

## THIRD DIVISION

[ G.R. No. 110020, September 25, 1998 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, HON. LUIS BELLO, JR., PRESIDING JUDGE OF RTC, BRANCH 16, LAOAG CITY, HAROLD M. HERNANDO, AND SPOUSES ROLANDO V. ABADILLA AND SUSAN SAMONTE, RESPONDENTS.**

### D E C I S I O N

**KAPUNAN, J.:**

For our consideration is a petition for review on *certiorari* impugning the Decision dated February 8, 1993 and the Resolution dated April 27, 1993 of respondent Court of Appeals in CA-G.R. SP No. 29460.<sup>[1]</sup>

The relevant antecedents are as follows:

Sometime in December 1991, petitioner filed a complaint for rescission (of a deed of sale), cancellation (of transfer certificates of title), reconveyance and damages with prayer for issuance of a writ of preliminary injunction and of a temporary restraining order, against the spouses Rolando Abadilla and Susan Samonte, Harold M. Hernando, for himself and as attorney-in-fact of Apolinario, Serafin, Dominica and Maria, all surnamed Quetulio,\* and the Register of Deeds of Laoag City, before the Regional Trial Court of Laoag City, Branch 16, docketed as Civil Case No. 9934-16. It is alleged in the said complaint that sometime in 1984, the then Ministry of Public Works and Highways, in collaboration with the then Ministry of Transportation and Communication filed an expropriation case against Serafin, Apolinario, Dominica and Maria, all surnamed Quetulio, involving two (2) parcels of land containing an aggregate area of ninety four thousand nine hundred thirteen (94,913) square meters, for the construction of a terminal building for international flights of the Laoag International Airport; that said expropriation case was docketed as Civil Case No. 8396-XV and raffled to RTC, Branch XV, Laoag City; that a compromise agreement was entered into in the said case on January 24, 1985 whereby the parties agreed to fix the amount of just compensation at One Million Four Hundred Fifty Four Thousand Eight Hundred Fifty Nine pesos (P1,454,859.00); that a decision was rendered on January 31, 1985 whereby the trial court approved and adopted in toto the said compromise agreement; that disbursement vouchers in the amount agreed upon were turned over to the Quetulios; that on November 29, 1985, Harold M. Hernando executed an affidavit revoking the compromise agreement he signed as attorney-in-fact of the Quetulios, that sometime in 1989, the Quetulios, again represented by Harold M. Hernando, filed a petition for the issuance of another owners' and co-owner's duplicate copy of TCT-T-1071 and OCT No. 0-145-L before the RTC, Branch XIV of Laoag City; that said petition was granted on April 18, 1989 and pursuant thereto, owner's duplicate copy of TCT No. T-1071 and on April 18, 1989 and pursuant thereto, owner's duplicate copy of TCT No. T-1071 and OCT No.

0-145-L were issued; that Harold M. Hernando, as attorney-in-fact of the Quetulios, sold the property in question to the spouses Rolando V. Abadilla and Susan Samonte for and in consideration of the sum of One Million Three Hundred Pesos (P1,000,300.00); that said second sale is null and void as the lots in question are already owned by petitioner Republic; and that the spouses-vendees acted in bad faith as they already had prior knowledge of the first sale.

Accordingly, petitioner prayed that (1) the deed of sale by Harold M. Hernando in favor of the spouses Abadilla be declared null and void; (2) TCT Nos. T-21484 and T-21485 covering the lots in question issued in the name of the spouses Abadilla be declared null and void; (3) the Register of Deeds of Laoag City be directed to cancel the TCTs and reinstate the old ones; and (4) Harold M. Hernando and the spouses Abadilla be made liable to pay P500,000.00 by way of actual and punitive damages.

[2]

The spouses Abadilla filed their Answer in due time on January 28, 1992.

On February 14, 1992, petitioner filed a Reply to the spouses Abadilla's answer.

No answer was filed by respondents Hernando and the Quetulios within the 15-day reglementaty period to file a responsive pleading.

Meanwhile, the initial hearing for the instant case was set for February 27, 1992. Said hearing was, however, postponed for no apparent reason. Nonetheless, respondent Harold M. Hernando, who was then present in court, moved that (a) he be granted the opportunity to formally appear as counsel for himself and his codefendants as he was then still serving a five (5) month suspension from the practice of law for malpractice pursuant to the Resolution of this Court dated October 17, 1991 in Administrative Case No. 1359 entitled *Buted v. Hernando* and [3] (b) he be allowed to file an answer despite petitioner's oral manifestation that he be declared in default for failure to file his answer within the reglementary period. Both motions were granted by the trial court.

On February 28, 1992, respondent Hernando filed a pleading denominated as "Comment/Answer/Motion to Dismiss" [4] praying for the dismissal of the complaint on the basis of the "Affidavit of Revocation" executed by him on November 29, 1985 canceling the Compromise Agreement because Atty. Sixto S. Pedro allegedly withheld ten (10) checks in the amount of P500,000.00 which were supposed to be part of the consideration for the property expropriated; and that Atty. Sixto S. Pedro, in his capacity as "Special Attorney" for the Ministry of Public Works and Highways, Ilocos Norte, and representing the Republic of the Philippines, had signed a Rescission of Compromise Agreement and the Deed of Conveyance dated December 2, 1985 (in favor of the Abadilla spouses).

