Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

EMELIE L. BESAGA,
Petitioner,

- versus -

SPOUSES FELIPE ACOSTA AND LUZVIMINDA ACOSTA and DIGNA MATALANG COCHING,
Respondents.

G.R. No. 194061

Present:

CARPIO, *J., Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

20 APR 2015

x----------x

DECISION

BRION, *J.*:

We resolve the present petition for review on *certiorari*[1] assailing the October 30, 2009 decision[2] and the October 1, 2010 resolution[3] of the Court of Appeals *(CA)* in CA-G.R. SP No. 100616.

The CA affirmed the decision[4] of the Office of the President setting aside the resolution[5] of the Department of Environment and Natural Resources (*DENR*) Secretary. The DENR Secretary earlier affirmed the

---

1 *Rollo*, pp. 3-27. The petition is filed under Rule 45 of the Rules of Court.

2 Id. at 28-40. The assailed decision and resolution are penned by Associate Justice Stephen C. Cruz, and concurred in by Associate Justice Jose C. Reyes, Jr. and Associate Justice Estela M. Perlas-Bernabe (now a Member of this Court).

3 Id. at 42-43.

4 Id. at 61-65. O.P. Case No. 06-K-398 dated August 13, 2007.

5 Id. at 157-162. The Resolution is dated October 17, 2006.

orders dated December 1, 2003[6] and July 26, 2004[7] of the DENR Regional Executive Director (*RED*), Region IV-B-MIMAROPA.[8]

The Antecedents[9]

The dispute involved Lot Nos. 4512 and 4514 located at *Barangay* Port Barton, San Vicente, Palawan, which are parts of a six-hectare timberland.

On February 11, 2003, Emelie L. Besaga (*petitioner*) applied for a Special Land Use Permit (*SLUP*) for Lot Nos. 4512, 4513 and 4514 for a bathing establishment. According to the petitioner, the lots are covered by Tax Declaration No. 048 in the name of her father, the late Arturo Besaga, Sr. who allegedly occupied the land during his lifetime.

On February 13, 2003, spouses Felipe and Luzviminda Acosta (*respondent spouses*) also applied for SLUP for a bathing establishment over Lot Nos. 4512 and 4514. According to the respondent spouses, they acquired Lot Nos. 4512 and 4514 through a March 19, 1998 Affidavit of Waiver of Rights executed by Rogelio Marañon, a registered survey claimant, and a February 9, 1999 Joint Affidavit of Waiver of Rights, executed by Arturo Besaga, Jr.,[10] and Digna Matalang Coching (another respondent in this case), also registered survey claimants.

On September 10, 2003, the respondents challenged the petitioner's SLUP application before the DENR. On December 1, 2003, the RED issued the order giving due course to the petitioner's SLUP application and rejecting the respondents' SLUP application. The RED later denied the respondents' motion for reconsideration on July 26, 2004.

The respondent spouses received the July 26, 2004 order on August 16, 2004. They filed on August 25, 2004, through registered mail**,** an **Appeal Memorandum to the Office of the DENR Secretary, copy furnished the petitioner's lawyer and the Office of the RED**. The appeal fee was paid on September 10, 2004. Respondent Digna Matalang Coching received the July 26, 2004 order on August 30, 2004 and filed her appeal (which adopted the appeal of the respondent spouses) on September 16, 2004.

While the appeal was pending in the Office of the DENR Secretary, the RED issued a Certificate of Finality[11] declaring the December 1, 2003 and July 26, 2004 orders final and executory for failure of the respondents to file a **Notice of Appeal**.

---

6 Id. at 104-106.
7 Id. at 107-108.
8 MIMAROPA is Region IV-B composed of the provinces of Occidental Mindoro, Oriental Mindoro, Marinduque, Romblon and Palawan (*Executive Order No. 103 dated May 17, 2002*).
9 *Supra* note 2, at 29-31.
10 Son of Arturo Besaga, Sr.
11 *Rollo*, p. 114.

On December 10, 2004, the Provincial Environment and Natural Resources Officer (*PENRO*) issued the SLUP[12] to the petitioner covering Lot Nos. 4512, 4513 and 4514. On November 18, 2005, the SLUP was converted into a Special Forest Land-Use Agreement for Tourism Purposes (FLAgT).

On August 6, 2006, the DENR Secretary rendered a decision (i) vacating the December 1, 2003 and July 26, 2004 orders of the RED; (ii) amending the coverage of the SLUP of the petitioner to cover Lot No. 4513 only; and (iii) giving due course to the SLUP of the respondent spouses to cover Lot Nos. 4512 and 4514.

