

MOISES LLANTERO, REPRESENTED BY HIS SON, TRANQUILINO LLANTERO, PETITIONER, VS. THE COURT OF APPEALS AND J.M. TUASON & CO., INC., RESPONDENTS.

G.R. No. L-28421. July 20, 1981

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This Petition for Certiorari seeks to set aside the Court of Appeals' Resolution, dated November 11, 1967, denying petitioner's Motion to Set Aside Entry of Judgment in CA-G.R. No. 27311-R.

From the records before us, we gather that respondent J.M. Tuason & Co., Inc., a domestic corporation organized and existing under the laws of the Philippines (hereinafter simply called Corporation), is the registered owner of a parcel of land known as the Sta. Mesa Heights Subdivision, situated in Quezon City, covered by Transfer Certificate of Title No. 1267 (37686-Rizal) issued in its name by the Registry of Deeds of said City.[1] Title over the said tract of land was originally registered under the Torrens system as far back as July 8, 1914.[2]

On January 7, 1959, the Corporation instituted an action for recovery of possession against petitioner in the Court of First Instance of Rizal, docketed as Civil Case No. Q-3697. It alleged that on March 23, 1957, petitioner, through force, strategy and stealth, and without its consent, entered into, occupied and subsequently constructed his house on a 200-square-meter-portion of the land at Barrio North, Tatalon, Quezon City, covered by the title of the Corporation.[3]

Petitioner, in his Answer, claimed that he bought the land on October 29, 1956 from Felicidad Campos, whose title thereto could be traced back to Telesforo Deudor, the first known "owner" of the property.

On June 21, 1959, the trial Court rendered judgment ordering petitioner or any person claiming under him, to remove his house and other constructions from the property in question; to surrender possession thereof to the Corporation; to pay P20.00 a month from April 23, 1957 until possession is restored; and to pay the costs.[4]

Petitioner appealed to the Court of Appeals (CA-G.R. No. 27311-R). On May 11, 1967, that Court affirmed the Decision of the trial Court. Petitioner received a copy of the same on May 30, 1967. Through counsel, he filed a Motion for Reconsideration on June 14, 1967 by registered mail, but erroneously placed as docket number thereof, CA-G.R. No. 26772-R (J.M. Tuason & Co., Inc., vs. Paciencia P. Bayang), instead of CA-G.R. No. 27311-R. The Motion was attached to the expediente of the former case. There being no Motion for Reconsideration of record in CA-G.R. No. 27311-R, the judgment against petitioner became final, an entry of judgment was made, and the records of the case were remanded to the lower Court for execution.

Before the Appellate Court, petitioner moved to set aside the entry of judgment on the ground that, except for the mistake in docket number, reconsideration was timely filed so that the Decision had not yet become final. On November 11, 1967, the Court of Appeals denied the Motion stating:

"Acting on the urgent motion of counsel for defendant-appellant praying, on the grounds therein stated, that the

entry of judgment in this case be set aside and that the court a quo be ordered to set aside its order, dated September 30, 1967 granting the execution of the judgment; the Court RESOLVED to DENY the motion."

The present Petition was filed by petitioner assigning the following errors to respondent Court:

"1. The Honorable Court of Appeals erred in not resolving that the date of mailing is the date of filing.

"2. That the respondent Court of Appeals erred in entering the judgment in CA-G.R. No. 27311-R as final and executory.

"3. That the respondent Court erred in not setting aside the entry of judgment in CA-G.R. No. 27311-R."

Petitioner maintains that the judgment of the Court of Appeals did not become final and executory because his Motion for Reconsideration was filed within the reglementary period, the date of mailing being the date of filing; that said Court failed to act on said Motion; and that the entry of judgment was erroneous.

In refutation, the Corporation asserts that the placing of the wrong docket number on petitioner's Motion for Reconsideration was due to his counsel's fault; that said pleading was merely intended for delay as the Motion for Reconsideration in the Bayang case, which was allegedly being prepared at the time the Motion in the present case was under way, was filed a month before the Llantero case was decided; that the Court of Appeals acted on the Motion for Reconsideration when it denied the Motion to Set Aside the Entry of Judgment; and that the arguments set forth in said Motion are the same arguments repeatedly overruled by this Court and the Court of Appeals in several other cases involving the Corporation.

The records of Civil Case No. Q-3697 were remanded to the Court of origin by the Appellate Court for execution on August 4, 1967 and the rollo disposed of.* There is no showing whether execution of judgment had been stayed by the trial Court or not pending the resolution of this Petition. Nonetheless, it is best that the Petition be resolved on the merits to set the controversy conclusively at rest.

We find the Petition groundless.

It is an established rule that the date of mailing of a motion, pleading or any other paper, as shown by the post office registry receipt, shall be considered as the date of their filing in Court.[5] Nevertheless, this is not the issue at bar. Petitioner's Motion, although seasonably presented from the foregoing standpoint, bore an erroneous docket number. For this reason, it could not be attached to the expediente of the correct case. To all intents and purposes, the Motion was legally nonexistent. Thus, the Court of Appeals committed no error in remanding the case to the Court of origin for execution of the judgment.

Petitioner's counsel's oversight can not be considered excusable. As claimed by the Corporation, petitioner's counsel, who was also the lawyer in the Bayang case, had prepared the Motion for Reconsideration in the latter suit a month before. Both Motions were not being prepared at approximately the same time, as contended, such that a mistake could have been committed, and if it had been, it was inexcusable for having been sheer negligence. This is one case where petitioner has to bear the adverse consequences of his counsel's act, for, it has been held, a client is bound by his lawyer's inexcusable negligence.[6] No abuse of discretion, therefore, can be laid at the door of respondent Court when it declared its judgment final.

Moreover, petitioner's claim to the property in question is based on a document of sale of possessory rights executed by Felicidad Campos in favor of his son Tranquilino Llantero, and on the Compromise Agreements in Civil Cases Nos. Q-135, Q-139 and Q-174. On this score, respondent Court ruled that the trial Court aptly rejected these evidences, as it had been clearly established that the Corporation is the registered owner of the large tract of land, of which the controverted portion forms part, since July 8, 1914, and that neither Felicidad Campos, nor her

predecessor-in-interest Eustaquio Alquiros, had been authorized to convey the portion in question. It further held that the Compromise Agreement upon which petitioner predicated his right, had already been rescinded and set aside by this Court in *Deudor, et al. vs. J.M. Tuason & Co., Inc.*, 2 SCRA 129 (1961). Petitioner's arguments in his Motion for Reconsideration were a mere reiteration of his evidence presented to the trial Court. Clearly then, the Motion for Reconsideration, even if correctly numbered, was pro forma, filed to gain time, and could not toll the running of the period of appeal.[7]

All the foregoing considered, the entry of judgment made by respondent Appellate Court must be upheld.

WHEREFORE, the Petition is hereby dismissed.

Costs against petitioner.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

[1] p. 2, Rec. on Appeal, p. 17, Rollo.

[2] p. 4, Decision of the Court of Appeals.

[3] p. 25, Rec. on Appeal, p. 17, Rollo

[4] p. 27, Rec. on Appeal, *ibid.*

* Letter from the Chief, Archives Section, Court of Appeals, dated April 1, 1981.

[5] *Faicol vs. WCC*, 93 SCRA 811, (1979).

[6] *Rivera vs. Vda. de Cruz*, 26 SCRA 58 (1968); *Gutierrez & Sons, Inc. vs. CA*, 61 SCRA 87 (1974)

[7] *Cruz vs. J.M. Tuason & Co., Inc.* 76 SCRA 543 (1977).

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