

## THIRD DIVISION

[ G.R. No. 144560, May 13, 2004 ]

**FLORENTINO ZARAGOZA, PETITIONER, VS. PEDRO NOBLEZA,  
RESPONDENT.**

### DECISION

**CARPIO MORALES, J.:**

The petition for review on Certiorari at bar seeks to set aside and annul the Court of Appeals May 31, 2000 Resolution<sup>[1]</sup> in CA-G.R. SP. 57778 dismissing the appeal of petitioner Florentino Zaragoza, a motion for reconsideration<sup>[2]</sup> of which was, by Resolution<sup>[3]</sup> of August 16, 2000, denied.

Petitioner entered on November 15, 1983 into an Agricultural Leasehold Contract<sup>[4]</sup> over a 1.18 hectare parcel of land situated in Barangay Banguit, Cabatuan, Iloilo with respondent Pedro Nobleza.

On February 6, 1991, petitioner instituted a complaint,<sup>[5]</sup> for Termination of Leasehold Relationship with Damages, against respondent before the Provincial Agrarian Reform Adjudication Board (PARAD) of Iloilo City, docketed as Reg. Case No. VI-09-IL-91. The complaint was later amended,<sup>[6]</sup> and still later amended,<sup>[7]</sup> raising as grounds for the termination of the leasehold contract the following alleged infractions committed by respondent:

- a.) Not notifying the plaintiff (herein petitioner) on or before his threshing;
- b.) Not notifying the plaintiff on or before his actual harvesting;
- c.) Not following proven farm practices to make the landholding productive;
- d.) Not delivering to the plaintiff the full and total value of his rental equivalent as agreed (sic);
- e.) Short changing plaintiff (sic) during harvesting and threshing;
- f.) Defendant (herein respondent) does not personally cultivate the landholding as every now (sic) allowed other person to do so on his payroll;
- g.) Defendant cultivates other landholding aside from the landholding at bar and in the process, neglected his personal cultivation;
- h.) Not paying rental arrears to the plaintiff for actuation inimical to the

plaintiff as landowner;

- i.) Commission of acts of disloyalty by testifying in a civil case against the plaintiff, who is his landlord;
- j.) Commission of the offense of Qualified Theft against the plaintiff in the threshing of palay on January 27, 1991 at Brgy. Banguit, Cabatuan, Iloilo, wherein the defendant appropriated without the knowledge and consent of the plaintiff, thirteen (13) sacks of palay valued at P2,600.00 and has failed to restitute the same (sic) up to the present;
- k.) Commission of an attempt against the life of the plaintiff on June 24, 1993 at Brgy. Banguit, Cabatuan, Iloilo;<sup>[8]</sup>

By Decision of October 10, 1994,<sup>[9]</sup> the PARAD found for respondent and dismissed petitioner's complaint for lack of merit.

Petitioner appealed<sup>[10]</sup> before the Department of Agrarian Reform Adjudication Board (DARAB) which affirmed the PARAD decision, by Decision<sup>[11]</sup> of February 11, 2000, copy of which DARAB decision was received by petitioner on February 29, 2000.

Before the Court of Appeals (CA), petitioner filed on March 15, 2000 a Motion for Extension<sup>[12]</sup> of fifteen (15) days from March 15, 2000 or until March 30, 2000 within which to file a petition for review of the decision rendered by the DARAB.

The CA, by Resolution<sup>[13]</sup> of March 27, 2000, granted petitioner an "absolutely non-extendible period of fifteen (15) days, reckoned from March 15, 2000, or until March 30, 2000" within which to file the petition for review, "subject to the understanding that any such petition for review filed beyond the second mentioned date shall be rejected and shall be expunged from the records of the case."

Petitioner appears to have filed via registered mail his petition for review,<sup>[14]</sup> however, on April 12, 2000.

By Resolution of May 31, 2000, the CA dismissed the petition for being procedurally flawed, it noting that an examination of the envelope bearing the petition<sup>[15]</sup> showed that it was mailed on April 12, 2000 or thirteen (13) days beyond the extended period of appeal, and that two of the annexes to the petition, i.e., the two informations filed against respondent along with two others in Criminal Case Nos. 41675 and 41676 were "mere plain copies," in violation of Section 6(c) of Rule 43 of the Rules of Civil Procedure.<sup>[16]</sup>

Petitioner thereupon filed on June 20, 2000, a Motion for Reconsideration of the above-said CA Resolution of May 31, 2000, manifesting that per June 14, 2000 certification<sup>[17]</sup> issued by Registry Clerk E. P. Villaruel of the Pasig Capitol Post Office, Registry No. 7439, allegedly covering the petition for review addressed to the CA, was mailed on March 30, 2000. In the same breath, petitioner pleaded for a liberal application of the rules of procedure given the "overriding importance of the factual and legal issues" raised in his petition.

By his Comment<sup>[18]</sup> dated July 27, 2000, respondent pointed out that, like the brown envelope addressed to the CA, that addressed to and received by his counsel at Iloilo City containing petitioner's petition for review showed that it was also mailed only on April 12, 2000. Additionally, respondent impugned the reliability of the certification of the postal registry clerk submitted by petitioner, it not having been made under oath.

