

**SPOUSES BENJAMIN T. LABAO AND ZENAIDA A. LABAO,
PLAINTIFFS-APPELLEES, VS. FLORINDA DELA CRUZ,
DEFENDANT-APPELLANT.**

Ponente: GARCIA, R. R. J.

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GARCIA, R. R. J.:

Before Us is an appeal from the Decision[1] dated February 3, 2014 of the Regional Trial Court (RTC), Branch 75, Valenzuela City in Civil Case No. 191-V-04 which ordered the cancellation of Transfer Certificate of Title (TCT) No. V-64318 in the name of defendant-appellant Florinda dela Cruz; the restoration of TCT No. V-29211 in the name of plaintiff-appellee Benjamin T. Labao; and for appellant to pay appellees P200,000.00 as moral damages, P100,000.00 as exemplary damages, P136,285.50 as attorney's fees and P10,407.00 as filing fees, less the unpaid loan of P200,000.00 and the remaining agreed interest thereon, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiffs and against defendant Florinda dela Cruz, ordering:

- the cancellation of TCT No. V-64318 in the name of defendant Florinda dela Cruz;
- the restoration of TCT No. V-29211 in the name of plaintiff Benjamin T. Labao;
- defendant Florinda dela Cruz to pay Php 200,000.00 as moral damages, Php 100,000.00 as exemplary damages, Php 136,285.50 as attorney's fees and other expenses or litigation, Php10,407.00 as filing fees, less the unpaid loan of Php 200,000.00 and the unpaid agreed interest thereon.

SO ORDERED.[2]

THE FACTS

The instant case stemmed from the complaint[3] dated August 12, 2004 for Declaration of Nullity of Transfer Certificate of Title, Reconveyance and Damages filed by plaintiffs-appellees spouses Benjamin T. Labao and Zenaida A. Labao against appellant Florinda dela Cruz.

The complaint alleged that appellee Benjamin is the registered owner of a parcel of land located along Peter Street, Luis Francisco Subdivision, Brgy. Veinte Reales, Valenzuela City containing an area of 240 square meters and covered by TCT No. V-29211[4]. A three-door apartment stands on the subject lot. Sometime in April of 1999, appellee Benjamin needed a capital of P200,000.00 to start his leather business. He approached appellant Florinda Dela Cruz who represented that she could lend to him the said amount provided he mortgages the subject property to her as security. Appellant also told appellee Benjamin that the loan will be for a term of six (6) months with interest of P10,000.00 per month. As appellee Benjamin was badly in need of money, he agreed to the conditions and signed a Real Estate Mortgage[5] dated April 27, 1999 using his Community Tax Certificate (CTC) No. 06466517[6] dated March 17, 1999 issued at Mecauayan, Bulacan as his identification card in the contract. He then gave to appellant his owner's duplicate copy of TCT No. V-29211. Thereafter, appellee Benjamin deposited P10,000.00 twice to appellant's Solidbank Account No. 1026-0138-16 as interest payment for

the months of May[7] and June 1999[8]. However, he failed to deposit the remaining monthly interest nor was he able to pay the principal amount of the loan.

On May 11, 2004, appellant visited appellee Benjamin at their apartment on the subject property and informed him that he and his wife will have to leave the place on or before June 30, 2004. Appellant claimed that she had already transferred the title over the property in her name. On May 17, 2004, appellee Benjamin inquired at the Register of Deeds of Valenzuela City and found out that TCT No. V-29211 issued in his name had been indeed canceled by reason of a Deed of Absolute of Sale[9] dated January 30, 2002 that was purportedly executed by him in favor of appellant. However, the deed of sale was a forged document because he has never signed nor agreed to sell his property to appellant. His CTC No. 06466517 issued on March 17, 1999 was also obviously tampered with and made to appear to have been issued on January 17, 2002. He never appeared before Notary Public Atty. Restituto B. Viernes of Valenzuela City to subscribe, attest or acknowledge the deed of sale. He likewise discovered that the Real Estate Mortgage was never annotated as an encumbrance in his TCT No. V-29211 before the Register of Deeds. On July 20, 2004, appellees received a demand letter[10] from appellant's lawyer asking them to deliver the possession of the subject property to appellant. Appellees thus pray that the Deed of Absolute Sale dated January 30, 2002 be declared null and void; to cancel TCT No. V-64318 issued in the name of appellant; to restore TCT No. V-29211 in the name of appellee Benjamin; and for appellant to pay actual, moral and exemplary damages.

