

## SECOND DIVISION

[ G.R. No. 135959, May 11, 2000 ]

**HEIRS OF ANDREA CRISTOBAL, REPRESENTED BY AMADO DE LEON, PETITIONERS, VS. COURT OF APPEALS, ROSARIO LOPEZ AND ALICIA SANTOS, RESPONDENTS.**

### D E C I S I O N

**BELLOSILLO, J.:**

This is a petition for review on certiorari which seeks to nullify and set aside the 12 October 1998 Resolution of the Court of Appeals<sup>[1]</sup> denying petitioners' motion for extension of time to file a motion to reconsider its Decision of 3 August 1998.

On 28 April 1975 petitioners Heirs of Andrea Cristobal de Leon, represented by Amado de Leon, filed an application for registration of their ancestral land, docketed as LRC No. 258, covering two (2) parcels of land situated in Poblacion, Navotas, Metro Manila, with an aggregate area of 72,253 square meters. The location plan, Plan PSU-4870, was surveyed for the Heirs of Doña Andrea Cristobal de Leon on 14-15 March 1914. The Director of Lands approved the plan on 17 September 1914. On 13 November 1975 respondents Rosario Lopez and Alicia Santos filed separate oppositions to petitioners' application. Rosario Lopez claimed ownership of two (2) parcels of land included therein and described in Plan PSU-92376 and Plan PSU-92429<sup>[2]</sup> covering 10,407 square meters and 774 square meters, respectively, while Alicia Santos asserted ownership to the extent of 2,499 square meters thereof.

While LRC Case No. 258 was pending, Alicia Santos filed on 13 September 1976 an application for registration of the portion which she claimed to own. Her application was docketed as LRC Case No. 284. Thereafter the two (2) cases were consolidated as the parcel of land sought to be registered in LRC Case No. 284 was embraced within the parcel of land subject of the application in LRC Case No. 258.

After trial the Regional Trial Court of Kalookan City, Br. 123, rendered a decision dated 15 July 1993 in favor of petitioners; hence, respondents Rosario Lopez and Alicia Santos appealed. On 31 August 1998 the Court of Appeals rendered the assailed Decision reversing and setting aside the judgment of the court *a quo*.

It is alleged in the instant petition that a day before the Decision of the appellate court was promulgated on 31 August 1998 petitioners' counsel, Atty. Lumen R. Policarpio, was confined at the Makati Medical Center until 5 September 1998 due to bilateral cerebral infarcts or second brain stroke; that prior to her confinement her office had already been closed until 12 September 1998 due to her ailment; that the Decision of the Court of Appeals in favor of private respondents was sent to counsel by registered mail and received on 9 September 1998 by a guard of the Puzon Building housing the law office of Atty. Policarpio; that since the law office was closed the judgment was forwarded to counsel's residence and was received by her

nurse on 13 September 1998; that since she had just been released from the hospital, Atty. Policarpio filed a motion for extension of thirty (30) days from 25 September 1998 to submit a formal motion for reconsideration; and, that she subsequently filed her motion for reconsideration on 21 October 1998, which was within the period prayed for in the motion for extension if granted. However, on 12 October 1998 the appellate court denied the motion for extension; hence, the instant petition.

Meanwhile, the motion for reconsideration remains unresolved by the Court of Appeals.

Petitioners concede that the law prohibits the filing of a motion for extension to file a motion for reconsideration but plead that the instant case be made an exception since the failure to meet the prescribed period was due to the medical condition of their counsel and not a deliberate intent to delay. They argue that the rules of procedure ought not to be applied in a very rigid, technical sense since they are used to help secure, not override, substantial justice, otherwise the spirit of the rules would be defeated. Petitioners further submit that while a client indeed is bound by the mistake of his counsel, an exception should be made when adherence to the rule would result in the outright deprivation of property through technicality.

Private respondents on the other hand argue that the Court of Appeals did not err in denying petitioners' motion for extension of time to file motion for reconsideration since they clearly violated Sec. 2, Rule 9, of the Revised Internal Rules of the Court of Appeals (RIRCA) prescribing a fifteen (15) day period for filing a motion for reconsideration. Failing to comply with this requirement, petitioners are barred by the mandatory injunction in *Habaluyas Enterprises Inc. v. Japson*<sup>[3]</sup> from filing a motion for extension of time to file a motion for reconsideration. Although petitioners' motion was accompanied by a medical certificate, it was not under oath and there was no affidavit of merit evidencing that the lapse could have been due to fraud, accident, mistake or excusable negligence. Private respondents further stress that petitioners were represented by the Office of Lumen Policarpio and Associates, and if indeed Atty. Lumen Policarpio was indisposed, an associate from her law office could have acted in her stead.

We agree with private respondents. Pursuant to Sec. 12 of the Judiciary Reorganization Act of 1980,<sup>[4]</sup> as amended, the Court of Appeals adopted and promulgated the RIRCA designed to govern the internal operating procedures of the appellate court.<sup>[5]</sup> Under Sec. 2, Rule 9, of the RIRCA, as amended, a party may file a motion for reconsideration of a decision or resolution within fifteen (15) days from notice thereof, without any extension.<sup>[6]</sup>

The records show that respondent Court of Appeals promulgated its Decision on 31 August 1998 and copy thereof was received by petitioners' counsel on 9 September 1998. As such, petitioners had until 24 September 1998 within which to file their motion for reconsideration. However, instead of filing the motion, petitioners filed on 17 September 1998 a motion for extension of time to file a motion for reconsideration, obviously in violation of the mandatory provision prohibiting the filing of a motion for extension of time to file a motion for reconsideration. Consequently, the appellate court correctly denied petitioners' motion.