Acting on the motion for reconsideration[13] filed by the petitioner, the DENR Secretary reversed his August 6, 2006 decision on October 17, 2006 and held that the December 1, 2003 and July 26, 2004 orders of the RED have attained finality because: (i) the respondent spouses filed an Appeal Memorandum, instead of a Notice of Appeal; (ii) the Appeal Memorandum was directly filed with the DENR Secretary and not with the RED; and (iii) the respondent spouses failed to pay the required appeal fees within the reglementary period.

The Office of the President reversed the October 17, 2006 resolution of the DENR Secretary.

The CA, through the assailed decision and resolution, affirmed the decision of the Office of the President.

The petitioner filed the present petition to contest the CA's ruling.

The DENR's Findings

The RED, relying mainly on the report[14] prepared by the chief of Forest Management Services ruled in favor of the petitioner.

The report gave credence to Tax Declaration No. 048,[15] which purportedly showed that Lot Nos. 4512, 4513 and 4514 are parts of the six (6) hectare timberland occupied by the petitioner's father during his lifetime. The RED also gave weight to the statements of two former Barangay Captains of Port Barton and the document signed by the alleged occupants of the said six (6) hectare timberland supporting the petitioner's claim.

The DENR Secretary reversed the orders of the RED in his decision dated August 6, 2006.[16]

---

12 Id. at 102.
13 Id. at 133-140.
14 Id. at 91-94.
15 Id. at 71.
16 Id. at 125-132.

He ruled that the petitioner cannot claim preferential right to apply for an SLUP over Lot Nos. 4512 and 4514 in view of her sweeping allegation that the said lots are part of the six (6) hectare timberland, which his father possessed in his lifetime and whose possession she tacked. The DENR Secretary asked: if indeed the petitioner tacked the possession of his father and she was the actual occupant over Lot Nos. 4512 and 4514, why was she not made the survey claimants of the said lots?

The DENR Secretary found that the respondent spouses have a preferential right over Lot Nos. 4512 and 4514. Rogelio Marañon, the registered survey claimant and occupant of Lot No. 4512, waived and transferred his right over the lot in favor of the respondent spouses in a duly-notarized Affidavit of Waiver of Rights. The respondent spouses derived their right over Lot No. 4514 from Arturo Besaga, Jr. and Digna Matalang Coching, the registered survey claimants, who executed a duly-notarized Joint-Affidavit of Waiver of Rights over the said lot. The DENR Secretary held that these are the legal and vital documents (disregarded by the chief of Forest Management Services) which support the preferential rights of the respondent spouses over Lot Nos. 4512 and 4514.

The DENR Secretary, however, reversed his August 6, 2006 decision in a resolution[17] dated October 17, 2006. He ruled that the respondent spouses failed to perfect the appeal because they filed a Memorandum of Appeal instead of a Notice of Appeal contrary to Section 1(a) of DENR Department Administrative Order (*DAO*) No. 87, series of 1990.[18]

The Office of the President's Ruling[19]

The Office of the President reversed the October 17, 2006 resolution of the DENR Secretary.

It held that the orders of the RED did not become final because there is no law, rule or regulation prohibiting an appellant to file an appeal memorandum, instead of a notice of appeal, to the office concerned. It further held that the appeal memorandum itself serves as a sufficient notice of the party's intention to elevate the case to a higher authority. The Office of the President observed that in a plethora of cases, notices of appeal are filed directly with the DENR, rather than with the RED, which practice has not since been prohibited nor made as a ground for the outright dismissal of the appeal. Finally, it found that the respondent spouses paid the appeal fees. All of these negate the finding that the respondent spouses did not perfect their appeal to the DENR Secretary.

As to the merits of the case, the Office of the President found that Tax Declaration No. 048 did not cover Lot Nos. 4512, 4513 and 4514 but Lot

---

17 *Supra* note 5.

18 *Rollo*, pp. 163-164. "Regulations Governing Appeals to the Office of the Secretary from the Decisions/Orders of the Regional Offices" (DAO No. 87, series of 1990).

19 *Supra* note 4.

No. 4741, which is entirely different and distinct from the contested lots. It gave credence to the Affidavit of Waiver of Rights executed by Rogelio Marañon and the Joint Affidavit of Waiver of Rights jointly executed by Arturo Besaga, Jr. and Digna Matalang Coching in favor of the respondent spouses. No countervailing proof was presented by the petitioner to impugn these affidavits.