In her Answer[11] dated September 1, 2004, appellant denied that she forged the Deed of Absolute Sale dated January 30, 2002. She averred that appellee Benjamin previously mortgaged the subject property in her favor to secure the loan of P200,000.00. For failure to settle his obligation, appellee Benjamin proposed to sell the subject property to her in order that the same may not be foreclosed and that he can still ask for additional money from appellant as consideration for the sale. However, instead of placing the true and actual consideration of the sale, appellee Benjamin suggested to undervalue the sale to only P100,000.00 since it was their agreement that the payment of the corresponding capital gains tax and documentary stamps be deducted from the consideration of the sale. The deed of conveyance was executed more than two (2) years after the execution of the mortgage contract.

In an Order[12] dated February 24, 2010, the court a quo set the case for pre-trial on May 18, 2010 and directed the parties to file their respective pre-trial briefs. The same was served upon appellant which was received[13] by one Dennis dela Cruz on April 8, 2010 while counsel for appellant, Atty. Edgardo V. Cruz, was likewise furnished[14] a copy of the said order on February 24, 2010.

On May 18, 2010, only appellees filed their pre-trial brief[15]. Instead of submitting their pre-trial brief, appellant filed a Motion to Change Date of Pre-Trial[16]. The ensuing scheduled hearings were also canceled[17] and reset due to the unavailability of appellant's counsel. Pre-trial proper was then set on April 17, 2012. On the said date, it was discovered that no pre-trial brief was filed by appellant. Appellant thus immediately filed an Urgent Motion to Admit Pre-trial Brief[18] stating that the failure to file the required pre-trial brief was a result of an honest oversight. Appellees filed a Comment and Opposition With Motion to Declare the Defendant in Default for Failure to File Pre-Trial Brief[19] emphasizing that such pleading is mandatory and the rules can be relaxed only for the most persuasive of reasons. In an Order[20] dated October 12, 2012, the court a quo denied appellant's Motion to Admit Pre-trial Brief.

Thereafter, in an Order[21] dated February 21, 2013, the court a quo declared appellant in default for failure to file her pre-trial brief ratiocinating that the case has been pending for several years and counsel for appellant filed a number of motions to cancel and reset hearing due to his unavailability. Besides, not every invocation of substantial justice and liberality may be the basis for the lifting of a rule of procedure. Appellees were then directed to present their evidence ex-parte.

In a Decision[22] dated February 3, 2014, the court a quo granted appellees' complaint and ordered the cancellation of TCT No. V-64318 in the name of appellant and to restore TCT No. V-29211 in the name of appellee Benjamin. It ruled that instead of foreclosing the subject property pursuant to the Real Estate Mortgage signed by both parties, appellant presented a Deed of Absolute Sale that resulted in the cancellation of appellee Benjamin's title and the issuance of a new one in appellant's name. The deed of sale reflected appellee Benjamin's CTC but the date of issuance thereof was altered visibly to make it appear that the same was issued on another date which is falsification per se. Moreover, appellee Benjamin's claim that he never appeared before the notary public on January 30, 2002 was well supported by the corroborating testimony of Mr. Ignacio F. Fruelda, Jr. The pertinent portions of the assailed Decision are quoted:

x x x

After due consideration, the Court is of the view and so holds that the complaint has to be sustained.

Indeed, a Real Estate Mortgage was really executed by herein plaintiff Mr. Labao to secure payment of a loan of sum of money which was never paid. However, instead of foreclosing the same, defendant presented a Deed of Absolute Sale that was silent on the existing/unpaid loan/Real Estate Mortgage that resulted in the cancellation of Mr. Labao's title and the issuance of a new one in defendant's name.

The Deed of Absolute Sale reflected Mr. Labao's admitted CTC as appearing in the Real Estate Mortgage but the date of issuance thereof was altered visibly to make it appear that the same was issued on another date. This is falsification per se.

