436 Phil. 641

THIRD DIVISION

[G.R. No. 123340, August 29, 2002]

LUTGARDA CRUZ, PETITIONER, VS. THE COURT OF APPEALS, PEOPLE OF THE PHILIPPINES AND THE HEIRS OF ESTANISLAWA C. REYES, REPRESENTED BY MIGUEL C. REYES, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court to reverse the Decision of the Court of Appeals dated March 31, 1995[1] and its Resolution dated December 1, 1995.[2] The Court of Appeals dismissed for being insufficient in substance the Petition for Certiorari and Mandamus, which sought to nullify two orders of the Regional Trial Court of Manila, Branch 53, dated April 18, 1994 and May 6, 1994.

The Antecedent Facts

The City Prosecutor of Manila charged petitioner with the crime of "Estafa thru Falsification of Public Document" before the Manila Regional Trial Court.[3] Petitioner executed before a Notary Public in the City of Manila an Affidavit of Self-Adjudication of a parcel of land stating that she was the sole surviving heir of the registered owner when in fact she knew there were other surviving heirs. Since the offended party did not reserve the right to file a separate civil action arising from the criminal offense, the civil action was deemed instituted in the criminal case.

After trial on the merits, the trial court rendered its decision dated January 17, 1994 acquitting petitioner on the ground of reasonable doubt. In the same decision, the trial court rendered judgment on the civil aspect of the case, ordering the return to the surviving heirs of the parcel of land located in Bulacan.[4]
On January 28, 1994, petitioner received a copy of the decision.

On February 10, 1994, petitioner filed by registered mail a motion for reconsideration dated February 7, 1994, assailing the trial court's ruling on the civil aspect of the criminal case. Petitioner furnished the City Prosecutor a copy of the motion by registered mail.

On April 18, 1994, the trial court denied petitioner's motion for reconsideration stating:

> "Acting on the Motion for Reconsideration dated February 7, 1994, filed by the accused through counsel and considering that there is nothing to show that the Office of the City Prosecutor was actually furnished or served with a copy of the said Motion for Reconsideration within the reglementary period of fifteen (15) days from receipt by the accused on January 28, 1994 of a copy of the Court's decision dated January 17,

1994, so that the same is already final and executory, let the Motion for Reconsideration be Denied for lack of merit."[5]

Petitioner moved for a reconsideration of the trial court's order of April 18, 1994. The trial court denied the same in an order dated May 6, 1994, to wit:

"Under the Interim Rules, no party shall be allowed a second motion for reconsideration of a final order or judgment (Sec. 4). The motion of accused dated 22 April 1994 is a violation of this rule.

WHEREFORE, said motion is DENIED."[6]

Left with no recourse, petitioner filed a petition for certiorari and mandamus with the Court of Appeals to nullify the two assailed orders of the trial court. Petitioner also asked the Court of Appeals to compel the trial court to resolve her motion for reconsideration of the decision dated February 7, 1994.

The Ruling of the Court of Appeals

On March 31, 1995, the Court of Appeals denied due course to the petition and dismissed the case for being insufficient in substance.

The Court of Appeals sustained the trial court's order of April 18, 1994 denying petitioner's motion for reconsideration. The Court of Appeals declared in part:

"Section 10, Rule 13, Rules of Court, provides as follows:

"SEC. 10. *Proof of Service*. – Proof of personal service shall consist of a written admission of the party served, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Section 5 of this rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon receipt thereof by the sender, or in lieu thereof the letter unclaimed together with the certified or sworn copy of the notice given by the postmaster to the addressee."

Patent from the language of the said section is that in case service is made by registered mail, proof of service shall be made by (a) affidavit of the person mailing and (b) the registry receipt issued by the mailing office. Both must concur. In the case at bench, there was no such affidavit or registry receipt when the motion was considered. Thus, respondent Judge cannot be said to have acted with grave abuse of discretion amounting to lack of jurisdiction, in ruling in the manner he did."[7]

The Court of Appeals also affirmed the trial court's order of May 6, 1994 denying the subsequent motion for reconsideration, as follows:

"xxx, while there is merit in petitioner's submission that the motion for reconsideration dated April 22, 1994 was not a second motion for reconsideration of a final order or judgment, as contemplated in the Interim Rules because the motion sought to impugn the order dated 18 April 1994 not on the basis of the issues raised in the motion for reconsideration dated 07 February 1994 but on the erroneous legal conclusion of the order dated May 6, 1994,[8] this is already academic. The decision dated January 7, 1994 had long become final when the

> second motion for reconsideration was filed on 03 May 1994. Hence, the pairing Judge who issued the order on 06 May 1994 had no more legal competence to promulgate the same."[9]

Finally, the Court of Appeals upheld the assailed decision of the trial court on the civil aspect of the case, to wit:

