

**JUSTITA MANUEL, ET AL., PLAINTIFFS AND APPELLEES, VS.
FELIXBERTA MANUEL, ET AL., DEFENDANTS AND APPELLANTS.**

G.R. No. L-14152. May 30, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

On January 31, 1956, the plaintiffs filed with the Court of First Instance of Zambales a complaint for the recovery of two parcels of land, plus damages and attorney's fees against the defendants. On March 5, 1956, defendants answered the complaint with a counterclaim. The hearing of the case set on November 21, 1956, on petition of defendants' counsel, was postponed to September 5, 1957, notice of which was duly served on counsel of both parties. On September 5, 1957, as the parties and/or their counsel did not appear, the trial court issued an Order, the dispositive portion of which states:—

"WHEREFORE, premises considered, let the plaintiffs' complaint as well as the defendants' counterclaim be dismissed without pronouncement as to costs."

On September 20, 1957, plaintiffs filed an Urgent Motion for Reconsideration, alleging that the failure to appear on the scheduled date of hearing, was due to excusable negligence because the letter written by counsel to one of the plaintiffs was not received and that they have "good grounds" to support their cause of action. Attached to the said Motion was the affidavit of Consolacion Manuel, corroborating the allegations contained in the motion.

Upon order of the Court, defendants opposed the Motion, contending that (1) the client is bound by the conduct or mistake of his counsel; (2) plaintiffs have not been deprived of their alleged properties, without due process of law; and (3) the Motion failed to state in clear and precise terms the alleged 'good grounds' to support the complaint. Plaintiffs replied, claiming that the failure to appear was due to an honest mistake and made in good faith and that the "good grounds" stated by them in the motion for reconsideration consisted of a deed of sale executed by the father of the defendants in favor of the father of the plaintiffs. On December 6, 1957, the Urgent Motion was denied.

On December 18, 1957, a Second Motion for Reconsideration and to Set Aside Order dated September 5, 1957, or Amend Said Order to Add "without prejudice", was presented. In the second motion, the grounds stated in the first were amplified and elaborated upon. It was contended that the failure to appear was caused by excusable negligence which was not a creation of the plaintiffs themselves. In their opposition to the second motion, defendants stressed the fact that the second motion was proforma; that the grounds upon which the said motion was anchored were, if not yet stated in the first motion, already existing at the time and their non-inclusion then constituted a waiver thereof.

On February 6, 1958, the lower court promulgated the following Order:—

"Finding the plaintiffs' second motion for reconsideration to be well taken for reasons alleged therein;

AS PRAYED FOR, the decision of this Court dated September 5, 1957 is hereby amended to the effect that the

case is dismissed without prejudice. All other parts of said order remains the same."

On February 17, 1958, defendants filed a Motion for Reconsideration of the above Order, contending that: (1) The second motion for reconsideration is without merit under the Omnibus Motion Rule; (2) the same did not suspend the running of the thirty-day period for appeal, same being proforma; (3) when the Court issued its order of February 6, 1958, it had no longer jurisdiction to entertain said motion, the decision having become final and executory, against which an Opposition was presented by plaintiffs. On April 28, 1958, the lower court denied the motion for reconsideration, for lack of merits. Defendants appealed directly to this Court, and impugned the Order of the lower court dated February 6, 1958.

The order of September 5, 1957, was received by the plaintiffs-appellees on September 27, 1957. On September 30, 1957, the first motion for reconsideration was filed which was denied on December 6, 1957. The order denying said motion; was received on December 15, 1957. Since the first motion suspended the period for the finality of judgment, only two days were consumed of the thirty days period. The second motion was presented on December 18, 1957, which was well within the thirty days period. It is true that while said second motion was pending resolution by the trial court, the 30-day period lapsed, because the second motion was only resolved on February 6, 1958; but it is likewise true that the case was in the interim within the jurisdiction of the court. It is a familiar rule that when a motion is filed within the reglementary period, provided that same does not suffer fatal defects, the duration of its pendency is not included in the computation of the period within which to appeal. Furthermore, it is one of the inherent powers of the trial court "to amend and control its process and orders so as to make them conformable to law and justice" (par. [g], sec. 5, Rule 124). The trial judge, after going over the second motion for reconsideration, might have found out that the ends of justice would be better served if the relief prayed for be granted. So, discarding technicalities, such as the issue whether the second motion was pro forma or not, and in order to promote the object of the Rules, and to assist the parties in obtaining just, speedy and inexpensive determination of the proceeding (Sec. 3, Rule 1), the trial judge accepted and granted said second motion for reconsideration. Inasmuch as not only the complaint but also the counterclaim were dismissed because both parties and their respective counsel failed to appear when the case was called for hearing, there can be no harm at all in dismissing the case "without prejudice". And considering further the circumstance that the second motion was filed within the thirty-day period, and, therefore, the order in question had not become final, the trial judge was within the pale of the rules and sound discretion in ordering the said amendment. Evidently, the order in question, is predicated upon broad principles of justice, emanating from the aforecited rule (Sec. 5, par. [g], Rule 124). In *De Lara, Inc. vs. Secretary of Public Works, etc.*, G. R. No. L-13460, Nov. 28, 1958, the following pronouncements may serve as a criterion, in cases of this nature:

"A new trial under this Rule should be distinguished from the discretionary power of the court to reopen a trial either before or after rendition of judgment for the introduction of additional evidence so as to clarify its doubts on material points. Such discretionary power is controlled by no other rule than that of the paramount interests of justice, and will not be reviewed on appeal unless a clear abuse thereof is shown." (Moran, Comments on the Rules of Court, Vol. 1, 1957 Ed., 513; See also *Capellania de Tambubong vs. Antonio*, 8 Phil. 683; *Soriano vs. Aquino*, 31 Phil. 176; *Alvarez vs. Guevara Wee*, 47 Phil. 12; *Gaas vs. Fortich*, 54 Phil. 196).

"The theory upon which the court allowed motions for new trial, in the absence of statutory authority, is based upon the fact that, until the decision becomes final, it is under the control of the court. If the trial court should discover or be convinced that it had committed an error in its judgment or had done an injustice, before the same has become final, it may, upon its own motion or upon a motion of the parties, correct such error in order to do justice between the parties. If the trial court should discover that it was necessary, in order to correct an error in its decision, to grant a new trial, it may do so either upon its own motion or upon a motion of the parties, provided that that is done before the decision becomes final. It does not require statutory authority for a court to correct its errors or mistakes during the time which it has control over its decisions." (*Veluz vs. Justice*

of the Peace of Sariaya, 42 Phil. 557, 561-562).

In view hereof, we find that the orders appealed from are in conformity with the evidence and the law on the matter, and they should be, as they are hereby, affirmed. Costs is taxed on defendants-appellants in both instances.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Dizon, De Leon, and Natividad, JJ., concur.

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