

MARY LARDIZABAL, PETITIONER, VS. ALFONSO FELIX, IN HIS CAPACITY AS JUDGE OF FIRST INSTANCE OF MANILA, AND PURA KALAW LEDESMA, RESPONDENTS.

G.R. No. L-938. December 09, 1946

Ponente: PERFECTO, J.

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PERFECTO, J.:

Petitioner seeks the annulment of the order of respondent Judge Alfonso Felix dated August 26, 1946, denying a petition to annul the judgment in civil case No. 71278 of the Court of First Instance of Manila, Pura Law Ledesma vs. Mary Lardizabal, the petition for new trial, declaring petitioner's right to appeal abandoned, and ordering that execution be issued on September 8, 1946.

In adverse decision having been rendered in the above mentioned civil case, petitioner alleged that she decided to appeal to the Supreme Court, "depositing with the attorney contracted by her mother to defend the case the necessary fees and expenses for the due appeal of her case, and that she never knew, until July 25, 1946, that the decision against her had become final and executory, "by virtue of an alleged agreement entered into between the plaintiff's attorney on the one hand, and the attorney of her mother, on the other, and to which agreement her mother was made to affix her thumbmark and was made to understand that the case was settled amicably—nobody lost and nobody won" —and "petitioner has never been informed of, nor has she authorized, much less consented to, the aforesaid agreement."

The case in question, which is one for ejectment, began in the Municipal Court of Manila; and the Court of First Instance of the City, on appeal, rendered decision on January 8, 1946, ordering petitioner to vacate house No. 1094-B of R. Hidalgo street not later than March 31, 1946, and to pay a monthly rental of P16.50 from July 1, 1945.

Petitioner tried to appeal to the Supreme Court, but she filed her notice of appeal on February 14, 1946, three days after judgment had become final and executory. A question having been raised as to petitioner's right to appeal to the Supreme Court, the parties entered into an amicable settlement, approved by the court, under which petitioner desisted from appealing, while the plaintiff allowed her to continue occupying the premises in question up to June 30, 1946, and, as a result, petitioner's attorney, Agustin Alvarez Salazar, returned to her the amount of P140 which he received to defray the expenses of the appeal.

Upon failure of petitioner to pay the agreed rents for some months, plaintiff prayed for the issuance of a writ of execution, which was not issued because of a new amicable settlement between the parties. On July 6, 1946, plaintiff prayed again for the issuance of a writ of execution in view of the fact that the second extension granted to petitioner to regain the premises expired on June 30. A new attorney appeared for petitioner and, in answer to the petition, filed a motion to vacate the judgment of January 8, 1946, and for new trial, alleging, for the first time, that the decision was rendered upon an agreement entered into by her mother, without her knowledge or consent.

After proper hearing, the respondent judge concluded that petitioner's motion was without merit and was based on allegations not borne by the facts.

Petitioner alleged in her motion that it was only on July 25, 1946, when she happened to learn about the existence of the ejectment case filed against her by Pura Salaw ledesma and of the decision rendered therein by the Court of First Instance of Manila on January 8, 1946; but in the record it appears that it was petitioner herself who signed on September 11, 1945, her notice of appeal against the decision of the municipal court and her answer to the complaint filed with, the court of first instance dated October 6, 1945.

Petitioner's allegation that the decision was rendered by virtue of an agreement signed on March 30, 1946, not by herself but by her mother, is belied by the fact that the decision was rendered on January 8, 1946, and upon the facts as proved at the hearing.

It is also stated by respondent judge that, although the agreement dated March 30, 1946, appears to have been signed by Ilacaria Lontok, mother of petitioner, it is a fact that what was agreed upon therein has been stipulated in open court by Mary Lardizabal herself then assisted by her attorney, Alvarez Salazar.

All the above facts are stated in the order of respondent judge, dated August 26, 1946, which is reproduced in toto in the petition, and we do not find anything in the record why we should not give credit to the respondent's narration of facts, which petitioner did not even attempt to dispute before us.

Upon the facts above stated, petitioner's allegation that respondent Judge, in issuing the order of August 26, 1946, acted with abuse of discretion and without, and in excess of, his jurisdiction, appears to be completely gratuitous, the order is well supported by the facts and by the law.

Petitioner's whole claim is based upon her alleged lack of knowledge of and consent to the agreement which her mother, Ilacaria Lontok, had signed, by virtue of which, the decision in the ejectment case was rendered by the Court of First Instance of Manila, on the existence of which she happened to learn only on July 25, 1946; but petitioner's allegation appears to be based, on misstatements of fact. Petitioner's action is aggravated by the fact that she did not stop at trying to disauthorize her own attorney, Agustin Alvarez Salazar, but even to expose her mother as having assumed an authority not granted to her and make false representations in the name of petitioner, her daughter, thereby deceiving not only the other party, Pura Kalaw ledesma, who was induced to grant an extension to petitioner to remain in the premises in question—extension of which petitioner had taken all advantage—but the court itself which approved the agreement. The fact that Macaria Lontok is represented by petitioner as illiterate does not attenuate petitioner's conduct, because her mother's illiteracy, if it is to be considered, should be taken as an additional reason for petitioner to show greater respect for the person to whom she owes her existence, never to trifle with her good name, much less to represent her as an ignorant or an impostor. Each time a woman gives birth she puts her life in jeopardy, and after coming out safely from the lancinating ordeal, she has to endure unnumbered sleepless nights and long years of hardships and sacrifices for the sake of her offspring's health and happiness. That is the reason why a mother should always be held sacred by all her children. A mother must be enshrined in our heart as a holy thing to be always loved with, devotion, honored and venerated. There is no function more sublime than maternity.

The petition is denied and the writ of preliminary injunction issued in this case dissolved. Petitioner shall pay the costs.

Moran, C.J., Feria, Pablo, Hilado, Bengzon, Padilla, and Tuason, JJ., concur.

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