Mr. Labao's claim that he never appeared before the notary public on January 30, 2002 is well supported by the corroborating testimony of Mr. Fruelda, Jr.

Taken altogether, there is more than sufficient reason to conclude that the Deed of Absolute Sale is a falsified document and that defendant is responsible for it she being the one to benefit therefrom. Thus, the title in defendant's name that was issued pursuant thereto must be cancelled and Mr. Labao's title to the land must be restored.

Damages must also be awarded to Mr. Labao, including documented attorney's fees in the amount of Php136,285.50 x x x and filing fee in the amount of Php 10,407.00 x x x, excluding the amount spent for the trip for his mother-in-law to the Philippines as there was no clear showing that he spent for the expenses of her trip. In the computation of damages, however, the unpaid loan of Php 200,000.00 plus the unpaid agreed interest must be deducted.[23]

Hence, this appeal in which the appellant raised the following assignment of errors[24], to wit:

I.

THE COURT A QUO ERRED IN DENYING APPELLANT'S MOTION TO ADMIT PRE-TRIAL BRIEF WHICH WAS FILED ON THE SAME DATE WHEN THE PRE-TRIAL CONFERENCE WAS HELD.

II.

THE COURT A QUO ERRED IN DECLARING APPELLANT IN DEFAULT AND ALLOWING APPELLEES TO PRESENT EVIDENCE EX-PARTE DESPITE SINCERE ATTEMPT ON THE PART OF APPELLANT TO RECTIFY THE ERROR OF FAILING TO FILE A PRE-TRIAL BRIEF;

III.

THE COURT A QUO ERRED IN IGNORING ESTABLISHED JUDICIAL PRECEPTS THAT FROWN UPON THE RIGID APPLICATION OF THE RULES SO AS NOT TO OVERRIDE SUBSTANTIAL JUSTICE.

IV.

THE COURT A QUO ERRED IN HOLDING THAT APPELLEES HAVE PROVEN BY WAY OF PREPONDERANCE OF EVIDENCE THEIR CAUSES OF ACTION.

V.

THE COURT A QUO ERRED IN AWARDING MORAL, EXEMPLARY DAMAGES, COSTS AND ATTORNEY'S FEES.

THE ISSUE

The sole issue in the instant case is whether or not the court a quo correctly ordered the cancellation of TCT No. V-64318 in the name of appellant and to restore TCT No. V-29211 in the name of appellee Benjamin.

THE COURT'S RULING

The appeal is bereft of merit.

Appellant contends that the failure to file her pre-trial brief was due to inadvertence and there was no obvious irreparable injury on the part of appellees. The dismissal purely on technical grounds is frowned upon since the policy of the court is to encourage hearings on their merits. Further, the conclusion that there was falsification was merely based on the self-serving testimony of appellee Benjamin and his witnesses.

We disagree.

The court a quo correctly granted appellees' complaint and ordered the cancellation of TCT No. V-64318 in the name of appellant and to restore TCT No. V-29211 in the name of appellee Benjamin.

In *Suico Industrial Corp. vs. Lagura-Yap*[25], the Supreme Court held that failure to file a pre-trial brief within the time prescribed by the Rules of Court constitutes sufficient ground for dismissal of an action pursuant to Section 6 in relation to Section 5, Rule 18 of the Rules on Civil Procedure. We quote:

Sec. 6. Pre-trial brief. — The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

x x x

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

x x x

Sec. 5. Effect of failure to appear. — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex parte and the court to render judgment on the basis thereof. (Emphasis supplied)

In the case at bench, the court a quo clearly had a valid reason when it declared appellant in default. A review of the factual antecedents indicates that appellant and her counsel, Atty. Edgardo V. Cruz, were informed[26] in advance of the scheduled pre-trial hearing on May 18, 2010 and to file their pre-trial brief pursuant to the court a quo's Order[27] dated February 24, 2010. The same was served upon appellant which was received[28] by one Dennis dela Cruz on April 8, 2010 while counsel for appellant, Atty. Edgardo V. Cruz, was likewise furnished[29] a copy of the said Order on February 24, 2010. However, only appellees were able to file their pre-trial brief on May 18, 2010. Instead of submitting their pleading, appellant filed a Motion to Change Date of Pre-Trial[30]. The ensuing scheduled hearings were also canceled[31] and reset due to the unavailability of the appellant's counsel. It was on April 17, 2012 or after almost two (2) years, when it was discovered that no pre-trial brief was filed by appellant.