By Resolution of August 16, 2000, the CA denied petitioner's Motion for Reconsideration of its May 31, 2000 Order, noting that the "counter-arguments or points advanced in the opposition are so cogent and compelling that they constitute forceful refutation of the reasons or arguments assigned in support of the motion."

Hence, the petition for review at bar anchored on the following grounds:

I.

THE DISMISSAL OF PETITIONER'S APPEAL BY THE COURT OF APPEALS WAS BASED ON TECHNICALITY THEREBY DENYING THE RIGHTS OF PETITIONER AS COMPLAINANT-PETITIONER TO PROSECUTE HIS CASE BEFORE SAID APPELLATE COURT SO THAT IT CAN BE DECIDED ON THE MERITS AND NOT ON ITS TECHNICALITY ASPECT.

II.

THE SUSPENSION OF THE RULES IN THE INSTANT CASE IS WARRANTED SO THAT PETITIONER'S APPEAL WITH THE COURT OF APPEALS COULD BE REINSTATED AND PROCEED IN DUE COURSE IN ORDER NOT TO DEPRIVE PETITIONER OF THE RIGHT TO USE AND ENJOY HIS REAL PROPERTY CURRENTLY BEING ENJOYED BY RESPONDENT DESPITE HIS COMMISSION OF ACTS WARRANTING THE TERMINATION OF HIS LEASEHOLD RELATIONSHIP WITH HEREIN PETITIONER.<sup>[19]</sup>

Petitioner insists that, contrary to the finding of the CA, his petition for review before the appellate court was actually filed on March 30, 2000.<sup>[20]</sup>

In any event, petitioner argues that even if his petition was indeed filed beyond the extension period granted by the CA, this Court should set aside its assailed resolution for when he filed his Motion for Extension with the appellate court<sup>[21]</sup> within fifteen (15) days from receipt of the decision of the DARAB, he had paid the appropriate docket fee.

Further, petitioner argues that although the two informations attached to his petition before the CA are not certified true copies, the same are not material to the resolution of the issue raised therein; that the attached assailed decision of the DARAB attached to his petition before the CA is a certified true copy, indicating that there was a sincere attempt on his part to comply with the appeal requirements; and that, at all events, the overriding importance of the issues raised in his petition before the CA warrants a liberal interpretation of the technical rules of procedure.

By the above-quoted grounds-bases of his petition at bar, petitioner virtually admits

that his petition before the CA was indeed belatedly filed.

To the petition respondent, by his Comment<sup>[22]</sup> of November 27, 2000, argues that petitioner raises questions of fact which this Court cannot entertain.

The two informations attached to petitioner's petition before the CA need not, as correctly argued by petitioner, be certified true copies. Section 6 of Rule 43 of the 1997 Rules of Civil Procedure should not be construed as imposing the requirement that **all** supporting papers accompanying the petition for review be certified true copies. *Cadayona v. Court of Appeals*<sup>[23]</sup> explains:

xxx A comparison of [Sec. 6 of Rule 43] this provision with the counterpart provision in Rule 42 (governing petitions for review from the RTC to the CA) would show that under the latter, only the judgments or final orders of the lower courts need be certified true copies or duplicate originals. Also under Rule 45 of the Rules of Court (governing Appeals by Certiorari to the Supreme Court), only the judgment or final order or resolution accompanying the petition must be a clearly legible duplicate original or a certified true copy thereof certified by the clerk of court of the court *a quo*. Even under Rule 65 governing certiorari and prohibition, petitions need be accompanied by certified true copies of the questioned judgment, it being sufficient that copies of all other relevant documents should accompany the petition. Numerous resolutions issued by this Court emphasize that in appeals by certiorari under Rule 45 and original civil actions for certiorari under Rule 65 in relation to Rules 46 and 56, what is required to be a certified true copy is the copy of the questioned judgment, final order or resolution. No plausible reason suggests itself why a different treatment, *i.e.* a stricter requirement, should be given to petitions under Rule 43, which governs appeals from the Court of Tax Appeals and quasi-judicial agencies to the Court of Appeals. None could have been intended by the framers of the Rules. A contrary ruling would be too harsh and would not promote the underlying objective of securing a just, speedy and inexpensive disposition of every action and proceeding. It must be conceded that obtaining certified true copies necessary entails additional expenses that will make litigation more onerous to the litigants. Moreover, certified true copies are not easily procurable and party litigants must wait for a period of time before the certified true copies are released. xxx<sup>[24]</sup>

The appellate court's error in holding that the informations should be certified true copies to comply with the Rules of Civil Procedure notwithstanding, the dismissal of the petition filed before it is in order.

Petitioner is raising a question of fact – the finding of the CA that the petition for review was filed beyond the prescribed period.

In an appeal via certiorari, only questions of law may be reviewed.<sup>[25]</sup> A question of law arises when there is doubt or difference as to what the law is on a certain state of facts.<sup>[26]</sup>

Whether the body of proofs presented by a party, weighed and analyzed in relation