

## THIRD DIVISION

[ G.R. No. 159792, December 23, 2009 ]

**BARANGAY SANGALANG, REPRESENTED BY ITS CHAIRMAN  
DANTE C. MARCELLANA, PETITIONER, VS. BARANGAY  
MAGUIHAN, REPRESENTED BY ITS CHAIRMAN ARNULFO  
VILLAREZ, RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

Before this Court is a Petition for Review<sup>[1]</sup> on *certiorari*, under Rule 45 of the Rules of Court, seeking to set aside the October 17, 2002 Decision<sup>[2]</sup> and August 25, 2003 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 70021.

The facts of the case:

The controversy has its roots in a *barangay* jurisdiction dispute between petitioner Barangay Sangalang and respondent Barangay Maguihan, both situated in Lemery, Batangas. Specifically, the properties involved in the controversy are those covered by Tax Declaration Nos. 038-00315, 038-00316, and 038-00317. Petitioner claims the lots to be within their territorial jurisdiction, whereas respondent maintains that they are within their territorial boundary.

The case was lodged before the *Sangguniang Bayan*, which referred it to a hearing committee. In turn, the committee formed rendered a report<sup>[4]</sup> to the effect that the properties in dispute belonged to petitioner. The recommendation was subsequently affirmed in Resolution No. 75-96<sup>[5]</sup> passed on November 14, 1996 by the *Sangguniang Bayan* of Lemery, Batangas, the pertinent portion of which reads:

Resolved, as it hereby resolves to recognize as it hereby recognizes the old boundaries of Barangay Maguihan and Sangalang, specifically the areas which are the subject of a barangay dispute covered by TD Nos. 038-00315, 038-00316 and 038-00317 are within the territorial jurisdiction of Barangay Sangalang.<sup>[6]</sup>

Respondent appealed the decision to the Regional Trial Court (RTC) pursuant to Section 119<sup>[7]</sup> of the Local Government Code, and the same was docketed as Barangay Jurisdiction Dispute No. 1.

On April 27, 2000, the RTC rendered a Decision<sup>[8]</sup> ruling in favor of respondent, the dispositive portion of which states:

WHEREFORE, Resolution No. 75-96, Series of 1996 of the Sangguniang Bayan of Lemery, Batangas is hereby reversed and set aside and that Lot Nos. 4469 and 6650, covered by and embraced in Tax Declaration Nos. 038-00315, 038-00316, and 038-00317 of the Municipal Assessor of Lemery, Batangas, are hereby adjudged and declared as within the territorial jurisdiction of appellant Barangay Maguihan and, consequently, the Municipal Assessor of Lemery, Batangas and the Provincial Assessor of the Province of Batangas are hereby ordered to make the necessary corrections in its records implemental of this decision.

SO ORDERED.<sup>[9]</sup>

Petitioner filed a Motion for Reconsideration,<sup>[10]</sup> which was, however, denied by the RTC in an Order<sup>[11]</sup> dated December 20, 2000.

Aggrieved, petitioner then filed a Notice of Appeal.<sup>[12]</sup> Later, petitioner filed an Amended Notice of Appeal.

On October 17, 2002, the CA rendered a Decision<sup>[13]</sup> dismissing the appeal, the dispositive portion of which reads:

IN VIEW OF ALL THE FOREGOING, the present appeal is ordered DISMISSED. No cost.

SO ORDERED.<sup>[14]</sup>

In dismissing the appeal, the CA ruled that petitioner had availed itself of the wrong remedy in filing a notice of appeal instead of filing a petition for review under Rule 42 of the Rules of Court. The pertinent portions of said decision is hereunder reproduced, to wit:

Given the procedural mandates, the Decision of the Regional Trial Court of Lemery, Batangas, dated April 27, 2000, was rendered by the Regional Trial Court in the exercise of its appellate jurisdiction. Appropriately, under Section 22 of Batas Pambansa Blg. 129, decisions of the Regional Trial Court in the exercise of its appellate jurisdiction, shall be appealable to the Court of Appeals by way of petitions for review under Rule 42 of the 1997 Rules of Civil Procedure.<sup>[15]</sup>

The CA also ruled that if said appeal were to be considered as an ordinary appeal under Rule 41, it still should be dismissed, because the submitted appellant's brief failed to contain a subject index and page references to the records requirement in its Statement of Facts and Case and Argument, as provided for in Section 13 of Rule 44 of the 1997 Rules of Procedure.<sup>[16]</sup>

Petitioner filed a Motion for Reconsideration, which was, however, denied by the CA in a Resolution dated August 25, 2003.

Hence, herein petition, with petitioner raising the following assignment of errors, to wit:

**A.**

**THE COURT A QUO COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE APPEAL OF PETITIONER SOLELY BASED ON THE RIGID AND STRICT APPLICATION OF TECHNICALITIES OVERRIDING SUBSTANTIAL JUSTICE, THAT IS, THE MERIT OF THE PETITIONER'S APPEAL, IN UTTER VIOLATION OF EXISTING AND WELL SETTLED NUMEROUS DECISIONS OF THIS HONORABLE SUPREME COURT.**

**B.**

**THE DECISION, ANNEX "I", AND THE ORDER, ANNEX "K", RENDERED BY THE REGIONAL TRIAL COURT OF BATANGAS, BRANCH V, LEMERY, BATANGAS, IN CIVIL CASE BOUNDARY JURISDICTIONAL DISPUTE NO. 01, REVERSING AND SETTING ASIDE THE APPEALED RESOLUTION NO. 75-96, SERIES OF 1996, OF THE SANGGUNIANG BAYAN OF LEMERY, BATANGAS, ARE NULL AND VOID BECAUSE RESPONDENT MAGUIHAN HAS NOT PERFECTED ITS APPEAL AND BY REASON THEREOF, THE TRIAL COURT HAS NOT ACQUIRED APPELLATE JURISDICTION.**

