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FIRST DIVISION

[G.R. No. 65334. December 26, 1984]

MUNICIPALITY OF ANTIPOLO, *petitioner, vs.* AQUILINA ZAPANTA, ISIDRO DELA CRUZ, ELIAS DELA CRUZ, MARIA DELA CRUZ, MODESTA LEYVA, FERMIN LEYVA, SUSANA LEYVA, MARCIAL LEYVA, FELISA LEYVA, ISIDORA LEYVA, HONORIO LEYVA, CONCORDIA GALICIA, APOLONIA AVENDAÑO, AMPARO AVENDAÑO, FIDELA SARTE, BEATRIZ SARTE, VICTORIO SARTE, VIRGINIA SARTE, JULIANA SARTE, RODOLFO SARTE, BENITA SARTE, ANTONINA SUAREZ, DANIEL SUAREZ, BEATA SUAREZ, ENRIQUE AVENDAÑO, PAULINO AVENDAÑO, SAMSON LAVILLA, SR., AURELIA LAPAR, VIRGILIO HILARIO, NATIVIDAD MARQUEZ, LUISITO LOPEZ, REMEDIOS LOPEZ, ROMEO LOPEZ, NATIVIDAD LOPEZ and the HONORABLE INTERMEDIATE APPELLATE COURT, *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; FAILURE TO FILE BRIEF WITHIN THE TIME PROVIDED BY THE RULES OF COURT DOES NOT RESULT IN DISMISSAL OF APPEAL IN THE INTEREST OF SUBSTANTIAL JUSTICE.— Although failure to file Brief within the time provided by the Rules is, indeed, a ground for dismissal of an appeal, the Court has held that rules of technicality must yield to the broader interests of substantial justice (Carco Motor Sales, Inc. *vs.* Court of Appeals, 78 SCRA 526 [1977]) specially where the important issue of lack of jurisdiction over the subject matter of the Land Registration Court has been raised.

2. ID.; ID.; PRINCIPLE OF *RES JUDICATA*; CANNOT BE APPLIED TO BAR ACTION FOR NULLIFICATION OF DECISION RENDERED BY LAND REGISTRATION COURT ADJUDICATING PUBLIC PROPERTY TO THE APPLICANT; REASON THEREFOR.— Since the Land

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Registration Court had no jurisdiction to entertain the application for registration of public property of ANTIPOLO, its Decision adjudicating the DISPUTED PROPERTY as of private ownership is null and void. It never attained finality, and can be attacked at any time. It was not a bar to the action brought by ANTIPOLO for its annulment by reason of *res judicata.*

3. **CIVIL LAW; LAND REGISTRATION; PUBLIC LAND ACT; PROPERTY DEVOTED TO PUBLIC USE AND PUBLIC SERVICE NOT SUBJECT TO PRIVATE REGISTRATION.**— ANTIPOLO, for more than 50 years, has considered the DISPUTED PROPERTY to be public land subject to ANTIPOLO's use and permission to use within the prerogatives and purposes of a municipal corporation. There is indication to the effect that it had been the site of public market as far back as 1908, or at the latest, since 1920 "up to today". Gradually, additional public structures were built thereon, like the Puericulture and Family Planning Center, the Integrated National Police Building, the Office of the Municipal Treasurer, and the public abattoir. Those public structures occupy almost the entire area of the land. At the time the application for registration was filed on August 8, 1977, the DISPUTED PROPERTY was already *devoted to public use and public service.* Therefore, it was outside the commerce of man and could no longer be subject to *private* registration.

4. **ID.; ID.; ID.; TAX DECLARATIONS COVERING THE DISPUTED PROPERTY UNDER THE NAMES OF THE AVENDAÑO HEIRS NOT PROOF OF OWNERSHIP; ALL LANDS PRESUMED PUBLIC UNTIL CONTRARY HAS BEEN ESTABLISHED; CASE AT BAR.**— The claim of the AVENDAÑO HEIRS that they merely tolerated occupancy by ANTIPOLO which had borrowed the DISPUTED PROPERTY from them, since they had been in possession since as far back as 1916, erroneously presupposes ownership thereof since that time. They forget that all lands are presumed to be public lands until the contrary is established. (Oh Cho *vs.* Director of Lands, 75 Phil. [1946]; Director of Lands *vs.* Court of Appeals, 38 SCRA 635 [1971]). The fact that the DISPUTED PROPERTY may have been declared for taxation purposes in their names or of their predecessors-in-interest as early as 1918 does not necessarily prove ownership. They are merely indicia of a claim of ownership. (Municipality of Santiago Isabela *vs.* Court of Appeals, 120 SCRA

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734, 743 [1983] citing Elumbaring *vs.* Elumbaring, 12 Phil. 384 [1909] and Evangelista *vs.* Tabayuyong, 7 Phil. 607 [1907]). ANTIPOLO had also declared the DISPUTED PROPERTY as its own in Tax Declaration Nos. 909, 993 and 454.

