

103 Phil. 341

[G. R. No. L-11002. April 17, 1958]

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLANT, VS. ISIDORO DE LA CRUZ, DEFENDANT AND APPELLEE.

D E C I S I O N

FELIX, J.:

This is an appeal by the Philippine National Bank from the order of the Court of First Instance of Manila dated October 19, 1954, in Civil Case No. 23236, dismissing the complaint filed therein and from the order of November 22, 1954, denying plaintiff's motion for reconsideration of said order of dismissal. The facts of the case are as follows:

On October 8, 1946, Isidoro de la Cruz obtained a loan of P5,000.00 from the Philippine National Bank, payable within 120 days, with interest at 6 per cent per annum and an additional 10 per cent of the amount due as attorney's fees in ease the collection of the indebtedness would be effected through court proceedings. To secure said loan, De la Cruz executed a mortgage in favor of the bank over a certain property situated at Dasmariñas, Cavite. It seems that the mortgagor failed to satisfy his obligation and for this reason the bank foreclosed the mortgage and the property was actually sold at public auction by the Ex-Officio Provincial Sheriff of Cavite. The property was awarded to the bank for P5,000.00, it being the highest bid received for the property. As the mortgagee's total indebtedness reached the sum of P7,879.29 as of January 5, 1953, after deducting P5,000.00 representing the proceeds of the sale of the mortgaged property, there still remained an unsatisfied balance favor of the bank in the sum of P2,879.29. Thus, on June 22, 1954, the Philippine National Bank filed a complaint against Isidoro de la Cruz praying the Court that defendant be ordered to pay the deficiency of P2,879.29, with interest at the rate of 6 per cent per annum from January 6, 1953, untill fully paid.

Defendant filed bis answer contending that the price of P5,000.00 for which the property was allegedly sold at public auction was too inadequate and unconscionable because the

said property was worth far more than defendant's indebtedness and its sale should be taken to have released him from his obligation. Defendant, therefore, prayed that he be declared relieved of his obligation and that the complaint be dismissed.

The issues having been joined, the hearing of the case was set for October 19, 1954, but on October 18, counsel for defendant filed an urgent motion for postponement, bearing the conformity of counsel for plaintiff, stating among others that there was a chance that the parties could reach an amicable settlement; that for such purpose, they needed some time, and praying that the hearing be postponed until the next calendar of the court. Acting upon said motion, the court a quo issued an order which reads as follows:

“When this case was called for hearing this afternoon, the defendant presented an urgent motion for postponement. This motion for postponement being contrary to law and to the Rules of Court, the same is hereby denied;

“And it appearing that the plaintiff in this case consented to this motion without tile approval of this Court and for this reason did not appeal this afternoon—and this has been the practice of the Philippine National Bank to be negligent in its duties—this case is hereby dismissed for non-appearance of the plaintiff, without pronouncements as to costs” (p. 8, Record on Appeal).

Plaintiff thereafter filed a motion for reconsideration asserting that it acceded to the motion for postponement in view of defendant's intention to settle the case amicably and also of the bank's policy to give its clients all the opportunity for the easy settlement of their obligations; that there was no intention on the part of plaintiff not to appear at the hearing of the case, but the lawyer personally handling the same suddenly was taken ill on that day. An affidavit of said lawyer to that effect was attached to the motion. Under date of November 2, 1954, the Court denied the motion for lack of merit. From these 2 orders, plaintiff brought the matter to the Court of Appeals, but the case was certified to Us by the latter Tribunal pursuant to the provisions of Section 17—6 of Republic Act No. 296.

There is no question that the granting or denial of a motion for postponement rests upon the discretion of the court, but this doctrine should not be taken to mean an absolute authority, it being qualified in the sense that the discretion to be so exercised must be sound and reasonable, not arbitrary or capricious. The only issue, therefore, raised by this appeal is whether the lower court, in denying the motion for postponement involved herein, abused

such prerogative.

It may be conceded that postponements, particularly those manifestly intended to delay the proceedings, should be discouraged, but where a transfer of the hearing to some other time was sought for on reasonable grounds, as when the parties are trying to reach an amicable settlement of their controversy, it behooves the court to grant the same in order to afford the parties opportunity to thresh out their differences out of court. Indeed, it is a sound policy for the Court to favor and encourage litigants to settle their controversies extrajudicially where same is possible and lawful, not only because it minimizes the expenses and troubles a litigation usually entails, but also due to the fact that in most cases, such agreement redounds to the benefit of both parties and results in their mutual satisfaction. In the case at bar, considering that defendant's motion for postponement of the hearing was the first and that same was requested obviously to enable the parties to find a common meeting ground wherein the matter in litigation could be settled, We feel that the ends of justice could have been better served if it were allowed. The trial Judge on the other hand, in denying the same, made the pronouncement that the motion thus filed was contrary to law, probably having in mind the provisions of Section 4, Rule 31 of the Rules of Court restricting the postponement of a trial to a period not exceeding one month. It must be noted, however, that although the motion for postponement prayed that the hearing be included in the next calendar of the court, which may exceed the 1-month period provided for by law, it appears that the written conformity of counsel for plaintiff was expressed in the following tenor: "No objection : for 30 days". This remark of counsel for the plaintiff contained in the pleading filed with the Court may be taken as a modification of the prayer so as to specify that the period of postponement so requested shall not exceed 30 days. Thus, the aforementioned motion cannot be held to be violative of the provisions of the Rules of Court. (*See Arts. 2029 and 2030, Civil Code.*)

Similarly, although a party has no right to presume that a motion for postponement would be granted by the Court to justify his failure to appear on the date of the hearing, yet taking into account the explanation offered by plaintiff which was not controverted, aside from the conclusion We have already arrived at that defendant's motion should have been allowed, the Court *a quo* should not have dismissed the case on account of plaintiff's alleged failure to prosecute.

Wherefore, the orders appealed from are hereby set aside and the case remanded to the lower Court for further proceedings. Without pronouncement as to costs. It is so ordered.

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Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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