The CA's Ruling

The CA sustained the Office of the President. Citing decisions of this Court, it held that rules of procedure are construed liberally in proceedings before administrative bodies. They are not to be applied in a very rigid and technical manner, as they are used only to hold secure and not to override substantial justice.

The CA ruled that the orders of the RED have not attained finality.

The Petition

The petitioner seeks reversal of the CA decision and resolution for being contrary to law and jurisprudence. She submits that the respondent spouses failed to perfect an appeal in the administrative proceedings. She argues that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and that failure to conform to the rules will render the judgment sought to be reviewed final and unappealable. She adds that the liberal interpretation of the rules has no clear application in the present case because the respondents failed to adequately explain their non-compliance therewith.

As is proper under Rule 45 of the Rules of Court, the petitioner does not raise any factual questions.

Respondent's Comment[20]

The respondent spouses ask for the petition's dismissal for lack of merit. They submit that the CA acted in accordance with law and jurisprudence in upholding the ruling of the Office of the President.

They argue that to dismiss the case on the mere ground of technicalities would mean to dispense with the determination of the party having preferential right on the disputed lots and could cause the perpetuation of a wrong. They maintain that the cases cited by the petitioner, where procedural rules were strictly enforced by this Court, involved violation of the rules either before the trial court, the CA or before this Court, and not before an administrative agency like the DENR. In sum, the respondent spouses contend that the orders of the RED have not attained

---

[20] *Rollo*, pp. 224-241. Comment is dated February 24, 2011. Respondent Digna Matalang Coching filed her Manifestation on April 7, 2011 adopting, i*n toto*, the respondent spouses' Comment.

finality, thus, said orders are still subject to reversal, amendment or modification on appeal.

Issues

The petitioner raises the following issues:[21]

I. WHETHER THE APPEAL INTERPOSED BY THE RESPONDENTS WAS CORRECTLY FILED TO THE DENR SECRETARY AND NOT TO THE REGIONAL OFFICE AS PROVIDED UNDER SECTION 1 (A) OF DAO NO. 87, SERIES OF 1990;

II. WHETHER OR NOT RESPONDENTS' APPEAL TO THE OFFICE OF THE DENR SECRETARY WAS PERFECTED DESPITE OF THEIR FAILURE TO COMPLY WITH SECTION 1 (A) OF DAO NO. 87, SERIES OF 1990;

III. WHETHER THE LIBERAL INTERPRETATION OF THE RULES ON APPEAL INVOLVING ADMINISTRATIVE PROCEEDINGS WAS CORRECTLY APPLIED BY THE HONORABLE COURT OF APPEALS IN THE CASE OF RESPONDENTS;

IV. WHETHER THE ASSAILED ORDERS, ISSUED ON DECEMBER 1, 2003 AND JULY 26, 2004, OF THE REGIONAL EXECUTIVE DIRECTOR OF DENR REGION IV-MIMAROPA IN DENR CASE NO. M-003-03-F, WERE ALREADY FINAL AND EXECUTORY;

V. WHETHER THE PERFECTION OF APPEAL IN ACCORDANCE WITH SECTION 1 (A) OF DAO NO. 87, SERIES OF 1990 IS NOT ONLY MANDATORY BUT JURISDICTIONAL; AND

VI. WHETHER THE ORDERS DATED DECEMBER 1, 2003 AND JULY 23, 2014 CAN STILL BE MODIFIED AND SET ASIDE BY THE HONORABLE COURT OF APPEALS.

The resolution of these issues hinges on whether the orders of the RED dated December 1, 2003 and July 26, 2004 have attained finality because the respondents filed a Memorandum of Appeal directly to the DENR Secretary instead of a Notice of Appeal to the RED.

The Court's Ruling

We deny the petition.

The petitioner insists that the filing of a Memorandum of Appeal instead of a Notice of Appeal was fatal to the respondent spouses' case.

---

21 *Supra* note 1, at 17-18.

We are not convinced of the merits of this position.

The crux of the dispute is Section 1(a) of DAO No. 87. It provides:

> ***Section 1. Perfection of Appeals***. – a) Unless otherwise provided by law or executive order, appeals from the decisions/orders of the DENR Regional Offices **shall be perfected within fifteen (15) days after the receipt of a copy of the decision/order complained of by the party adversely affected, by filing with the Regional Office which adjudicated the case a notice of appeal, serving copies thereof upon the prevailing party and Office of the Secretary, and paying the required fees**. [Emphasis ours.]

