

CATALINA CAYETANO, PLAINTIFF AND APPELLEE, VS. OSMUNDO CEGUERRA AND FELINA SERRANO, DEFENDANTS AND APPELLANTS.*G.R. No. L-18831. January 30, 1965*

Ponente: PAREDES, J.

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On November 15, 1960, plaintiff Catalina Cayetano, instituted Civil Case No. Q-5514, for Foreclosure of Real Estate Mortgage, against defendants-spouses Osmundo Ceguerra and Felina Serrano. She prayed for the payment of the principal, amounting to P4,000.00, plus one Percent (1%) per month on said amount, computed from the date of execution of the mortgage, 20% on the total amount due, for liquidated damages, plus the additional sum of 25% of said total amount, for attorney's fees. Summons and copy of the complaint for foreclosure were served on the defendants on December 2, 1960, and on December 15, 1960, within the reglementary period, the defendants filed an Answer in the form of a letter, portion of which are hereunder reproduced:

"In answer therefore to the Plaintiff's prayer, I respectfully aver the following truth to wit;

1. The money which I borrowed from her was an emergency money. Our understanding of the said amount shall be paid by tic first release of my applied loan for construction purposes in the amount of TEN thousand pesos (P10,000.00) from the GSIS
2. I religiously believed Miss Catalina Cayetano was benovolent to have lend me the amount of two thousand pesos (P2,000.00) for payment of my lot to the PHHC and in turn secure the title as prerequisite to my applied loan with the GSIS.
3. That sometime on June 1957 the title was transferred to my name and was registered at Quezon City in the Register of Deeds. The title bears at the back of the annotation of a Real Estate Mortgage in favor of Miss Catalina Cayetano. This title was therefore submitted to the GSIS in order to effect release of said applied loan. Consequently release was approved. But unfortunately the next day following said approved loan was held in abeyance due to the new rules which was promulgated by the Board of Trustees of that good office (GSIS) suspending temporarily all applications and releases pending settlement between the GSIS and the PHHC.
4. That while the time of suspension of all applications and releases was indefinite, Miss Cayetano urged me to withdraw my loan from the GSIS for the meantime. She assured me of her help securing loan from other banking institution for reason of saving my building from deterioration and by that I shall be able also to pay her. I did withdraw my application already approved for release. At this time Miss Cayetano failed in her proposal.
5. That after weeks later she lend me an additional amount of one thousand pesos (P1,000.00) making all in all THREE thousand pesos (P3,000.00) including interest of ten percent (10%) which goes to her agent, ten percent (10%) goes to her capital and other expenses goes to her counsel and registration of the Deed of Mortgage. All these interest and other expenses were deducted from the amount she lended me.
6. That on or about September, 1959, she again offered without my asking, the amount of P1,000.00 deducting the

cor responding interest plus the interest on P3,000.00 which she advanced. With this, the total amount becomes P4,000.00 thus contract of mortgage was then presented to us (- - -) signatures. She added her assurance of saying that she will her best to negotiate my title with the Republic Bank and further the said mortgage contract is but a formality in while waiting for the controversy on the settlement between the two institutions, the GSIS and the PHHC.

7. That I, Osmundo V. Ceguerra and my spouse were happy to have learned the stipulation interest if only (1%) one percent. We did not entertain doubt. Therefore we religiously believed the instrument of Mortgage contract was nothing but a formality fo we did not question in signing our names not in the presence of a notary public either in the presence of witnesses. Because it was Miss Cayetano herself who enlighten us about her willingness to help us.

8. That sometime in August, 1960. I reftled my new application for the same amount with the GSIS. Hut the management told me afterwards that they cannot act on my application unless I submit to them my Title. I informed Miss Cayetano about the prerequisite of the GSIS. But Miss Cayetano refuse and continued to refuse of submitting my Title to the GSIS: The question now is as to whether I am directly or indirectly liable and obligated to pay her is a matter of consideration with justifying circumstances while in fact she acted contrary to our original understanding during the first, second and third time of lending the aforesaid amount."

As a prayer in the letter-answer, defendants stated: 'Considering therefore the aforementioned statement above, the changing of the mind of Miss Cayetano in refraining to submit (he title to the GSIS in order to effect reapproval and release, aggravate my belief and confidence to such an extent of doubting that the said instrument of Mortgage was deliberately planned in taking advantage of my poverty. It is only now that 1 realise her plan was rather malicious and that she said further if such unenforceable contract shall prevail I am afraid it hamper and defeat the good purpose of the administration the late President Magsaysay who benevolently distributed lot to the landless poor who needs ample protection of the Government in order to enjoy little shelter, little food and little laws

"May I conclude your honor of imploring that my title must be submitted to the GSIS in order to follow the correct track of original understanding."

Inspite of the above letter-answer, the defendants were, motion of plaintiff declared in default and plaintiff allowed to present her evidence ex-parte on January 7, 1961. On January 11, 1961, the court a quo rendered judgment for the plaintiff, the pertinent portions of which read:

"This is an action for foreclosure of mortgage instituted by the plaintiff against the defendants. Having failed to file a responsive pleading to the complaint within the reglementary period, the defendants were declared in default and plaintiff was allowed to adduce evidence in support of her complaint.

"Wherefore, the Court finds the complaint meritorious,, and jndg ment is hereby rendered in this case, in favor of the plaintiff and against the defendants, by ordering the latter to pay the former the sum of P4,000.00 with interest thereon at 1% a month from September 17, 1959 until full payment is made, within the period of ninety (90) days from the date this decision; the sum of P500.00 as attorney's fees; the sum of P300.00 as liquidated damages which should be paid in both instances within the same period of ninety (90) days; and to pay the costs.

"If within the said period of ninety (90) days, defendants could not pay the aforesaid amount, the properties in question will be sold in public auction pursuant to law, and the proceeds thereof to be applied to satisfy this judgment and the costs of the sale of the said property."

It appears that this decision never became known to appellants-spouses, the same having been returned to the

Court, as unclaimed.

Under date of April 21, 1961, defendants were served with a copy of a Writ of Execution, dated February 10, 1961, addressed to the Sheriff of Quezon City, commanding the latter to seize the goods and chattels of the defendants-appellants in order to satisfy the judgment. The matter was referred to counsel who, on June 17, 1961, presented a Petition for Relief, based on the following grounds:

- (1) the answer-letter was a substantial compliance with rules, for it contained facts upon which defendants relied upon as defenses, and if said letter-answer did not conform with the rules, the non-conformity could be considered "an excusable mistake, taking into account that defendants are mere ordinary lay-men not cognizant with the intricacies of the Rules of Court;
- (2) the defendants have substantial and valid defenses, which were contained in the letter-answer; .
- (3) that defendants have been deprived of their day in court.

It was prayed that the Court, in the interest of justice, set aside the order dated January 7, 1961, declaring them in default, together with the decision of January 11, 1961, and that the case be set for hearing on the merits. The petition for relief was accompanied by the requisite affidavit of merit.

Plaintiff-appellee interposed an opposition to the petition for relief, claiming that the declaration of default was well-taken and proper since the defendants failed to present a responsive pleading and/or to furnish the plaintiff a copy of the letter-answer; that their belief that the letter-answer was sufficient cannot be an excusable mistake; and that the defenses contained in the letter-answer are not only false, but also not substantial or meritorious. Plaintiff asked for the denial of the petition for relief.

Resolving the petition and the opposition, the Court a quo under date of June 24, 1961, handed down an Order of the following tenor:

"It appearing that the first registry notice for the decision of this Court was received by the defendant on January 13, 1961, and according to the provisions of the rules, five (5) days after the receipt of such first notice, he is presumed to have received the same; and

"It appearing further that from January 13, 1961 up to June 17, when the petition for relief was filed, more than 60 days has elapsed.

"Therefore, the said petition for relief was filed beyond the reglementary period. "In view thereof, the instant petition for relief is hereby denied."

A motion to reconsider the above Order was filed on July 10, 1961, the main ground being that the petition for relief was presented on time. The argument in support of the contention is that defendants having actually known of the adverse decision rendered, only on April 21, 1961, the presentation of the petition on June 17, 1961, was only 57 days from the former date. To bolster the argument, Sec. 3, Rule 38 of the Rules was cited, wherein it was provided, among others, that petitions of this nature should be filed within sixty days after the petitioner learns of the judgment, order, or other proceeding to be set aside. This motion for reconsideration was likewise denied, for failure to comply with the rules regarding the three (3) day notice and for lack of merits. Appeal has been interposed directly to this Court, appellants assigning four (4) errors allegedly committed by the court a quo, all of which pose the following propositions—

- (1) was the letter-answer sufficient in law;
- (2) was the petition for relief presented within the period provided for by the rules.

The letter-answer contained a recital of facts relied upon, as defenses. The mortgage debt was admitted, but defendants claimed that thru the machinations of plaintiff, they were unable to pay the same. We believe that this was a sufficient and substantial compliance with the requirements of the rules; after all, a liberal interpretation has always been advocated. Having filed an answer, defendants should have been entitled to notice of hearing. And if the answer was not responsive, the trial court should have apprised the defendants of such fact, considering that they were not lawyers. It appearing that they were not informed of the scheduled hearing, all the proceedings undertaken therein became a nullity, there being a deprivation of their day in court, amounting to lack of due process.

While it is true that appellee was not furnished with a copy of the letter-answer, the non-service, however, was not the ground for declaring them in default, but the alleged failure to present a responsive pleading. We have said that the letter-answer took the place of a responsive pleading and, therefore, defendants should not have been declared in defaults; for a defendant who has timely filed an answer cannot be in default (*Ignacio vs. Racho*, 78 Phil., 557). And even if We grant, for purposes of argument, that defendants were validly declared in default, still We consider the petition for relief to have been filed on time. This is so, because a petition for relief may likewise be taken from the order of execution, inasmuch as Sec. 2, Rule 38, Revised Rules, does not only refer to judgments, but also to orders, or any other proceedings (*PHHC vs. Tiongco & Escasa*, G.R. No. L-18891, Nov. 28, 1964). From the time they had actual knowledge of the order of execution, on April 21, 1961, until the filing of the petition for relief, on June 17, 1961, only 57 days had elapsed.

It is conceded that defendants received a first registry notice on January 13, 1961, but they did not claim the letter, thereby giving rise to the presumption that five (5) days after receipt of the first notice, the defendants were deemed to have received the letter. This Court, however, cannot justly attribute upon defendants actual knowledge of the decision, because there is no showing that the registry notice itself contained any indication that the registered letter was a copy of the decision, or that the registry notice referred to the case being ventilated. We cannot exact a strict accounting of the rules from ordinary mortals, like the defendants.

The subject matter of the case is a lot and house, which to all appearances, constitute the only holdings of appellants. It would be in keeping with the best interest of justice to afford them (appellants) a chance to prove whether the machinations attributed to appellee existed and whether appellee can be compelled to submit the title of appellants to the GSIS, with a view of having the loan released.

Conformably with all the foregoing, the Order denying the petition for relief and that denying the motion for reconsideration, are set aside and another entered remanding the case to the court below, for hearing on the merits. No costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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