On May 5, 1992, the trial court issued an order dismissing the complaint ratiocinating that:

As the plaintiff has not filed any reply/opposition or comment to the comment/answer/motion to dismiss, said party is deemed to have admitted the due execution and genuiness (sic) of the instruments which are exhibits 3 and 4 of the motion to dismiss, Sec. 8, Rule 8 of the Rules of Court. This is so as said instruments which are exhibits 3 and 4 are

copied verbatim as part of the pleading of defendants Atty. Harold Hernando and Dominica Quetolio, Sec. 7, Rule 8 of the New Rules of Court. Plaintiff having admitted the execution and genuineness (sic) of the instruments, said party has already abandoned its claim to the land in suit or the claim of said party plaintiff has been extinguished.<sup>[5]</sup>

Petitioner received a copy of the above-stated order on May 13, 1992.

On May 25, 1992, petitioner filed, a Motion for Reconsideration of the order of dismissal.

The motion was denied in an Order received by petitioner on September 14, 1992.

On October 8, 1992, twenty-four (24) days after it received a copy of the order denying its motion for reconsideration, petitioner filed a petition for certiorari under Rule 65 of the Rules of Court before this Court, docketed as G.R. No. 107229.

Per our Resolution dated October 12, 1992, G.R. No. 107229 was referred to the Court of Appeals for appropriate action. Therein, G.R. No. 107229 was docketed anew as CA-G.R. SP No. 29460.

On February 8, 1993, the Court of Appeals dismissed the said petition for certiorari after treating the same as an ordinary appeal filed out of time. According to the appellate court:

Considering that petitioner admittedly received a copy of the Order dated 04 September 1992 denying its Motion For Reconsideration on 14 September 1992, the reglementary period within which to file an appeal therefrom expired on 29 September 1992.

The record discloses that the instant petition was filed on 08 October 1992. Consequently, the questioned Order had attained finality at the time the petition was filed.<sup>[6]</sup>

A motion for reconsideration of said decision was denied on April 27, 1993.

Hence, the present petition for review on certiorari grounded on the following issues, viz:

## I

Whether or not respondent Honorable Court of Appeals has decided a question of substance, not theretofore determined by the Honorable Supreme Court or that it has decided it in a way not in accord, with law or with applicable decisions of this Honorable Court, in denying due course to the petition in G.R. SP No. 29460, purportedly on the ground that the 15-day reglementary period had already elapsed despite patent showing on the face of the petition that it was filed pursuant to Rule 65 of the Revised Rules of Court.

## II

Whether or not respondent Honorable Court of Appeals has patently

sanctioned such departure by respondent Hon. Luis B. Bello, Jr., from the usual and accepted course of judicial proceeding as he (Judge Bello) considered a mere affidavit as an actionable document such that petitioner's failure to file an opposition or comment to herein private respondent-Harold Hernando's pleading wherein said affidavit was attached and copied, amounted to an admission of its due execution and genuineness, being allegedly an actionable document, pursuant to Sec. 8, Rule 8 of the Revised Rules of Court.<sup>[7]</sup>

We grant the petition.

The threshold issue in this case is whether or not respondent Court of Appeals committed reversible error in denying due course and dismissing CA-GR-SP No. 29460 for having been filed out of time.

Respondent Court of Appeals ruled that an ordinary appeal not a petition for certiorari under Rule 65, was the proper remedy from the trial court's Order of dismissal dated May 5, 1992 which has attained finality.

Our careful study of the facts inevitably yields to the conclusion that the Regional Trial Court presided by Hon. Luis B. Bello, Jr. committed grave abuse of discretion not only in issuing its order dismissing petitioner's complaint in Civil Case No. 9934 on a starkly erroneous ground, but also it committed a grossly irresponsible act of allowing respondent Hernando who was then under suspension from the practice of law, to represent himself and his co-defendants in the case. Also, as appearing from the records, after the lapse of the period to file an answer on the part of respondents Hernando and the Quetulios, the trial court set the case for pre-trial without formally ruling on petitioner's motion to declare them in default. Surprisingly, the trial court thereafter, allowed said defendants to file their answer upon the latter's verbal motion. This enabled respondent Hernando to file his pleading "Comment/Answer/Motion to Dismiss," with certain annexes which were considered by the trial court as actionable documents, despite the fact that petitioner was not a party thereto. All these circumstances clearly demonstrate the trial court's bias and arbitrariness that should have warranted the setting aside of the questioned order of dismissal for grave abuse of discretion under Rule 65 of the Rules of Court. Consequently, petitioner's original action for certiorari filed with respondent Court of Appeals on October 8, 1992 to annul the trial court's Order dated May 5, 1992 dismissing petitioner's complaint should have been given due course.

The Compromise Agreement entered into by the petitioner and the Quetulio spouses in the expropriation case, docketed as Civil Case No. 8396-XV, on January 24, 1985 was approved and adopted in toto by the Regional Trial Court of Laoag City, Branch XV in its decision of January 31, 1985. The compromise agreement fixed the amount of just compensation for the property at P1,454,859.00 which was, as the records show, fully paid by petitioner as evidenced by the disbursement vouchers (Annexes "D-1" to "D-12" to complaint).<sup>[8]</sup> Said compromise agreement had long become final and executory, before respondent Hernando allegedly executed the "Affidavit of Revocation" unilaterally revoking the same on November 29, 1985. It is well-settled that a judicial compromise has the effect of *res judicata* and is immediately executory and not appealable unless a motion to set aside the same is filed on the ground of fraud, mistake or duress, in which event an appeal may be filed from an