According to the petitioner, this provision is mandatory and jurisdictional. She argues that respondents filed a defective appeal because: (i) they filed a Memorandum of Appeal instead of a Notice of Appeal; (ii) directly to the DENR and not to the Regional Office, which adjudicated the case; and (iii) no docket fee was paid.[22]

The petitioner cites jurisprudence to bolster her argument that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional.

We accordingly review the cited cases to determine the correctness of the petitioner's submitted position.

In *Asian Spirit Airlines v. Bautista*,[23] the CA dismissed the appeal because the appellant failed to file his brief within the time provided by the Rules of Court. The appellant not only neglected to file its brief within the stipulated time but also failed to seek an extension of time based on a cogent ground before the expiration of the time sought to be extended. In sustaining the CA, we held that liberality in the application of rules of procedure may not be invoked if it will result in the wanton disregard of the rules or cause needless delay in the administration of justice.

In *Land Bank of the Philippines v. Natividad*,[24] we affirmed the trial court when it considered a motion for reconsideration *pro forma* for not containing a notice of hearing. We held that a motion that does not contain the requisite notice of hearing is nothing but a mere scrap of paper. The clerk of court does not even have the duty to accept it, much less to bring it to the attention of the presiding judge.

In *Videogram Regulatory Board v. CA*,[25] the Regional Trial Court granted the petitioner a non-extendible 15-day period to file a Petition for Review from the decision of the Metropolitan Trial Court. The petitioner failed to file the petition despite the extension. We held that the

---

22 *Supra* note 1, at 18.
23 491 Phil. 476 (2005).
24 497 Phil. 738 (2005).
25 322 Phil. 820 (1996).

requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business.

In *MC Engineering, Inc. v. NLRC*,[26] we affirm the CA when it denied due course to the petitioner's appeal because of its failure to explain why another mode of service other than personal service was resorted to. We held that an affidavit of service is required merely as proof that service has been made to the other parties in a case. It is a requirement totally different from the requirement that an explanation be made if personal service of pleadings was not resorted to.

Finally, in *Artistica Ceramica v. Ciudad Del Carmen Homeowner's Association, Inc.*,[27] the issue was whether the petitioner properly filed a petition for certiorari under Rule 65 instead of an appeal by certiorari under Rule 45 of the Rules of Court. We held that as a rule, the remedy from a judgment or final order of the CA is appeal by certiorari under Rule 45. The failure to file the appeal within the 15-day reglementary period under Rule 45 is not an excuse to use Rule 65. Rule 65 is not a substitute for a lost appeal.

In sum, all these cases strictly applied the rule that the right to appeal is a mere statutory right and the party who avails of such right must comply with the law. Otherwise, the right to appeal is lost.

To reiterate, these involved violations of the Rules of Court while the cases were pending in the trial court, the CA or before this Court. **They do not involved violation of administrative rules of procedure.** They are not strictly applicable in the present case.

The Nature of Administrative Rules of Procedure

It is true that the right to appeal, being merely a statutory privilege, should be exercised in the manner prescribed by law. This has been consistently held in relation to non-observance by a party-litigant of the Rules of Court and failure to offer a valid and acceptable excuse for non-compliance.

Yet, it is equally true that in proceedings before administrative bodies the general rule has always been liberality.

Strict compliance with the rules of procedure in administrative cases is not required by law.[28] Administrative rules of procedure should be

---

26 412 Phil. 614 (2001).
27 635 Phil. 21 (2010).
28 *Barcelona v. Lim*, G.R. No. 189171, June 03, 2014.

construed liberally in order to promote their object to assist the parties in obtaining a just, speedy and inexpensive determination of their respective claims and defenses.[29]

In *Birkenstock Orthopaedie GmbH and Co. KG v. Philippine Shoe Expo Marketing Corp.*,[30] we held:

> It is well-settled that the rules of procedure are mere tools aimed at facilitating the attainment of justice, rather than its frustration. A strict and rigid application of the rules must always be eschewed when it would subvert the primary objective of the rules, that is, to enhance fair trials and expedite justice. **Technicalities should never be used to defeat the substantive rights of the other party.** Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities**.** x x x **This is especially true with quasi-judicial and administrative bodies, such as the IPO, which are not bound by technical rules of procedure**. [Emphasis supplied.]

The liberality of procedure in administrative actions, however, is subject to limitations imposed by the requirements of due process.[31]

Administrative due process means reasonable opportunity to be heard. As held in *Vivo v. Pagcor,*[32]

> The observance of fairness in the conduct of any investigation is at the very heart of procedural due process. The essence of due process is to be heard, and**, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of**. Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary, and technical rules of procedure are not strictly applied. [Emphasis supplied.]