We emphasize that everyone knows that a pre-trial in civil actions is mandatory. Yet to this day, its place in the scheme of things is not fully appreciated and it receives but perfunctory treatment in many courts. Some courts consider it a mere technicality, serving no useful purpose save perhaps, occasionally to furnish ground for non-suiting the plaintiff or declaring a defendant in default, or, wistfully, to bring about a compromise. The pre-trial is not thus put to full use. Hence, it has failed in the main to accomplish the chief objective for it: the simplification, abbreviation and expedition of the trial, if not indeed its dispensation. This is a great pity, because the objective is attainable, and with not much difficulty, if the device was more intelligently and extensively handled.[32]

The defenses raised by appellant's counsel in that such failure was due to inadvertence and there was no obvious irreparable injury on the part of appellees, are neither convincing nor adequate to merit leniency. As the lawyer of appellant, Atty. Edgardo V. Cruz owes his entire devotion to the interest of his client and zeal in the defense of her client's rights. As such, it was incumbent upon him to monitor the deadlines of filing pleadings. Almost two (2) years had already passed since the court a quo ordered the submission of pre-trial briefs on May 18, 2010. The case has also been pending for several years and counsel for appellant had filed a number of motions to cancel and reset hearing due to his unavailability.

This Court likewise finds no cogent reason to liberally apply the rules considering that appellant and his counsel had not offered sufficient reasonable justification for their failure to file the required pre-trial brief. There should be an effort on the part of the party invoking liberality to at least reasonably explain its failure to comply with the rules. Members of the bar are reminded that their first duty is to comply with the rules of procedure, rather than seek exceptions as loopholes.[33] Technical rules of procedure are not designed to frustrate the ends of justice.[34] These are provided to effect the prompt, proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets.[35] Utter disregard of these rules cannot justly be rationalized by harking on the policy of liberal construction.[36]

The failure to file the pre-trial brief is attributable to the fault or negligence of appellant's counsel. The settled rule is that the negligence of a counsel binds his clients.[37] This is based on the precept that any act performed by a counsel within the scope of his general or implied authority is regarded as an act of his client.[38] If the lawyer's mistake and negligence were admitted as reasons for reopening cases, there would never be an end to a suit so long as counsel had not been sufficiently diligent or experienced or learned.[39]

Appellant's claim that the finding of falsification was merely based on the self-serving testimonies of appellee Benjamin and his witnesses likewise deserves scant consideration.

The court a quo correctly held that the subject Deed of Absolute Sale was falsified considering that appellee Benjamin's CTC No. 06466517[40] dated March 17, 1999 used in the Real Estate Mortgage dated April 27, 1999 was also used in same deed of conveyance dated January 30, 2002. The court a quo noticed that the date of issuance of the CTC appearing under the name of appellee Benjamin in the Deed of Absolute Sale was visibly altered[41] to make it appear that the same was issued on January 17, 2002. Moreover, appellee Benjamin's claim that he never appeared before the notary public on January 30, 2002 was corroborated by the narration of his witness Mr. Ignacio Fruelda, Jr. The latter attested that appellee Benjamin was working for him as his truck driver from 5:00 a.m. until 10:00 p.m. on January 30, 2002 when the alleged deed of sale was signed and notarized. Hence, it was physically impossible for him to be present to sign the said deed of sale before the notary public. Well settled is the rule that factual findings of the lower courts are entitled to great weight and respect on appeal and in fact accorded finality when supported by substantial evidence on the record.[42]

Appellant also did not annotate the Real Estate Mortgage dated April 27, 1999 as an encumbrance in TCT

No. V-29211 before the Register of Deeds to the detriment of appellees. This Court wonders why appellant failed to annotate their contract since appellees already surrendered their owner's duplicate copy of TCT No. V-29211 to her. Worse, appellees were still in possession of the property from the time the alleged Deed of Absolute Sale was allegedly executed on January 30, 2002 until appellant demanded from them to vacate the property on May 11, 2004.

