Republic of the Philippines  
**SUPREME COURT**  
Manila

FIRST DIVISION

**G.R. No. 155758               October 31, 2008**

**HEIRS OF JOSE ESPLANA, namely: YOLANDA BOTIN VDA. DE ESPLANA, TERESA B. ESPLANA, LIZA B. ESPLANA, SHIRLEY B. ESPLANA, ALMA B. ESPLANA, JACK B. ESPLANA, and LINA B. ESPLANA,** Petitioners,   
vs.  
**THE COURT OF APPEALS and HEIRS OF PEDRO DE LIMA, represented by JAIME DE LIMA** Respondents.

D E C I S I O N

**AZCUNA, *J.:***

This is a petition for *certiorari* alleging that the Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolutions in CA-G.R. SP No. 70106 dated June 27, 2002 and October 1, 2002, which dismissed petitioners’ petition for review and denied their motion for reconsideration, respectively.

The facts are as follows:

On July 27, 1995, Jose Esplana filed an action for recovery of ownership and possession, quieting of title with damages against Pedro de Lima before the Municipal Trial Court (MTC) of Baao, Camarines Sur.

The MTC tried and decided the case as an action for forcible entry. On November 28, 1995, the MTC dismissed the complaint and ordered plaintiff Jose Esplana to pay defendant Pedro de Lima attorney’s fees, the expenses of litigation in the amount of ~~P~~10,000 and the costs of the suit.

On appeal, the Regional Trial Court (RTC) of Iriga City, Branch 35, in an Order dated February 28, 1997, held that the forcible entry aspect was only incidental to the issue of ownership. It remanded the case to the MTC for the court to decide the issue of ownership, which the parties agreed upon from the outset, and all the issues raised in the Complaint.

Pursuant to the RTC Order, the MTC tried the case anew to resolve who between the contending parties was the real owner of the property. Defendant Pedro de Lima died and was substituted by his son, Jaime de Lima.

The parcels of land under litigation are irrigated ricelands with an aggregate area of 6,152 square meters situated in Barangay Sagrada, Baao, Camarines Sur. They form part of the intestate estate of the late spouses Victor Esplana and Florencia Pereira.\* Florencia died in 1967, while Victor died on January 5, 1982. They were survived by five children, namely, Mercedes, Crisanta, Regina, Jose and Rufino. Rufino died in 1988.

Plaintiff Jose Esplana contended that he was the owner of the subject property by virtue of the Deed of Absolute Sale executed in his favor by his father, Victor Esplana, in 1978. While defendant Pedro de Lima claimed that he was the owner of the subject property having purchased the same from the rightful owners, Mercedes, Crisanta and Regina, all surnamed Esplana (Esplana sisters), by virtue of a Deed of Absolute Sale notarized by Atty. Paulo Briones on June 30, 1995, which sale was admitted by the Esplana sisters.

In a Decision dated April 14, 2000, the MTC found the preponderance of evidence in favor of the defendant; hence, it dismissed the Complaint. The dispositive portion of the decision reads:

WHEREFORE, for failure of the plaintiff to establish a valid cause of action, the complaint is, as it is, hereby dismissed. Plaintiff’s exhibit "A" being a spurious and/or falsified document, the same is declared null and void ab initio; consequently, all deeds or transactions executed by the plaintiff subsequent to its execution covering or affecting the land bought by the defendant from the Esplana sisters is/are likewise declared null and void and of no legal effect whatsoever. Particularly, the tax declaration/s generated by the Assessor’s Office in the name of the plaintiff by virtue or pursuant to exhibit "A" is/are declared without legal basis and are hereby ordered cancelled also.

As regards defendant’s counter-claim, the plaintiff is directed to pay the defendant, attorney’s fees and expenses of litigation in the amount of ~~P~~20,000.00 and to pay the costs of suit.

Defendant’s title to the land in question is quieted and for lack of legal and factual basis, the Third-Party Complaint is, as it is hereby dismissed.[1](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt1)

Jose Esplana appealed the MTC decision to the RTC.

A certification from the Office of the Civil Registrar shows that Jose Esplana died on December 12, 2001.

In a Decision dated February 6, 2002, the RTC of Iriga City, Branch 34, stated that the issues raised before it were factual in character. Since the factual finding of the MTC was supported by evidence on record, the RTC affirmed the decision of the MTC *in toto* and dismissed the appeal.

Jose Esplana’s counsel received a copy of the RTC decision on February 21, 2002.

On March 7, 2002, Jose Esplana’s counsel filed before the Court of Appeals a motion for extension of 30 days within which to file a petition for review reckoned from March 8, 2002. He stated that he could not submit the petition on the deadline, March 8, 2002, due to Jose Esplana’s untimely death, his day to day court appearance and the voluminous paper work in his office.

On May 16, 2002, the Court of Appeals issued a Resolution granting petitioners only 15 days, reckoned from March 8, 2002 or until March 23, 2002, within which to file the petition for review subject to the caveat that a petition filed after March 23, 2002 shall be expunged from the records of the case.

Petitioners’ counsel received a copy of the Court of Appeals’ Resolution on May 29, 2002. However, he already filed the petition for review on April 5, 2002, which was within the 30-day extension requested for.

In a Resolution promulgated on June 27, 2002,[2](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt2) the Court of Appeals dismissed the petition for review and expunged it from the records of the case for having been filed out of time on April 5, 2002, instead of the deadline, March 23, 2002.

Petitioners’ counsel received a copy of the Resolution on July 29, 2002. Petitioners, through counsel, filed a Manifestation with Motion for Reconsideration alleging that they filed the motion for extension to file the petition for review within 30 days from March 8, 2002 considering that the original petitioner, Jose Esplana, had just died and they had to attend the wake and that they had just manifested their desire to appeal the case of their father. Attached to the Manifestation was the Death Certificate of Jose Esplana showing that he died on December 12, 2001. Thus, petitioners alleged that their failure to file the petition on time was due to the sudden death of their father and the inefficiency of the postal service.

The Court of Appeals denied petitioners’ motion for reconsideration in a Resolution promulgated on October 1, 2002.[3](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt3)

Hence, this petition.

The issue is whether or not the Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolutions promulgated on June 27, 2002 and October 1, 2002.

Petitioners, the heirs of Jose Esplana, contend that they could have filed the petition for review before the deadline (March 23, 2002) if they received before the deadline the Court of Appeals’ resolution on their motion for extension of time to file the petition for review. However, their motion was resolved by the Court of Appeals only on May 16, 2002 or after the extended period granted had already expired. They received the Resolution dated May 16, 2002 only on May 29, 2002, after they had already filed their petition for review on April 5, 2002. They claim that the non-compliance with the Resolution dated May 16, 2002 is clearly due to the delay in the postal service.

Petitioners also submit that the 15-day extension to file a petition for review under Sec. 1, Rule 42 of the Rules of Court is not a strict and rigid rule for it allows a further extension of 15 days for the most compelling reason, which in this case is the death of the original party, Jose Esplana; the observance of his wake; and the indecision of his heirs to pursue the case on appeal.

Petitioners pray that the Court annul and set aside the Court of Appeals’ Resolutions dated June 27, 2002 and October 1, 2002 and direct the Court of Appeals to resolve the petition for review on the merits.

The petition is without merit.

Sec. 1, Rule 42 of the Rules of Court provides for the manner an appeal by petition for review from the Regional Trial Courts to the Court of Appeals is taken:

SECTION 1. *How appeal taken; time for filing*.—A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner’s motion for new trial or reconsideration filed in due time after judgment. **Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period**, **the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.**

Sec. 1, Rule 42 of the Rules of Court is very clear that petitioners are allowed an extension of only 15 days to file a petition for review with the Court of Appeals. Although a further extension not to exceed 15 days may be granted for the most compelling reason,[4](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt4) the grounds stated by petitioners do not entitle them to a further extension.

Petitioners’ motion for extension was grounded on the untimely death of the original party, Jose Esplana, their counsel’s day to day court appearance and the voluminous paper work in said counsel’s office. The stated grounds for the motion for extension warranted the grant of a 15-day extension by the Court of Appeals that would end on March 23, 2002.

Petitioners filed their petition for review on April 5, 2002, which was beyond the 15-day extension granted by the Court of Appeals, although it was within the 30-day extension they requested for.

Petitioners submit in their Reply that they are entitled to a further extension of 15 days under Sec. 1, Rule 42 of the Rules of Court for these compelling reasons: the death of the original party, Jose Esplana; the observance of his wake; and their (petitioners) indecision to pursue the case on appeal.

The Court is not persuaded.

The death certificate[5](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt5) presented by petitioners before the Court of Appeals showed that Jose Esplana died on December 12, 2001. Taking into consideration our custom in holding a wake, it can be assumed that the wake ended sometime in December, 2001. Petitioners’ counsel received the RTC Decision dated February 6, 2002 on February 21, 2002, which is more than two months after the death of Jose Esplana. At the time of notice of the RTC Decision, petitioners were just undecided about appealing the RTC decision to the Court of Appeals.

The Court holds that petitioners’ indecision to appeal their case before the Court of Appeals is clearly not a compelling reason to grant them a further extension of 15 days to file their petition for review.

Further, before the Court of Appeals may grant the 15-day extension to file a petition for review, Sec. 1, Rule 42 of the Rules of Court requires the payment of the full amount of the docket and other lawful fees and the deposit of the necessary amount for costs before the expiration of the reglementary period. These, petitioners failed to do.*1avvphi1*

In the Resolution of October 1, 2002 denying petitioners’ motion for reconsideration, the Court of Appeals stated that petitioners did not only fail to file their petition for review within the 15-day extension granted, but they also failed to pay the full amount of the docket and other legal fees within the reglementary period, that is, on or before March 8, 2002, the last day for petitioners to file their petition.

Motions for extension are not granted as a matter of right but in the sound discretion of the court.[6](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt6) Lawyers are expected to be knowledgeable of the rule on the grant of such motion. The 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.[7](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "fnt7)

In fine, the Court of Appeals did not gravely abuse its discretion in issuing the Resolutions.

**WHEREFORE**, the petition is **DISMISSED**. The Resolutions of the Court of Appeals in CA-G.R. SP No. 70106 dated June 27, 2002 and October 1, 2002 are hereby **AFFIRMED**.

No costs.

SO ORDERED.

**ADOLFO S. AZCUNA**  
Associate Justice

WE CONCUR:

**ANTONIO T. CARPIO**  
Associate Justice

|  |  |
| --- | --- |
| **RENATO C. CORONA** Associate Justice | **TERESITA J. LEONARDO-DE CASTRO** Associate Justice |

**ARTURO D. BRION**  
Associate Justice

A T T E S T A T I O N

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  
Acting Chairperson, First Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Acting Division Chairperson’s Attestation, it is hereby certified 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.

**LEONARDO A. QUISUMBING**  
Acting Chief Justice

**Footnotes**

\* Also referred to as Ferrera in the MTC Decision dated April 14, 2000.

[1](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt1) Rollo, pp. 58-59.

[2](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt2) Annex "E," rollo, p. 72.

[3](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt3) Annex "B," rollo, p. 66.

[4](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt4) *Bernardo v. People*, G.R. No. 166980, April 3, 2007, 520 SCRA 332.

[5](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt5) Annex "A," CA rollo, p. 92.

[6](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt6) *Supra*, note 2.

[7](http://www.lawphil.net/judjuris/juri2008/oct2008/gr_155758_2008.html" \l "rnt7) *Videogram Regulatory Board v. Court of Appeals*, G.R. No. 106564, November 28, 1996, 265 SCRA 50.

The Lawphil Project - Arellano Law Foundation