**C.**

**THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF JURISDICTION IN SUBSTITUTING ITS OWN JUDGMENT OVER AND ABOVE THE JUDGMENT OF THE SANGGUNIANG BAYAN OF LEMERY, BATANGAS, WHICH IS SUPPORTED BY SUBSTANTIAL EVIDENCE LIKEWISE IN DISREGARD OF THE EXISTING AND WELL SETTLED DECISIONS OF THIS HONORABLE SUPREME COURT.<sup>[17]</sup>**

At the outset, this Court shall first address the procedural issues raised by petitioner.

This Court is bewildered by petitioner's posture to tailor-fit the rules of court to its own convenience. The first and second assigned errors involve a question of the propriety of a strict application of the rules. It seems, however, that petitioner has taken a divergent stand on the said matter depending, on whether the same would be favorable to his cause. As to his first assigned error, petitioner faults the CA for having strictly applied the rules of court notwithstanding his choice of the wrong remedy; yet, on the other hand, as to his second assigned error, petitioner faults the RTC for not having strictly applied the rules of court to respondent's alleged failure to pay the corresponding docket fees.

Anent the issue of docket fees, this Court, in *Yambao v. Court of Appeals*,<sup>[18]</sup>

declared:

x x x Considering the importance and purpose of the remedy of appeal, an essential part of our judicial system, courts are well-advised to proceed with caution so as not to deprive a party of the right to appeal, but rather, ensure that every party-litigant has the "amplest opportunity for the proper and just disposition of his cause, freed from constraints of technicalities." In line with this policy, we have held that, in appealed cases, the failure to pay the appellate docket fee does not automatically result in the dismissal of the appeal x x x

A reading of the records of the case shows that it was only in his Supplemental Motion for Reconsideration<sup>[19]</sup> to the RTC Decision that petitioner first raised the issue of non-payment of docket fees. Respondent, for his part, filed with the RTC an Opposition and Comment<sup>[20]</sup> explaining his failure to file the corresponding docket fees, thus:

1. That as regards the claim of appellee that the docket fee has not been paid by the appellant the same is correct. But the appellant who appealed the case by himself and being a layman was not aware that a docket fee should be paid in case perfection of an appeal and no one from the court's personnel reminds (sic) him of this requirement. But in order not to sacrifice the ends of justice, the appellant is willing to pay the docket fee and other lawful charges necessary for the perfection of an appeal.<sup>[21]</sup>

The Order denying petitioner's motion for reconsideration was silent as to the issue of the non-payment of docket fees; however, this Court deems that the RTC must have accepted the explanation given by respondent, otherwise, said court would have dismissed the appeal and reconsidered its decision. The failure to pay docket fees does not automatically result in the dismissal of an appeal, it being discretionary on the part of the appellate court to give it due course or not.<sup>[22]</sup> This Court will then not interfere with matters addressed to the sound discretion of the RTC in the absence of proof that the exercise of such discretion was tainted with bias or prejudice, or made without due circumspection of the attendant circumstances of the case.<sup>[23]</sup>

In any case, the more pressing issue is whether or not this Court should even entertain petitioner's appeal.

By filing a Notice of Appeal assailing the RTC Decision, petitioner has availed itself of the remedy provided for under Rule 41 of the Rules of Court, which provides for the ordinary mode of appeal. The CA, however, considered petitioner's choice to be the wrong remedy and, forthwith, dismissed the petition.

After an examination of relevant laws pertinent to herein petition, this Court finds that the CA was correct in holding that petitioner had availed itself of the wrong remedy.

As correctly observed by the CA, under Section 118 of the Local Government Code, the jurisdictional responsibility for settlement of boundary disputes between and among local government units is to be lodged before the proper *Sangguniang Panlungsod* or *Sangguniang Bayan* concerned, if it involves two or more *barangays* in the same city or municipality. Under Section 118(e) of the same Code, if there is a failure of amicable settlement, the dispute shall be formally tried by the *sanggunian* concerned and shall decide the same within (60) days from the date of the certification referred to.<sup>[24]</sup>

Section 119 of the Local Government Code also provides that the decision of the *sanggunian* concerned may be appealed to the RTC having jurisdiction over the area in dispute, within the time and manner prescribed by the Rules of Court.

In the case at bar, it is clear that when the case was appealed to the RTC, the latter took cognizance of the case in the exercise of its appellate jurisdiction, not its original jurisdiction. Hence, any further appeal from the RTC Decision must conform to the provisions of the Rules of Court dealing with said matter. On this score, Section 2, Rule 41 of the Rules of Court provides:

*Sec. 2. Modes of appeal.*

(a) *Ordinary appeal.* - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

(b) **Petition for review.** - **The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.**<sup>[25]</sup>

Based on the foregoing, it is apparent that petitioner has availed itself of the wrong remedy. Since the RTC tried the case in the exercise of its appellate jurisdiction, petitioner should have filed a petition for review under Rule 42 of the Rules of Court, instead of an ordinary appeal under Rule 41. The law is clear in this respect.

In any case, as in the past, this Court has recognized the emerging trend towards a liberal construction of the Rules of Court. In *Ong Lim Sing, Jr. v. FEB Leasing and Finance Corporation*,<sup>[26]</sup> this Court stated:

Courts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to due process. In numerous cases, this Court has allowed liberal construction of the rules