, 1995, yet it was officially released on March 28, 1995.

In its Decision promulgated on January 16, 2003,^[9] the CA agreed with the OSG's contentions. It reasoned that "*the apparent irregularity of the issuance and publication of the notice insofar as the April 3, 1995-notice is concerned tends to strengthen the fact that the required notice to be published twice at least 30 days prior to the hearing was not duly followed.*" The CA concluded that there was no compliance with the publication requirement under RA No. 26, and reversed and set aside the decision of the trial court.

The petitioner received his copy of the CA's Decision on January 29, 2003. On February 11, 2003, he filed a *Motion for Extension of Time to File Motion for Reconsideration*.^[10] The petitioner cited the following grounds for the motion for extension of time to file the motion for reconsideration: 1) the preparation of the motion for reconsideration requires the examination of the records of the case, particularly the certificate of publication cited by the CA, and it would take time to review the records of the case, which are still with the CA; and 2) the petitioner will present a certification from the National Printing Office (NPO) that will show that there has been compliance with the publication requirement of RA No. 26.

The petitioner filed his motion for reconsideration on March 11, 2003, before the expiration of the extended period he prayed for.^[11] The CA denied the motion for extension in its Resolution of April 10, 2003.^[12] In the same Resolution, the CA also ordered that the motion for reconsideration expunged from the records.

The petitioner raises the following issues in the petition for *certiorari* he seasonably filed with us:

ISSUES

I.

THE RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED PETITIONER'S MOTION FOR EXTENSION OF TIME TO FILE A MOTION FOR RECONSIDERATION OF ITS DECISION

II.

RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DID NOT RESOLVE THE MOTION FOR RECONSIDERATION THAT WAS, IN FACT, FILED BY PETITIONER ON THE MERITS THEREOF.

The petitioner argues that the Rules are silent on whether a motion for extension of time to file a motion for reconsideration is allowed or prohibited. This implies, according to him, that, while such a motion is generally not allowed, it is also not expressly prohibited. The petitioner also argues that the CA decision was patently erroneous because the NPO sometimes releases issues of the Official Gazette earlier

than the official date of issue. The petitioner attached a certification issued by NPO's Director IV, Melanio S. Torio, stating that the NPO releases issues of the Official Gazette early if printing is also finished early.

OUR RULING

We find the petition meritorious.

In a long line of cases starting with *Habaluyas Enterprises v. Japzon*,^[13] we have laid down the following guideline:

Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court. Such a motion may be filed only in cases pending with the Supreme Court as the court of last resort, which may in its sound discretion either grant or deny the extension requested.

Thus, the general rule is that no motion for extension of time to file a motion for reconsideration is allowed. This rule is consistent with the rule in the 2002 Internal Rules of the Court of Appeals^[14] that unless an appeal or a motion for reconsideration or new trial is filed within the 15-day reglementary period, the CA's decision becomes final.^[15] Thus, a *motion for extension of time to file a motion for reconsideration* does not stop the running of the 15-day period for the computation of a decision's finality. At the end of the period, a CA judgment becomes final, immutable and beyond our power to review.

This rule, however, is not absolute and admits of exceptions based on a liberal reading of the rule. In *Barnes v. Padilla*,^[16] (a case very similar to the present case and where the CA found the petitioner guilty of forum shopping), the Court opted for the exception. The petitioner in *Barnes*, instead of filing a motion for reconsideration of the CA's decision, filed a motion for extension of time to file a motion for reconsideration. The CA denied the motion because of the rule disallowing an extension of time to file a motion for reconsideration. This Court, however, looked into the merits of the forum shopping charge and opted to suspend the prohibition against a motion for extension of time to file a motion for reconsideration, after it found the petitioner not liable for forum shopping. In opting for the liberal application of the rules in the interest of equity and justice, the Court held that we "*cannot look with favor on a course of action which would place the administration of justice in a straight jacket for then the result would be a poor kind of justice if there would be justice at all.*"

In the present case, the CA apparently made a mountain out of a mole hill over a perceived irregularity in the certificate of publication issued by the NPO on March 28, 1995. This certificate stated that the notice of the petition for reconstitution filed by Obdulia Cocatana Quintan, Sulpicio Cocatana, and Alberto Imperial was published in the Official Gazette, Volume 91, No. 13, date of issue, March 27, 1995, and No. 14, date of issue, April 3, 1995. The certificate further declared that "the last issue [referring to the April 3, 1995 issue] has been officially released by this Office on March 28, 1995." Because of this, the CA concluded that the requirement of publication of the notice of the petition in two consecutive issues of the Official