

PROCESO FLORA, PLAINTIFF-APPELLANT, VS. MELITON PAJARILLAGA, JUANITO SABAS AND FLORENTINO C. CARIASO, DEFENDANTS-APPELLEES.

G.R. No. L-24806. January 22, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the decision of the Court of First Instance of La Union in Civil Case No. 1976 dismissing the action filed by herein plaintiff-appellant Proceso Flora to annul the judgment rendered by the City Court of Cabanatuan City in Civil Case No. 3316, entitled Juanito Sabas vs. Proceso Flora, in which said appellant, as the defendant therein, was declared in default, and the judgment was for him to pay the unpaid wages of the plaintiff as welder-mechanic in his (defendant) auto repair shop in San Fernando, La Union in the sum of P2,147.30 together with P480.00 as differential pay.

Appellant alleged in his subject complaint for annulment, that in that Civil Case No. 3316 of the Municipal Court of Cabanatuan City, he was served with summons on February 13, 1964 and that on March 5, 1964, his lawyer, Atty. Manalo D. Cacanindin filed a motion to dismiss, sent by registered mail, on the grounds of improper venue and pendency of another action, there being then a labor case between the parties regarding the same matter alleged in the complaint before the office of the Labor Attorney in San Fernando, La Union. It is not disputed, however, that the said motion was actually received by the court in Cabanatuan City only on March 18, 1964.

In the meanwhile, on March 10, 1964, the Cabanatuan court issued an order simply ordering that inasmuch as defendant had not yet then filed his answer notwithstanding his having been served with summons on February 13, 1964, the case was set for hearing on March 23, 1964 at 2:00 o'clock in the afternoon. But on March 13, 1964, on motion of plaintiff, the court declared defendant in default, allowing plaintiff to present his evidence ex parte. Copy of the order was sent to defendant by registered mail on March 16, 1964 but the same was returned unclaimed on May 6, 1964. On March 23, 1964, the above-mentioned judgment was rendered, copy of which was also sent by registered mail to defendant Flora who allegedly refused to receive the same and was, therefore, returned as unclaimed on May 27, 1964.

On March 19, 1964, the day after receiving Flora's motion to dismiss, the court denied, for reasons not revealed in the record, said motion. Copy of said order of denial was also sent to defendant Flora by ordinary mail. (Page 16, Record on Appeal.)

Aside from the motion to dismiss, on April 13, 1964, defendant Flora also filed thru counsel a motion dated April 3, 1964 to lift the order of default, which, while set for hearing by counsel on April 25, 1964 was submitted by the same counsel for resolution without further argument in a manifestation dated April 22, 1964. It was based on (1) that the failure of defendant to file his motion to dismiss within the reglementary period was due to excusable neglect; (2) that the defendant has a good, valid and meritorious defense; and (3) that the defendant had never intended to waive the supposedly improper laying of the venue. (There are no copies in the record of the

purported affidavits of merits claimed to have been attached thereto.) Appellee opposed the motion on April 28, 1964. And on May 2, 1964, the motion was denied. Copy of the order was sent by registered mail to Atty. Cacanindin on May 7, 1964. Admittedly, no appeal was made from the judgment by default.[1]

The complaint now in question was filed on July 10, 1964 in the Court of First Instance of La Union, that is to say, 109 days (the trial court erroneously computed the period as two months and 17 days – p. 17, Record on Appeal) after the judgment by default was rendered and evidently more than 60 days after defendant learned thereof. Apparently, this must have been one of the considerations why appellant opted to file an independent action for annulment in La Union instead of a petition for relief in Nueva Ecija.

Anyway, in the light of the foregoing circumstances, appellee moved to dismiss the now subject complaint for annulment on the ground of improper venue, reasoning out at the same time that the appropriate remedy of appellant was a petition for relief under Section 1, Rule 38, Rules of Court, the venue of which was in Nueva Ecija. Appellant opposed the motion contending that his cause of action is not fraud, accident, mistake or excusable neglect, but illegality and nullity of the judgment of the Cabanatuan court, "the defendant Meliton Pajarillaga, as municipal judge of Cabanatuan City, (having) received the evidence of the plaintiff in Civil Case No. 3316 without giving the plaintiff therein his day in court and thereafter rendered a decision dated June 18, 1964 (sic) a copy of which was never furnished the herein plaintiff." (p. 13, Record on Appeal.)

Upon the issues thus joined by the parties, His Honor granted the dismissal prayed for, not only on the ground that venue had been improperly laid but on the more substantial basis that the proceedings leading to the judgment and execution in dispute were "perfectly valid, legal and regularly obtained." (p. 23, Record on Appeal.)

To begin with, note should be taken of the fact that appellants' motion to dismiss was mailed on March 5, 1964, whereas he was served with summons on February 13, 1964. In other words, considering that February, 1964 had 29 days, 1964 being a leap year, said motion was filed 21 days after the service of the summons. Obviously, therefore, pursuant to Section 4 of Rule 5, which provides that the answer of defendant must be filed within twenty (20) days, appellant was already in default when his motion to dismiss was filed. We are not informed of the ground on which appellants' motion to dismiss was denied by the Cabanatuan court, but in any event, there was valid reason for the declaration of default. And there being no copy in the record of the motion to lift the order of default, We are without basis for determining the propriety of the denial thereof.

Moreover, it was incorrect, after all, to maintain that venue was improperly laid because in reality, the defect was not of venue in its strict sense, but improper procedure, since what should have been filed should have been a petition for relief in the Court of First Instance of Nueva Ecija. Incidentally, it may be mentioned that under Republic Act 1171, the venue in labor cases, like the case here in question, is "where the defendant or any of the defendants reside or may be found, or where the plaintiff or any of the plaintiffs resides, at the election of the plaintiff".

Additionally, appellant has not taken the trouble to reply to appellee's contention on page 6 of his mimeographed brief, that appellant's motion to lift the order of default was not filed within the reglementary period of one (1) day specified in Section 13 of Rule 5, thus justifying the conclusion that indeed the pertinent rule had not been complied with. And as to the argument vigorously advanced that appellant was not notified of the judgment impugned by him, suffice it to say that said judgment was sent to him by registered mail, but the same was returned unclaimed. There must have been some confusion why the same was not sent to his lawyer like the order denying the motion to lift the order of default. (He was not entitled to notice of the order denying his motion to dismiss because when the denial – which was not a final order – was issued, the court had not yet received any motion to lift the order of default, per Section 9, Rule 13.)

Considering, however, that this is a labor case that has been pending for more than fifteen years, We hold that any doubt as to the tenability of counsel's contention should be resolved in favor of the appellee-laborer. In this connection, We consider it to be within the spirit of Section 11(2) of Article X of the Constitution of the Philippines that should there be any uncertainty in the mind of the court for more than eighteen months after an appeal is submitted to it for decision, regarding the merits thereof, the decision of the trial court should be affirmed, without even the need of reasoning out such affirmance, as an exception to the general requirement of Section 9 of the same Article that every decision of a court of record should state the facts and the law on which it is based. On at least these bases, the Court holds that judgment herein should be for appellee.

WHEREFORE, the subject appealed judgment is affirmed, without pronouncement as to costs.

Antonio, Concepcion, Jr., Santos, and Abad Santos, JJ., concur.

Aquino, J., in the result.

[1] Whether or not such an appeal could have been legally made has not yet been definitely settled.

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