5. **ID.; LAND TITLES AND DEEDS; TITLES ISSUED BY A COURT WITH NO JURISDICTION OVER THE SUBJECT MATTER ARE VOID.**— The titles issued in favor of the AVENDAÑO HEIRS must be held to be null and void. They were issued by a Court with no jurisdiction over the subject matter. Perforce, they must be ordered cancelled.

APPEARANCES OF COUNSEL

Mariano A.G. Cervo for petitioner.

Leonardo C. Rodriguez for private respondents.

D E C I S I O N

MELENCIO-HERRERA, *J.*:

In this appeal by Certiorari, we are called upon to review the Resolution of respondent Intermediate Appellate Court, dated August 23, 1983, dismissing petitioner's appeal for failure to file its Brief within the reglementary period, and the subsequent Resolution of the same Court, dated September 27, 1983, denying petitioner's Motion for Reconsideration for being without any legal and factual basis.

The facts may be briefly stated as follows: On August 8, 1977, a single application for the registration of two distinct parcels of land was filed by two distinct applicants before the then Court of First Instance of Rizal, Branch XV, Makati (the Registration Court, for short). One of the two applicants was Conrado Eniceo. He had applied for registration under the Torrens system of a parcel of land containing 258 square meters. The other applicant was "Heirs of Joaquin Avendaño", and the land they were applying for registration was a parcel (hereinafter called the DISPUTED PROPERTY) containing 9,826 square meters surveyed in the

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name of the Municipality of Antipolo (ANTIPOLO, for short). Both parcels were situated in the Municipality of Antipolo. The applications were approved by the Registration Court on February 26, 1980. ANTIPOLO took steps to interpose an appeal but because it failed to amend the Record on Appeal, its appeal was disallowed.

On May 22, 1981, ANTIPOLO filed a complaint in Civil Case No. 41353, also of the Court of First Instance of Rizal, Branch XIII, Pasig (the CASE BELOW, for short) against named "Heirs of Joaquin Avendaño", and their assignees (hereinafter called the AVENDAÑO HEIRS) praying for nullification of the judgment rendered by the Registration Court. The defendants, in their Answer, pleaded a special defense of *res judicata*. After a preliminary hearing on the mentioned special defense, the CASE BELOW was dismissed. ANTIPOLO perfected an appeal to the then Court of Appeals.

A notice to file Brief was issued by the Appellate Court, which ANTIPOLO claimed it had not received. Upon motion of the defendants-appellees to dismiss on the ground that ANTIPOLO had not filed its Brief within the reglementary period, the appeal was dismissed despite the fact that before the dismissal, ANTIPOLO had submitted its Appellant's Brief.

We gave due course to the Petition for Review on Certiorari filed with this Court by ANTIPOLO, and the latter had re-stated the issues as follows:

I

"The Intermediate Appellate Court erred in dismissing petitioner's appeal on the alleged ground of failure to file appellant's brief within the reglementary period, the fact being that counsel had not been duly served with the notice to file brief.

II

"At any rate, the Appellate Court should have given due course to the appeal since the appellant's brief was filed within the 90-day period which is uniformly granted as a matter of course to all litigants before the Appellate Court, instead of dismissing the appeal on a technicality.

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III

"With more reason should petitioner's appeal have been given due course on the important and substantial allegation that the registration court did not have jurisdiction over the land subject of registration, it being property of the Municipality of Antipolo, used long before the war as a public market and other public purposes, and hence actually devoted to public use and service."

Only a short resolution need be made to sustain the first and second issues of error. Although failure to file Brief within the time provided by the Rules is, indeed, a ground for dismissal of an appeal, this Court has held that rules of technicality must yield to the broader interests of substantial justice[1] specially where, as in this case, the important issue of lack of jurisdiction over the subject matter of the Land Registration Court has been raised.

With the foregoing conclusion, a remand to respondent Court, for the entertainment of the appeal on the merits, would ordinarily be the appropriate relief. However, considering the three Motions for Early Decision filed by private respondents, we shall resolve the substantive merits of the appeal to the appellate tribunal from the judgment rendered in the CASE BELOW.

From the record, we have gathered that ANTIPOLO, for more than 50 years now, has considered the DISPUTED PROPERTY to be public land subject to ANTIPOLO's use and permission to use within the prerogatives and purposes of a municipal corporation. There is indication to the effect that it had been the site of the public market as far back as 1908,[2] or at the latest, since 1920 "up to today."[3] Gradually, additional public structures were built thereon, like the Puericulture and Family Planning Center, the Integrated National Police Building, the Office of the Municipal Treasurer, and the public abattoir. Those public structures occupy almost the entire area of the land. At the time the application for registration was filed on August 8, 1977, the DISPUTED

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[1] Carco Motor Sales, Inc. *vs.* Court of Appeals, 78 SCRA 526 (1977).

[2] Decision, pp. 7, 14; *Rollo*, pp. 66, 73.

[3] *Ibid.*, p. 20; *Ibid.*, p. 267.

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PROPERTY was already *devoted to public use and public service.* Therefore, it was outside the commerce of man and could no longer be subject to *private* registration.

The claim of the AVENDAÑO HEIRS that they merely tolerated occupancy by ANTIPOLO which had borrowed the DISPUTED PROPERTY from them, since they had been in possession since as far back as 1916, erroneously presupposes ownership thereof since that time. They forget that all lands are presumed to be public lands until the contrary is established.[4] The fact that the DISPUTED PROPERTY may have been declared for taxation purposes in their names or of their predecessors-in-interest as early as 1918[5] does not necessarily prove ownership. They are merely indicia of a claim of ownership.[6] ANTIPOLO had also declared the DISPUTED PROPERTY as its own in Tax Declarations Nos. 909, 993 and 454.

Since the Land Registration Court had no jurisdiction to entertain the application for registration of public property of ANTIPOLO, its Decision adjudicating the DISPUTED PROPERTY as of private ownership is null and void. It never attained finality, and can be attacked at any time. It was not a bar to the action brought by ANTIPOLO for its annulment by reason of *res judicata.*

"* * * the want of jurisdiction by a court over the subject-matter renders the judgment void and a mere nullity, and considering that a void judgment is in legal effect no judgment, by which no rights are divested, from which no rights can be obtained, which neither binds nor bars any one, and under which all acts performed and all claims flowing out of are void, and considering, further, that the decision, for want of jurisdiction of the court, is not a decision in contemplation of law, and hence, can never become executory, it follows that such

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[4] Oh Cho *vs.* Director of Lands, 75 Phil. (1946); Director of Lands *vs.* Court of Appeals, 38 SCRA 635 (1971).

[5] Decision, pp. 8, 13; *Rollo*, pp. 67,72.

[6] Municipality of Santiago, Isabela *vs.* Court of Appeals, 120 SCRA 734 (1983) citing Elumbaring *vs.* Elumbaring, 12 Phil. 384 (1909) and Evangelista *vs.* Tabayuyong, 7 Phil. 607 (1907).

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a void judgment cannot constitute a bar to another case by reason of *res judicata*."[7]

It follows that the titles issued in favor of the AVENDAÑO HEIRS must also be held to be null and void. They were issued by a Court with no jurisdiction over the subject matter. Perforce, they must be ordered cancelled.

"* * * It follows that 'if a person obtains a title under the Public Land Act which includes, by oversight, lands which cannot be registered under the Torrens System, or when the Director of Lands did not have jurisdiction over the same because it is a public forest, the grantee does not, by virtue of the said certificate of title alone, become the owner of the land illegally included' (Republic *vs.* Animas, 56 SCRA 499, 503; Ledesma *vs.* Municipality of Iloilo, 49 Phil. 769).

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"Under these circumstances, the certificate of title may be ordered cancelled (Republic *vs.* Animas, et al., *supra*), and the cancellation may be pursued through an ordinary action therefor. *This action cannot be barred by the prior judgment of the land registration court, since the said court had no jurisdiction over the subject matter.* And if there was no such jurisdiction, then the principle of *res judicata* does not apply. * * *. Certainly, one of the essential requisites, i.e., jurisdiction over the subject matter, is absent in this case."[8] (Italics supplied).

WHEREFORE, judgment is hereby rendered as follows:

(l) The Resolutions of respondent Court, now the Intermediate Appellate Court, dated August 23, 1983 and September 27, 1983, are hereby set aside, with this Court acting directly on the appeal of the Municipality of Antipolo from the judgment rendered by the then Court of First Instance of Rizal, Branch XIII, in its Civil Case No. 41353;

(2) The aforesaid judgment of the then Court of First Instance of Rizal, Branch XIII, in Civil Case No. 41353 is set aside; and, instead, the judgment and decree rendered by the then Court of First Instance of Rizal, Branch XV, in Land Registration Case No. N-9995, LRC Rec. No. N-52176, is hereby declared null and void in respect of the "Heirs of Joaquin Avendaño";

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(3) The Register of Deeds of Rizal is hereby ordered to cancel all certificates of title issued/transferred by virtue of the said judgment and decree issued in the mentioned Land Registration Case No. N-9995, LRC Rec. No. N-52176 in respect of the "Heirs of Isabela Avendaño"; (Italics supplied)

(4) The certificate of title issued in the name of Conrado Eniceo, and transfers therefrom, by virtue of the judgment and decree in the mentioned Land Registration Case No. N-9995; LRC Rec. No. N-52176, for practical purposes, shall continue to be valid.

Without pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Plana, Gutierrez, Jr., and *de la Fuente, JJ.*, concur.

Relova, J., took no part.

FIRST DIVISION

[G.R. No. 65424. December 26, 1984]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* ANSELMO GERMINO and EDUARDO GERMINO, *accused-defendants,* ANSELMO GERMINO, *defendant-appellant.*

SYLLABUS

REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESS; GUILT OF ACCUSED SUCCESSFULLY PROVEN BY EVIDENCE THAT CORROBORATE COMPLAINANT'S TESTIMONY IN CASE AT BAR.— Upon the facts and evidence, the Court finds the charge of rape against ANSELMO successfully proven. COMPLAINANT'S testimony finds corroboration in the torn panty and confirmation in the four healed lacerations that were subsequently found by the examining