

FIRST DIVISION

[G.R. No. 173329, December 21, 2009]

SUSAN G. PO AND LILIA G. MUTIA, PETITIONERS, VS. OMERO DAMPAL,* RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

On December 19, 1984, two farm lots located in Manolo Fortich, Bukidnon which were covered by OCT No. P-4146 and OCT No. 4147, with an approximate area of 2.5773 and 2.0651 hectares, respectively, were mortgaged for P33,000.00 by the spouses Florencio and Ester Causin, through their attorney-in-fact Manuel Causin, to the now-defunct Rural Bank of Tagoloan, Inc.

For failure to pay the obligation, the bank foreclosed the mortgage and sold the lots at public auction on July 8, 1992 to petitioner Susan G. Po (Susan) who was the highest bidder. OCT No. P-4146 and OCT No. 4147 were subsequently cancelled and TCT No. T-39280 and TCT No. 39281 were, in their stead, issued in Susan's favor, following the spouses Causin's failure to redeem the property.

On September 13, 1993, Susan sold the lot covered by TCT No. 39281 to her herein co-petitioner Lilia G. Mutia (Lilia) who was issued TCT No. T-40193.

On September 29, 1994, the spouses Causin and their tenant-herein respondent Omero Dampal (Dampal) filed with the Regional Trial Court of Manolo Fortich a complaint against the bank for *Annulment of the Real Estate Mortgage and Sale*, docketed as Civil Case No. 94-280 (the civil case).

While the civil case was pending or on June 16, 1997, Dampal filed a complaint against Susan and Lilia before the Department of Agrarian Reform Adjudication Board (DARAB) Region X, for *Legal Redemption with Preliminary Mandatory Injunction*, docketed as DARAB Case No. X-05-361.

By Decision^[1] of September 16, 1997, the Regional Adjudicator of DARAB Region X disallowed the redemption prayed for on the ground of prescription, albeit he declared that Dampal is entitled to security of tenure as a tenant; and that although Dampal was not given notice in writing of the public auction sale, he was deemed to have knowledge thereof because of the civil case for annulment, hence, there was substantial compliance with the rules.

Dampal's motion for reconsideration having been denied by Order^[2] dated October 28, 1997, he appealed to the DARAB Central Office where it was docketed as DARAB Case No. 7315.

By Decision^[3] of October 19, 2004, the DARAB Central Office *reversed* the Adjudicator's ruling. It held that Dampal, as a tenant, had the right to redeem the mortgage in the amount of P40,000.00 plus interest; and that the right had not prescribed, owing to the lack of *written* notice to him and to the DAR of the sale. It accordingly ordered the cancellation of the title issued in favor of Susan and that of Lilia and the issuance of new ones in Dampal's favor, upon his payment of the redemption amount. Susan and Lilia's motion for reconsideration of the said Decision was denied by Resolution^[4] of July 7, 2005, hence, they appealed via certiorari to the Court of Appeals.

By Resolution^[5] of October 19, 2005, the appellate court, holding that petitioners should have appealed the DARAB Decision via Rule 43, instead of Rule 65, dismissed petitioners' petition for certiorari.

Petitioners thereupon filed before the appellate court a Motion for Leave to Amend Petition and for Admission of Amended Petition, which motion was denied by Resolution^[6] of March 28, 2006. In denying the motion, the appellate court held that dismissal due to error in the mode of appeal cannot be reconsidered by the mere expediency of filing an amended petition. Moreover, it noted that it was filed out of time.

Petitioners moved for reconsideration of the appellate court's March 28, 2006 Resolution, alleging that their error in the choice of remedy was excusable as they relied on Sec. 1, Rule XIV of the DARAB Revised Rules of Procedure, reading:

Sec. 1. *Appeal to the Board.* - An appeal may be taken to the Board from a resolution, decision or final order of the Adjudicator that completely disposes of the case by either or both of the parties within a period of fifteen (15) days from receipt of the resolution/decision/final order appealed from or of the denial of the movant's motion for reconsideration in accordance with section 12, Rule X by:

- 1.1 filing a Notice of Appeal with the Adjudicator who rendered the decision or final order appealed from;
- 1.2 furnishing copies of said Notice of Appeal to all parties and the Board; and
- 1.3 paying an appeal fee of Seven Hundred Pesos (Php700.00) to the DAR Cashier where the Office of the Adjudicator is situated or through postal money order, payable to the DAR Cashier where the Office of the Adjudicator is situated, at the option of the appellant.

A pauper litigant shall be exempt from the payment of the appeal fee.

Proof of service of Notice of Appeal to the affected parties and to the Board and payment of appeal fee shall be filed, within the reglementary period, with the Adjudicator a quo and shall form part of the records of the case.

Non-compliance with the foregoing shall be a ground for dismissal of the appeal. (underscoring supplied)

By Resolution^[7] of May 22, 2006, the appellate court denied the motion for reconsideration, holding that nothing in the above-quoted Sec. 1 of Rule XIV states that the remedy of an aggrieved party from an adverse decision of the DARAB is by certiorari, and that the applicable rule is Sec. 1, Rule XV of the 2003 DARAB Revised Rules of Procedure.

On petitioners' attribution of the *faux pas* to their counsel, the appellate court held that they are bound thereby. Hence, this petition.

Petitioners assert that the appellate court, in dismissing their petition due to technicality, denied them the opportunity to establish the merits of their case. They maintain that Dampal's right of redemption has prescribed, he having admitted Susan's acquisition of title to the property as early as 1993 but that it was only in 1997 that he filed the action for redemption before the DARAB. They thus conclude that the need for sending him notice in writing could be dispensed with; and that Dampal's inaction estopped him from asserting his right as a tenant.

The petition is bereft of merit.

The earlier-quoted Sec. 1 of Rule XIV of the DARAB Revised Rules of Procedure dwells on how appeals to the **DARAB Board** from the decisions, resolutions or final orders of the **Adjudicator** are to be taken. How petitioners could have been misled to file their appeal from the DARAB's Decision to the Court of Appeals via certiorari escapes comprehension.

Under Rule 43 of the Rules of Court, appeals from the decisions of the DARAB should be filed with the Court of Appeals by verified petition for review. Thus, Sec. 1 of Rule 43 provides:

SECTION 1. *Scope.* - This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, **Department of Agrarian Reform under Republic Act No. 6657**, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

SECTION 2. *Where to appeal.* - An appeal under this Rule may be taken to the **Court of Appeals** within the period and in the manner herein