Where due process is present, the administrative decision is generally sustained.[33]

Thus, while this Court allows liberal construction of administrative rules of procedure to enhance fair trial and expedite justice, we are keenly aware that liberal construction has no application when due process is violated. The crucial point of inquiry in cases involving violation of administrative rules of procedure is whether such violation disregards the basic tenets of administrative due process. If the gravity of the violation of the rules is such that due process is breached, the rules of procedure should be strictly applied. Otherwise, the rules are liberally construed.

---

29 Id.
30 G.R. No. 194307, November 20, 2013, 710 SCRA 474, 482.
31 *Spouses Aya-ay v. Arpaphil Shipping Corp.*, 576 Phil. 628 (2006).
32 G.R. No. 187854, November 12, 2013, 709 SCRA 276, 281.
33 *Mangubat v. De Castro*, 246 Phil. 620 (1998).

Liberal Construction as Applied in the Present Case

It is undisputed that the respondent spouses, instead of filing a Notice of Appeal to the RED, filed a Memorandum of Appeal to the DENR Secretary within the fifteen (15)-day reglementary period. They paid the appeal fee, although beyond the fifteen (15)-day period. These violate Section 1(a) of DAO No. 87 which requires the filing of a Notice of Appeal and the payment of the appeal fee within the reglementary period.

Do these errors breach due process so as to call for the strict application of administrative rules of procedure? Is there basis for the liberal construction of the rules?

We uphold liberality.

First, there is no violation of due process. In fact, to sustain the position of the petitioner and strictly apply Section 1(a) of DAO No. 87 may violate the respondent spouses' right to due process as this would result to a denial of their right to appeal.

We stress that the respondent spouses appealed within the reglementary period. The appeal was timely filed, albeit not directly to the office which issued the order sought to be reviewed. They also paid the full appeal fees although beyond the 15-day period.

We hold that these procedural lapses were neither prejudicial nor unfair to the petitioner. The petitioner's right to due process was not breached.

Notably, both the petitioner and the RED were furnished copies of the Memorandum of Appeal, a fact that the petitioner did not deny.[34]

We agree with the observation of the Office of the President that the Memorandum of Appeal essentially served the purpose of the Notice of Appeal. The filing of the Memorandum of Appeal had the same practical effect had a Notice of Appeal been filed: inform the RED that his order is sought to be appealed to the DENR Secretary.

Significantly, the respondent spouses notified the petitioner of the filing of the Memorandum of Appeal. The petitioner subsequently filed her opposition thereto. When the DENR Secretary initially ruled in favor of the respondent spouses, the petitioner filed a motion for reconsideration of the said decision.

---

34 *Supra* note 2, at 30.

Clearly, the petitioner participated in every stage of the administrative proceeding. Her right to be heard was not compromised despite the wrong mode of appeal.

As to the late payment of the appeal fee, suffice it to say that this Court has disregarded late payment of appeal fees **at the administrative level** in order to render substantial justice.[35]

Second, the liberal construction of DAO No. 87 would serve its purpose, *i.e.*, grant a party the right to appeal decisions of the Regional Offices to the DENR Secretary in order for the latter to review the findings of the former. To disallow appeal in this case would not only work injustice to the respondent spouses, it would also diminish the DENR Secretary's power to review the decision of the RED. It would deny the DENR Secretary the opportunity to correct, at the earliest opportunity, "errors of judgment" of his subordinates. This is obviously not the intent of DAO No. 87.

Finally, the petitioner failed to convince us why liberality should not be applied. The petitioner does not claim that her right to due process was violated as a result of the wrong mode of appeal. The petitioner merely asks this Court to strictly construe DAO No. 87 and affirm the orders of the RED, which according to her, have attained finality.

Between strict construction of administrative rules of procedure for their own sake and their liberal application in order to enhance fair trials and expedite justice, we uphold the latter. After all, administrative rules of procedure do not operate in a vacuum. The rules facilitate just, speedy and inexpensive resolution of disputes before administrative bodies. The better policy is to apply these rules in a manner that would give effect rather than defeat their intended purpose.

WHEREFORE, premises considered, we **DENY** the petition and **AFFIRM** the October 30, 2009 decision and October 1, 2010 resolution of the Court of Appeals in CA-G.R. SP No. 100616, affirming the August 13, 2007 decision of the Office of the President in O.P. Case No. 06-K-398.

SO ORDERED.

ARTURO D. BRION
Associate Justice

---

35 See *Adalim v. Taninas, et al.*, G.R. No., 198682, April 10, 2013, 695 SCRA 648.

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice