



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES,
represented by the DEPARTMENT OF
PUBLIC WORKS AND HIGHWAYS
(DPWH),

Petitioner,

- versus -

ST. VINCENT DE PAUL COLLEGES,
INC.,

Respondent.

G.R. No. 192908

Present:

CARPIO, J.,
Chairperson,
LEONARDO DE-CASTRO,*
PEREZ,
SERENO, and
REYES, JJ.

Promulgated:

AUG 22 2012 *H. V. Cabalag*

X-----X

DECISION

REYES, J.:

Before the Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, where petitioner Republic of the Philippines (Republic), represented by the Department of Public Works and Highways through the Office of the Solicitor General, questions the resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 108499, to wit:

* Additional member per Special Order No. 1286 dated August 22, 2012 vice Associate Justice Arturo D. Brion.

¹ Rollo, pp. 15-44.

1. Resolution dated October 30, 2009² dismissing petitioner's petition for *certiorari* under Rule 65 for being filed out of time; and
2. Resolution dated July 15, 2010³ denying petitioner's motion for reconsideration.

Antecedent Facts

The instant case arose from two cases filed by the Republic seeking expropriation of certain properties in the name of St. Vincent de Paul Colleges, Inc. (St. Vincent). In Civil Case No. 0062-04, the Republic sought to expropriate 1,992 square meters out of a total area of 6,068 square meters of land for the construction of the Manila-Cavite Toll Expressway Project (MCTEP). Said property belongs to St. Vincent covered by TCT No. T-821169 and located in Binakayan, Kawit, Cavite. In Civil Case No. 0100-04, on the other hand, the Republic sought to expropriate 2,450 square meters out of a total area of 9,039 square meters, also belonging to St. Vincent and covered by TCT No. T-821170. Said property adjoins the property subject of Civil Case No. 0062-04.

Subsequently, the Republic filed in both cases an amended complaint alleging that the subject land originated from a free patent title and should be adjudicated to it without payment of just compensation pursuant to Section 112 of Commonwealth Act No. 141.

On August 9, 2005, the Republic filed in Civil Case No. 0062-04 a motion for the issuance of an order of expropriation.⁴ It was granted by the trial court per Order⁵ dated August 16, 2005, ruling that the Republic has a lawful right to take the 1,992 square meters portion of the subject property, with "no pronouncement as to just compensation" since the subject property

² Penned by Associate Justice Rosmari D. Carandang, with Associate Justices Arturo G. Tayag and Michael P. Elbinias, concurring; id. at 45-52.

³ Id. at 53-54.

⁴ Under the sala of Acting Presiding Judge Rommel D. Baybay; id. at 98-102.

⁵ Id. at 103.

originated from a free patent.⁶ A motion for the issuance of an order of expropriation was likewise filed by the Republic in Civil Case No. 0100-04 but before this could be resolved, the Republic moved to consolidate the two cases, which was granted by the trial court.⁷

On November 16, 2006, the trial court denied St. Vincent's motion for reconsideration of its Order dated August 16, 2005 granting expropriation.⁸ As alleged in the petition, no appeal was taken by St. Vincent from said orders.⁹

After almost 2 years, or on July 28, 2008, St. Vincent filed a Manifestation with Motion for Clarification of the Order dated August 16, 2005,¹⁰ contending that although it does not oppose the ruling regarding the determination of public purpose and the Republic's right to expropriate the subject land, it, however, claims that it is entitled to just compensation.

Meanwhile, the Republic attempted to implement the Order dated August 16, 2005 by entering the subject portion of St. Vincent's property. Aggrieved, the latter demanded upon the Republic and its agents to immediately vacate, and remove any and all equipment or structures they introduced on its property in a demand-letter¹¹ dated October 3, 2008.

Due to St. Vincent's refusal to honor the order of expropriation, the Republic filed an urgent motion for the issuance of a writ of possession, which was denied by the lower court in its Order¹² dated November 25, 2006 [2008]. The lower court, however, modified its Order dated August 16, 2005 and required the Republic to immediately pay St. Vincent in an amount equivalent to one hundred percent (100%) of the value of the

⁶ Id.
⁷ Id. at 131.
⁸ Id. at 132.
⁹ Id. at 22.
¹⁰ Id. at 133-139.
¹¹ Id. at 159.
¹² Id. at 190-193.

property sought to be expropriated. The Republic moved for reconsideration but it was denied by the lower court per Order¹³ dated January 29, 2009 for lack of factual and legal basis.

Seeking to avail the extra ordinary remedy of *certiorari* under Rule 65 of the Rules of Court, the Republic filed with the CA a motion for additional time of fifteen (15) days within which to file its petition. The CA granted the motion in its Resolution¹⁴ dated April 30, 2009 and the Republic was given a non-extensible period of fifteen (15) days or until May 4, 2009 within which to file its petition for *certiorari*.

On April 30, 2009, the Republic filed its petition for *certiorari* assailing the lower court's orders dated November 25, 2008 and January 29, 2009 for having been issued with grave abuse of discretion amounting to lack or in excess of jurisdiction.

On June 19, 2009, the CA, *motu proprio*, issued a Resolution¹⁵ ordering the Republic to show cause why its petition for *certiorari* should not be dismissed for being filed out of time, pursuant to A.M. No. 07-7-12-SC.

The Republic filed its Compliance with Explanation¹⁶ dated July 1, 2009 pleading for the relaxation of the rules by reason of the transcendental importance of the issues involved in the case and in consideration of substantial justice. St. Vincent filed its Comment/Opposition¹⁷ dated July 15, 2009 alleging among others that the said explanation is merely *pro forma* due to the Republic's failure to justify its explanation.

¹³ Id. at 203-204.

¹⁴ Id. at 211.

¹⁵ Id. at 247.

¹⁶ Id. at 248-255.

¹⁷ Id. at 256-262.

On October 30, 2009, the CA rendered the assailed resolution dismissing the Republic's petition for *certiorari* on the ground that the petition was filed out of time inasmuch as extensions of time are now disallowed by A.M. No. 07-7-12-SC¹⁸ and as applied in *Laguna Metts Corporation v. Court of Appeals*.¹⁹

On November 26, 2009, the Republic filed its motion for reconsideration alleging that it merely relied in good faith on the appellate court's resolution granting the former an additional period of fifteen (15) days within which to file the subject petition.

On July 15, 2010, the CA rendered the assailed resolution denying the Republic's motion for reconsideration, stating that it cannot disobey the ruling in *Laguna Metts Corporation*.²⁰

Hence, this petition.

The Republic relies on the CA resolution granting its motion for extension of time and upon the strength of the substantial merits of its petition. The Republic also invokes *Domdom v. Third and Fifth Divisions of the Sandiganbayan*,²¹ where the Court ruled that absent a prohibition, motions for extensions are allowed, subject to the Court's sound discretion.

St. Vincent, however, contends that the present petition fails to neither allege any circumstance nor state any justification for the deliberate disregard of a very elementary rule of procedure like Section 4 of Rule 65 of the Rules of Court. And in the absence of any such circumstance or justification, the general rule on *pro forma* motions/pleadings must apply.

¹⁸ Id. at 48-52.

¹⁹ G.R. No. 185220, July 27, 2009, 594 SCRA 139.

²⁰ *Rollo*, pp. 53-54.

²¹ G.R. Nos. 182382-83, February 24, 2010, 613 SCRA 528.

The Issue

The Republic discussed the substantial merits of its case; however, the CA did no more than include such matters in its narration of facts, and neither did St. Vincent dwell on said issues. Hence, the only issue to be resolved in this petition is whether the CA committed a reversible error when it dismissed the Republic's petition for *certiorari* for being filed out of time, pursuant to A.M. No. 07-7-12-SC.

The Court's Ruling

We GRANT the petition.

The Court notes that the CA Resolution dated April 30, 2009, which initially granted the Republic's motion for extension, was premised on the mistaken notion that the petition filed by the latter was one for petition for review as a mode of appeal. The CA resolution stated, among others: "[P]rovided that this Motion for Extension of Time to File Petition for Review is seasonably filed, as prayed for, x x x."²² Thus, the CA granted extension inasmuch as motions for this purpose are allowed by the rules.²³ On this score alone, the CA should have admitted the petition filed by the Republic since the latter merely relied on its Resolution dated April 30, 2009 granting the extension prayed for.

Nevertheless, the CA subsequently dismissed the petition filed by the Republic on the ground that the same was filed out of time, following A.M. No. 07-7-12-SC. In its Resolution dated July 15, 2010, which dismissed the Republic's motion for reconsideration, the CA also relied on the ruling in *Laguna Metts Corporation* that the sixty (60)-day period within which to file a petition for *certiorari* is non-extendible. The petitioner, however, insists that *Domdom* allows extensions of time to file a petition.

²² *Rollo*, p. 211.

²³ See RULES OF COURT, Rule 42, Section 1 and Rule 43, Section 4.

In order to resolve the instant controversy, the Court deems it necessary to discuss the relationship between its respective rulings in *Laguna Metts Corporation* and *Domdom* with respect to the application of the amendment introduced by A.M. No. 07-7-12-SC to Section 4, Rule 65 of the Rules of Court.

Before said amendment, Section 4 of Rule 65 originally provides:

Sec. 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.

As amended by A.M. No. 07-7-12-SC, Section 4 of Rule 65 now reads:

Sec. 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.

In interpreting said amendment, the Court, in *Laguna Metts Corporation*, held that:

As a rule, an amendment by the deletion of certain words or phrases indicates an intention to change its meaning. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment.

If the Court intended to retain the authority of the proper courts to grant extensions under Section 4 of Rule 65, the paragraph providing for such authority would have been preserved. The removal of the said paragraph under the amendment by A.M. No. 07-7-12-SC of Section 4, Rule 65 simply meant that there can no longer be any extension of the 60-day period within which to file a petition for *certiorari*.

The rationale for the amendments under A.M. No. 07-7-12-SC is essentially to prevent the use (or abuse) of the petition for *certiorari* under Rule 65 to delay a case or even defeat the ends of justice. Deleting the paragraph allowing extensions to file petition on compelling grounds did away with the filing of such motions. **As the Rule now stands, petitions for *certiorari* must be filed strictly within 60 days from notice of judgment or from the order denying a motion for reconsideration.**²⁴ (Citation omitted and emphasis ours)

Nevertheless, *Domdom* later stated:

On the People's argument that a motion for extension of time to file a petition for *certiorari* is no longer allowed, the same rests on shaky grounds. Supposedly, the deletion of the following provision in Section 4 of Rule 65 by A.M. No. 07-7-12-SC evinces an intention to absolutely prohibit motions for extension:

“No extension of time to file the petition shall be granted except for the most compelling reason and in no case exceeding fifteen (15) days.”

The full text of Section 4 of Rule 65, *as amended* by A.M. No. 07-7-12-SC, reads:

x x x x

²⁴

Supra note 19, at 145-146.

That no mention is made in the above-quoted amended Section 4 of Rule 65 of a motion for extension, unlike in the previous formulation, does not make the filing of such pleading absolutely prohibited. If such were the intention, the deleted portion could just have simply been reworded to state that “no extension of time to file the petition shall be granted.” Absent such prohibition, motions for extensions are allowed, subject to the Court’s sound discretion. The present petition may thus be allowed, having been filed within the extension sought and, at all events, given its merits.²⁵ (Citation omitted and emphasis and underscoring ours)

What seems to be a “conflict” is actually more apparent than real. A reading of the foregoing rulings leads to the simple conclusion that *Laguna Metts Corporation* involves a strict application of the general rule that **petitions for *certiorari* must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration.** *Domdom*, on the other hand, **relaxed the rule and allowed an extension of the sixty (60)-day period subject to the Court’s sound discretion.**²⁶

*Labao v. Flores*²⁷ subsequently laid down some of the exceptions to the strict application of the rule, viz:

Under Section 4 of Rule 65 of the 1997 Rules of Civil Procedure, *certiorari* should be instituted within a period of 60 days from notice of the judgment, order, or resolution sought to be assailed. **The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.**

X X X X

However, there are recognized exceptions to their strict observance, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant’s fault; (10) peculiar

²⁵ Supra note 21, at 534-535.

²⁶ Id. at 535.

²⁷ G.R. No. 187984, November 15, 2010, 634 SCRA 723.

legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Thus, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.²⁸ (Citations omitted and emphasis ours)

Note that *Labao* explicitly recognized the general rule that the sixty (60)-day period within which to file a petition for *certiorari* under Rule 65 is non-extendible, only that there are certain exceptional circumstances, which may call for its non-observance. Even more recently, in *Mid-Islands Power Generation Corporation v. Court of Appeals*,²⁹ the Court, taking into consideration *Laguna Metts Corporation* and *Domdom*, “relaxed the procedural technicalities introduced under A.M. No. 07-7-12-SC in order to serve substantial justice and safeguard strong public interest” and affirmed the extension granted by the CA to the respondent Power One Corporation due to the exceptional nature of the case and the strong public interest involved.

In *Laguna Metts Corporation v. Court of Appeals*, we explained that the reason behind the amendments under A.M. No. 07-7-12-SC was to prevent the use or abuse of the remedy of petition for certiorari in order to delay a case or even defeat the ends of justice. We thus deleted the clause that allowed an extension of the period to file a Rule 65 petition for compelling reasons. Instead, we deemed the 60-day period to file as reasonable and sufficient time for a party to mull over the case and to prepare a petition that asserts grave abuse of discretion by a lower court. The period was specifically set and limited in order to avoid any unreasonable delay in the dispensation of justice, a delay that could violate the constitutional right of the parties to a speedy disposition of their case.
x x x.

Nevertheless, in the more recent case of *Domdom v. Sandiganbayan*, we ruled that the deletion of the clause in Section 4, Rule 65 by A.M. No. 07-7-12-SC did not, *ipso facto*, make the filing of a motion for extension to file a Rule 65 petition absolutely prohibited. We held in *Domdom* that if absolute proscription were intended, the deleted portion could have just simply been reworded to specifically prohibit an extension of time to file such petition. **Thus, because of the lack of an express prohibition, we held that motions for extension may be allowed, subject to this Court’s sound discretion, and only under exceptional and meritorious cases.**

²⁸ Id. at 730-732.

²⁹ G.R. No. 189191, February 29, 2012.

Indeed, we have relaxed the procedural technicalities introduced under A.M. No. 07-7-12-SC in order to serve substantial justice and safeguard strong public interest. x x x:

x x x x

The present Petition involves one of those exceptional cases in which relaxing the procedural rules would serve substantial justice and safeguard strong public interest. x x x Consequently, in order to protect strong public interest, this Court deems it appropriate and justifiable to relax the amendment of Section 4, Rule 65 under A.M. No. 07-7-12-SC, concerning the reglementary period for the filing of a Rule 65 petition. Considering that the imminent power crisis is an exceptional and meritorious circumstance, the parties herein should be allowed to litigate the issues on the merits. **Furthermore, we find no significant prejudice to the substantive rights of the litigants as respondent was able to file the Petition before the CA within the 15-day extension it asked for.** We therefore find no grave abuse of discretion attributable to the CA when it granted respondent Power One's Motion for Extension to file its Petition for Certiorari.³⁰ (Citations omitted and emphasis ours)

To reiterate, under Section 4, Rule 65 of the Rules of Court and as applied in *Laguna Metts Corporation*, the general rule is that a petition for *certiorari* must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. Under exceptional circumstances, however, and subject to the sound discretion of the Court, said period may be extended pursuant to *Domdom, Labao and Mid-Islands Power* cases.

Accordingly, the CA should have admitted the Republic's petition: *first*, due to its own lapse when it granted the extension sought by the Republic per Resolution dated April 30, 2009; *second*, because of the public interest involved, *i.e.*, expropriation of private property for public use (MCTEP); and *finally*, no undue prejudice or delay will be caused to either party in admitting the petition.


WHEREFORE, premises considered, the petition is **GRANTED**. The Resolutions dated October 30, 2009 and July 15, 2010 of the Court of Appeals in CA-G.R. SP No. 108499 are **NULLIFIED**. The Court of Appeals is hereby **ORDERED** to **REINSTATE** and **ADMIT** the petition for *certiorari* filed by the Republic of the Philippines in CA-G.R. SP No.

³⁰


Id.

108499 and to proceed with the case with dispatch.


SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

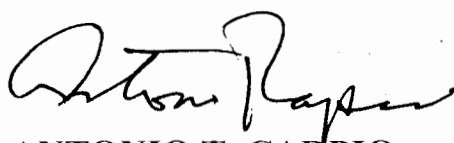

TERESITA J. LEONARDO-DE CASTRO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


MARIA LOURDES P. A. SERENO
Associate Justice

CERTIFICATION

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.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296
The Judiciary Act of 1948, as amended)