

NATIVIDAD VERNUS-SANGCIANGCO, PLAINTIFF, VS. DIOSDADO SANGCIANGCO, CAMILA C. SUSON, VIRGINIA CRUZ, MODESTO VALERO, THE REGISTER OF DEEDS OF MANILA AND THE REGISTER OF DEEDS OP N...

G.R. No. L-16219. April 28, 1962

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

On July 16, 1951, (amended October 22, 1951) plaintiff filed an action against her husband and the other defendants to obtain a decree of judicial separation of their conjugal properties, and to annul certain sales made by him to them. She alleged her husband had abandoned her since 1919 and had unlawfully disposed of the properties.

The husband answered that their separation since 1924 was due to her infidelity; and that the properties he had sold to the other defendants belonged to him exclusively. The other defendants, in their answer, gave reasons sustaining the validity of the sales.

After not less than seven postponements, most of them requested by plaintiff or her attorneys, the case was scheduled for hearing on September 6, 1955 (after four years); and on that day, the Court issued the following order:

"In this case, Natividad Vernus Sanciangco in her own behalf and as guardian ad litem of the minor Eduardo Sanciangco, Jr., filed an amended complaint on October 22, 1951, against Diosdado Sanciangco, Camila C. Suson, Virginia Cruz, Modesto Valero, the Register of Deeds of Manila, and the Register of Deeds of Nueva Ecija.

When this case was called for trial today, Atty. Andres Matias, in representation of Atty. Vicente J. Francisco, appeared and informed the Court, that notwithstanding diligent efforts, they failed to contact their client and for that reason asked that either they be allowed to withdraw their appearance or that they be given a few days more within which to make a last attempt to contract the plaintiff.

The defendants, represented by Atty. Lorenzo Sumulong, Francisco Lavidés and Lino M. Patajos, objected to further postponement of hearing on the ground that this case had been pending since July 17, 1951, when the original complaint was filed, and that in the intervening time there had been instances wherein counsel for the plaintiff had been granted postponements on the ground that they could not contact their client.

Upon petition of counsel for the defendants, on the ground of lack of interest to prosecute on the part of the plaintiff, this case is hereby dismissed, with costs against the said plaintiff.

IT IS SO ORDERED.

Given in open court in Manila, Philippines this 6th day of September, 1955."

FIDEL IBAÑEZ

Judge

On January 10, 1956, plaintiff by herself, filed a petition to set aside the order alleging that on December 7, 1955, when she went to counsel's office, she came to know of the above order; that she failed to receive the letters of her lawyers to her because she had resided temporarily in Caloocan; that she had a valid cause of action; and to deny her the opportunity to prove her case, would constitute a grave injustice.

In the face of oppositions of the defendants, the court denied the motion for lack of merit. After denials of her motion to reconsider, she appealed to the Court of Appeals, which court forwarded the record to us upon seeing that no issue of fact was involved therein. Indeed, the sole question is whether the trial judge abused his discretion in dismissing, and in refusing to set aside the decree of dismissal.

There is no doubt that the Rules authorize the Court to dismiss- even of its own accord- for failure of the plaintiff to appear at the time of the trial or to prosecute his action. (Manila Herald Publishing Co. vs. Ramos, January 18, 1951, L-4268; See Chuan vs. De La Fuente, February 26, 1952, L-4070). And such dismissal depends upon the sound discretion of the judge, exercised with a view to the circumstances surrounding each particular case.

The record discloses that this suit had been pending for about four years; that on September 6, 1955, her counsel asked for postponement pleading inability to communicate with her; that the hearing had been previously postponed five times at the request of plaintiff's counsel, sometimes because of such counsel's inability to communicate with her; that she (allegedly) left her residence in Caloocan but she advised neither her counsel nor the local post-office (1) of her now address. It further appears, that her demand for separation and liquidation do not give the impression of a meritorious claim, considering that it was filed only in 1951; when it is admitted that the spouses had actually begun to live separately since 1924, because of charges of adultery against her. And her husband has alleged in his answer, supported by a public instrument, that because of such separation, they agreed in 1926 to liquidate their conjugal assets, executing therefor a document whereby defendant Diosdado Sanciango paid her P11,000.00 as her share of such assets.

Considering further that the husband asserted having purchased the properties with his own funds after their separation, and, that the purchasers invoked good faith and valuable consideration in the sales which have occurred in 1949 and 1951, we perceive no valid reason to interfere with the lower court's discretion. The appealed order is affirmed with costs.

Bautista Angelo, Barrera, Conception, Paredes and Reyes, JJ., concur.

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