510 Phil. 839

FIRST DIVISION

[G.R. NO. 167886, October 25, 2005]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. PAMINTUAN DEVELOPMENT CO., REPRESENTED BY MARIANO PAMINTUAN, JR., RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition for review on certiorari assails the April 15, 2005 Decision[1] of the Court of Appeals in CA-G.R. SP No. 85843, which dismissed Land Bank of the Philippines' (LANDBANK's) petition and sustained the August 2, 2004 Order[2] of the Department of Agrarian Reform Adjudication Board (DARAB) which denied due course to the notice of appeal and notice of entry of appearance filed by LANDBANK's counsels.

The antecedent facts show that in DARAB Case No. 1204-0545-2003 for "Preliminary Determination of Just Compensation," DARAB rendered a Decision[3] dated April 27, 2004, fixing the just compensation of respondent Pamintuan Development Company's 274.9037 hectare lot covered by Transfer Certificate of Title No. T-4972 and located at San Vicente, Makilala, Cotabato, at P58,237,301.68. The dispositive portion thereof, reads:

> WHEREFORE, foregoing considered, the just compensation of TCT No. T-4972 registered in the name of Pamintuan Development Company (PAMDEVCO) containing an area of 274.9037 hectares located at San Vicente, Makilala, Cotabato is preliminary determined at FIFTY EIGHT MILLION TWO HUNDRED THIRTY SEVEN THOUSAND THREE HUNDRED ONE AND 68/100 (P58,237,301.68) PESOS.
>
> SO ORDERED.[4]

Petitioner moved for reconsideration but was denied. The order denying the motion for reconsideration was received by petitioner on June 11, 2004. At the proceedings before the trial court, petitioner was represented by Piczon, Beramo & Associates.

On June 4, 2004, Attys. Engilberto F. Montarde and Felix F. Mesa, filed a Notice of Entry of Appearance[5] in behalf of petitioner. Within the period to appeal, or on June 15, 2004, said counsels also filed a Notice of Appeal[6] via registered mail. The Certification[7] attached to the Notice of Appeal was signed by Loreto B. Corotan, Head of petitioner's Agrarian Operations Center.

Respondent filed an Opposition contending that the notice of appeal and notice of entry of appearance should be denied due course because Attys. Montarde and Mesa

failed to show that their appearance was authorized by petitioner. Said new counsels, on the other hand, asserted that they were duly authorized, attaching to their Comment the Special Power of Attorney (SPA) executed by Gilda E. Pico, Executive Vice President of petitioner, authorizing Loreto B. Corotan to represent,[8] and designating[9] Attys. Montarde and Mesa as counsels for LANDBANK.

On August 2, 2004, DARAB issued an order holding that Attys. Montarde and Mesa are without authority to represent petitioner because the latter failed to effect a valid substitution of their former counsel of record. It added that the April 27, 2004 decision had become final and executory because the notice of appeal filed by its purported new counsels is a mere scrap of paper which did not toll the running of the reglementary period to appeal. Thus -

> WHEREFORE, foregoing considered, the instant Notice of Entry of Appearance and the Notice of Appeal are hereby not given DUE COURSE for LACK OF LEGAL BASIS. The decision dated April 27, 2004 has become FINAL and EXECUTORY.
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> SO ORDERED.[10]

Petitioner filed a motion for reconsideration appending two memoranda[11] signed by Atty. Danilo B. Beramo, petitioner's Department Manager and Head, Comprehensive Agrarian Reform Program (CARP) Legal Services Department, confirming the authority of Atty. Montarde to file a notice of appeal.

The DARAB, however, denied petitioner's motion for reconsideration. Hence, a petition for *certiorari* was filed by petitioner with the Court of Appeals, but the latter dismissed the petition. It sustained the DARAB's finding that Attys. Montarde and Mesa were not clothed with authority to file the notice of appeal.[12]

Petitioner filed the instant petition with prayer for the issuance of a temporary restraining order.