> "x x x, the institution of a criminal action carries with it the civil action for the recovery of the civil liability arising from the offense charged. There was neither reservation nor waiver of the right to file the civil action separately nor has one been instituted to the criminal action. Hence, the civil action for the civil liability has been impliedly instituted with the filing of the criminal case before respondent Judge. This is the law on the matter. The proposition submitted by petitioner that the court presided by respondent Judge had no jurisdiction over the property because it is located in Bulacan - outside the territorial jurisdiction of said court -does not hold water. Being a civil liability arising from the offense charged, the governing law is the Rules of Criminal Procedure, not the civil procedure rules which pertain to civil action arising from the initiatory pleading that gives rise to the suit."[10]

In the dispositive portion of its assailed decision, the Court of Appeals declared:

> "WHEREFORE, the instant petition not being sufficient in substance is hereby DENIED DUE COURSE and the case DISMISSED."[11]

In a resolution dated December 1, 1995, the Court of Appeals denied petitioner's motion for reconsideration.[12]

Hence, this petition.

The Issues

In her Memorandum, petitioner raises the following issues:

1. "WHETHER THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PROSECUTION WAS DULY FURNISHED WITH COPY OF THE PETITIONER'S MOTION FOR RECONSIDERATION WITH RESPECT TO THE DECISION ON THE CIVIL ASPECT OF CRIMINAL CASE NO. 87-54773 (SIC) OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 53."

2. "WHETHER THE COURT OF APPEALS ERRED IN FINDING THAT THE REGIONAL TRIAL COURT OF MANILA HAD JURISDICTION TO RENDER JUDGMENT ON THE CIVIL ASPECT OF CRIMINAL CASE NO. 87-57743 FOR FALSIFICATION OF PUBLIC DOCUMENT, INVOLVING A PROPERTY LOCATED IN BULACAN."

3. "WHETHER THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PETITIONER WAS DENIED DUE PROCESS WHEN THE REGIONAL TRIAL COURT OF MANILA, BRANCH 53, RENDERED DECISION ON THE CIVIL ASPECT OF CRIMINAL CASE NO. 87-57743."[13]

The Ruling of the Court

We grant the petition.

When the accused is acquitted on reasonable doubt but is adjudged civilly liable, his motion for reconsideration of the civil aspect must be served not only on the prosecution, also on the offended party if the latter is not represented by a private counsel. Moreover, if the trial court has jurisdiction over the subject matter and over the accused, and the crime was committed within its territorial jurisdiction, it necessarily exercises jurisdiction over all matters that the law requires the court to resolve. This includes the power to order the restitution to the offended party of real property located in another province.

Absence of Proof of Service

The first issue is whether petitioner's motion for reconsideration dated February 7, 1994 complied with the mandatory requirements of Section 6, Rule 15 on proof of service. Petitioner submits that the Court of Appeals erred in sustaining the trial court's finding that the City Prosecutor was not duly and timely furnished with petitioner's motion for reconsideration of February 7, 1994.

Petitioner asserts that both copies of the motion for reconsideration were sent to the trial court and the City Prosecutor by registered mail on February 10, 1994. Petitioner relies on jurisprudence that the date of mailing is the date of filing, arguing that the date of mailing of both motions was on February 10, 1994. Petitioner maintains that the motion was properly filed within the 15-day period, citing the registry return card which shows actual receipt on February 22, 1994 by the City Prosecutor of a copy of the motion.

The Court of Appeals, noting that petitioner received a copy of the decision on January 28, 1994, stated that petitioner had until February 12, 1994 to appeal the decision or file a motion for reconsideration. The Court of Appeals ruled that petitioner, by filing a motion for reconsideration without any proof of service, merely filed a scrap of paper and not a motion for reconsideration. Hence, the reglementary period of petitioner to appeal continued to run and lapsed after the 15-day period, making the trial court's decision final and executory.

We agree with the Court of Appeals that petitioner patently failed to comply with the mandatory requirements on proof of service insofar as the public prosecutor is concerned. The Court has stressed time and again that non-compliance with Sections 4, 5 and 6 of Rule 15 is a fatal defect. The well-settled rule is that a motion which fails to comply with Sections 4, 5, and 6 of Rule 15 is a useless piece of paper. If filed, such motion is not entitled to judicial cognizance and does not stop the running of the reglementary period for filing the requisite pleading.[14]

Section 6 of Rule 15 reads:

> "SEC. 6. - ***Proof of service to be filed with motions.*** – No motion shall be acted upon by the court, ***without proof of service*** of the notice thereof."[15] (Emphasis supplied)

From the language of the rule, proof of service is mandatory. Without such proof of service to the adverse party, a motion is nothing but an empty formality deserving no judicial cognizance.

Section 13 of Rule 13 further requires that: