

100 Phil. 360

[ G.R. No. L-9627. November 26, 1956 ]

**MARGARITA ABABCA VASQUEZ, ASSISTED BY HER HUSBAND, GUIDO N. VASQUEZ, PLAINTIFFS AND APPELLEES, VS. ISADORA LANDRITO MESAGAL, ASSISTED BY HER HUSBAND, VENTURA MESAGAL, DEFENDANTS AND APPELLANTS.**

## **D E C I S I O N**

### **MONTEMAYOR, J.:**

This is an appeal from an order denying a petition for relief from a judgment, first taken to the Court of Appeals but later certified to us on the ground that it involved only a question of law. The facts are simple.

On December 27, 1952, plaintiff Margarita Abarca Vasquez filed against defendant Isidora Landrito Mesagal a complaint for forcible entry and detainer, involving a parcel of land situated in Barugao, Leyte, with an area of about four hectares, in the Justice of the Peace Court of the same municipality. After hearing, the Justice of the Peace Court rendered judgment in favor of the defendant, the dispositive part thereof being:

“In view of the foregoing facts, this Court is of the opinion and so holds that the defendant herein is in the lawful exercise of possession of her own property and plaintiff should pay the costs.”

Upon denial of a motion for reconsideration filed by plaintiff, the latter appealed the decision to the Court of First Instance. The Clerk of said Court issued the corresponding notice of appealed case, which notice was received by defendant Isidora on April 6, 1953. She failed to file her answer to the complaint, and at the instance of plaintiff-appellee. Isidora was declared in default, appellee was allowed to present her evidence, and on the same date, judgment was rendered in her favor, ordering the defendant “to pay to them as damages P1,800.00, and an additional P300.00 yearly up to July 9, 1953, or any portion

thereof before July 9, each year, plus costs.” Defendant Isidora received a copy of the decision on July 6, 1953, and without losing time, she filed two days thereafter her petition for relief from the judgment rendered, claiming that she was a woman of limited intelligence and education, and that although she received a copy of the notice of appealed case from the Clerk of Court, she entertained the belief that, having won the case in the Justice of the Peace Court, and considering further that all the records of the said case were filed in the Court of First Instance, there was no need for her to file an answer to the original complaint, and that all that she had to do was to wait for summons or notice of the trial of the case. Her petition for relief was accompanied by affidavit of merit, wherein she repeats what was alleged in her petition about her failure to file her answer to the original complaint, at the same time insisting she had a valid defense for the reason that the land in question was inherited by her from her deceased father, Mariano Landrito, who had declared the same for taxation since 1916, paying taxes therefor, and that since she inherited the property, she had also been paying the taxes regularly. This claim of hers was practically confirmed by the decision of the Justice of the Peace Court, who decided the case in her favor. While ordinarily a mistake or act of negligence like those of the defendant-appellant herein may not be regarded as sufficient ground for setting aside a judgment by default, considering the circumstances in the present case, in the interest of justice, we are inclined to rule and do rule in favor of the appellant. We are satisfied that Isidora is practically illiterate and certainly not versed in the intricacies of the law and rather poor at that. She conducted her defense in the Justice of the Peace Court without the benefit of counsel, and her petition for relief in the Court of First Instance was thumb-marked by her. There is reason to believe that she really had a valid defense, not only on the basis of her claim contained in her affidavit of merit that she inherited the property from her father, but that very Justice of the Peace Court evidently sustained that claim, decided in her favor, and ordered the plaintiff to pay the costs.

In the case of *Tomasa V. Bulos Vda. de Tecson, etc. vs. Benjamin Tecson*, (93 Phil., 903, 49 Off. Gaz., [H] 4308) which involved a case of forcible entry and also a petition for relief, we had occasion to say the following:

“While a petition for relief as a rule is addressed to the sound discretion of the court, however, when it appears that a party has a good and ineritorius defense and it would be unjust and unfair to deny him his day in court, equity demands that the exercise of judicial discretion be reconsidered if there are good reasons that warrant it. Here this reason exists if only all the facts are considered. Note

that counsel did not lose time in putting things aright when he came to know that something was wrong. Upon receipt of copy of the decision of the court, which came to him as a surprise, immediately gave notice of his desire to file a petition for relief which he did in no time, attaching to his petition four affidavits of merit. These document shows that defendants had a good and meritorious defense and outline the circumstances which resulted in the failure of their counsel to answer within the reglementary period.”

Furthermore, to deny the present appellant’s petition for relief might possibly result in the miscarriage of justice. We notice from the record on appeal that the original complaint filed by plaintiff in the Justice of the Peace Court, asked only for P250.00 as damages. Said record on appeal failing to show otherwise, we must presume that when plaintiff appealed to the Court of First Instance, she did not file a new complaint, but relied upon that filed by her in the Justice of the Peace Court, naturally with the same prayer,for damages. And yet, in the judgment by default rendered by the trial court wherein it finds that the damages incurred for one year by the plaintiff was P300.00, it awarded damages for six from 1947 and 1952, or a total of P1,800.00. This despite the fact that the forcible entry allegedly took place only in 1952.

In view of the foregoing, the order of the trial court denying the petition for relief is hereby set aside, and this case is ordered remanded to said court for further proceedings, the defendant-appellant to be given a reasonable time within which to file an answer to the complaint. Plaintiff-appellee will pay the costs.

*Paras, C. J., Bengzon, Padilla, Bautista Angela, Labrador, Concepcion, Reyes, J. B. L., Endencia and Felix, JJ., concur.*