In a resolution dated June 6, 2005, the Court issued a temporary restraining order enjoining the execution of the April 27, 2004 decision of the DARAB.

We find that the DARAB gravely abused its discretion in holding that Attys. Montarde and Mesa lacked the authority to file a notice of appeal in behalf of petitioner. Section 21, Rule 138 of the Rules of Court provides:

> SEC. 21. *Authority of attorney to appear*. - An attorney is presumed to be properly authorized to represent any cause in which he appears, and no written power of attorney is required to authorize him to appear in court for his client, but the presiding judge may, on motion of either party and on reasonable grounds therefor being shown, require any attorney who assumes the right to appear in a case to produce or prove the authority under which he appears, and to disclose, whenever pertinent to any issue, the name of the person who employed him, and may thereupon make such order as justice requires. An attorney wilfully appearing in court for a person without being employed, unless by leave of the court, may be punished for contempt as an officer of the court who has misbehaved in his official transactions.

The presumption in favor of the counsel's authority to appear in behalf of a client is a strong one.[13] A lawyer is not even required to present a written authorization from the client. In fact, the absence of a formal notice of entry of appearance will not invalidate the acts performed by the counsel in his client's name.[14] However, the court, on its own initiative or on motion of the other party require a lawyer to adduce authorization from the client.

In the case at bar, the filing of a notice of entry of appearance by Attys. Montarde and Mesa, gave rise to the presumption that they have the authority to file the notice of appeal in behalf of petitioner. When their authority was challenged, they presented the SPA executed by Gilda E. Pico, Executive Vice President of LANDBANK authorizing them to represent petitioner; and the two memoranda of Atty. Danilo B. Beramo, Department Manager and Head, CARP Legal Services Department, requesting Atty. Montarde to file a notice of appeal. These documents are sufficient proof of their authority to represent petitioner's cause. The doubt entertained by the DARAB as to when the SPA and memoranda were executed is of no consequence in view of petitioner's vigorous assertion that it authorized said lawyers to file a notice of appeal. Indeed, even an unauthorized appearance of an attorney may be ratified by the client either expressly[15] or impliedly.[16] Ratification retroacts to the date of the lawyer's first appearance and validates the action taken by him.[17]

The DARAB's assertion that Attys. Montarde and Mesa cannot validly represent petitioner because there was no proper substitution of counsels, lacks merit. Petitioner never intended to replace its counsel of record, the law firm Piczon, Beramo & Associates. Though not specified in the notice, Attys. Montarde and Mesa entered their appearance as collaborating counsels.

Likewise, the Court of Appeals erroneously applied the doctrine laid down in *Sublay v. National Labor Relations Commission*,[18] in dismissing the petition. In *Sublay*, it was held that a substitution cannot be presumed from the mere filing of a notice of appearance of a new lawyer and that the representation of the first counsel of record continuous until a formal notice to change counsel is filed with the court.[19] Thus, absent a formal notice of substitution, all lawyers who appeared before the court or filed pleadings in behalf of the client are considered counsels of the latter. All acts performed by them are deemed to be with the client's consent.

The case of *Ong Ching v. Ramolete*,[20] is on all fours with the instant controversy. The trial court therein held that the period to appeal had already lapsed rendering the assailed decision final and executory because petitioner's motion for reconsideration, though presented within the reglementary period, is without legal effect having been filed by a lawyer other than petitioner's counsel of record. It disregarded petitioner's written authorization belatedly filed by said new lawyer as the same was not appended to the motion for reconsideration previously filed. In debunking the ruling of the trial court, we stressed that the new counsel who filed the motion for reconsideration in behalf of the client is presumed to be authorized even if he filed no formal notice of entry of appearance. Hence, said motion effectively tolled the running of the period to appeal. As explained by the Court:

> The present case, however, does not involve a substitution of attorneys, but merely the employment by petitioner of an additional counsel. True it is, as claimed by respondents, that the motion for reconsideration filed