It may also be well to state that in a Resolution[43] dated October 2, 2004, the Office of the City Prosecutor of Valenzuela City found probable cause for the filing of a criminal case for Falsification of Public Document against appellant. Consequently, the corresponding Information was filed with the Metropolitan Trial Court, Branch 82, Valenzuela City.

Indubitably, the foregoing pieces of evidence cast doubt on the integrity, genuineness, and veracity on the questioned Deed of Absolute Sale dated January 30, 2002 and impels this Court to tilt the scale in favor of spouses appellees. Although there is no direct evidence to prove forgery, preponderance of evidence indubitably favors appellees. Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence".[44] Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth.[45] It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.[46]

We sustain the award of attorney's fees of 136,285.50[47] and the P10,407.00[48] filing fees in favor of appellees. The same are duly supported by documentary evidence and offered before the court. It is elementary that attorney's fees are awarded because they are in the nature of actual damages suffered by the client as he was constrained to engage the services of a counsel to represent him in a litigation for the protection of his interest.[49] Litigation expenses are also recoverable in the concept of actual damages.[50]

Appellant was correctly ordered to pay exemplary damages of P100,000.00. Exemplary damages are imposed by way of example or correction for the public good.[51] Here, appellant's act of defrauding appellees by using a falsified deed of absolute sale in transferring ownership over a property should be punished as an example for public good.

Appellees should likewise be awarded to compensate the claimant for physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury.[52] Appellees stated that since appellant persistently demanded spouses appellees to vacate the property, they experienced sleepless nights for fear that they would be wrongfully evicted from their property. This Court, however, finds excessive the court a quo's award of moral damages of P200,000.00 and accordingly reduces the same to P100,000.00.

Finally, the court a quo correctly ordered to be deducted from the monetary awards the loan of P200,000.00 plus the unpaid original interest of P40,000.00 representing four (4) months. The stipulated monthly interest of P10,000.00 for a period of six (6) months must be respected. In *Prisma Construction & Development Corporation and Pantaleon vs. Menchavez*[53], the Supreme Court applied the stipulated interest of P40,000.00 per month for a period of six (6) months on the principal amount of P1,000,000.00. However, for the period thereafter, the interest on the loan must be computed on the legal interest rate. We take note that with the issuance of Bangko Sentral ng Pilipinas (BSP) Circular No. 799 which took effect on July 1, 2013, the legal interest has been reduced from twelve percent (12%) to six percent (6%) per annum.

To reiterate, appellees' loan of P200,000.00 shall bear an interest of P10,000.00 per month for six (6) months from April 27, 1999 to October 27, 1999 as indicated in their Real Estate Mortgage. Of the said amount, appellees

already made a payment of P20,000.00 thereby leaving a balance of P240,000.00 upon which a legal interest of six percent (6%) per annum shall be imposed at the end of the six-month payment period beginning October 28, 1999 until fully paid. The total amount due including accrued interests, shall then bear interest at six percent (6%) per annum from the finality of this Decision until full satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The Decision dated February 3, 2014 of the Regional Trial Court, Branch 75, Valenzuela City is AFFIRMED WITH MODIFICATION in that the award of moral damages in favor of plaintiffs-appellees spouses Benjamin T. Labao and Zenaida A. Labao is reduced to One Hundred Thousand Pesos (P100,000.00). Furthermore, plaintiffs-appellees are hereby ordered to pay defendant-appellant Florinda dela Cruz the amount of Two Hundred Forty Thousand Pesos (P240,000.00) plus six percent (6%) interest per annum from October 28, 1999 until fully paid. From finality of this decision until full satisfaction, the total amount due shall likewise earn another interest at six percent (6%) per annum until fully paid.

SO ORDERED.

Dimagiba, L. R., and [*]Sempio Diy, M. E., JJ., concur.

[*] Acting Junior Member per Office Order No. 15-15-ABR dated January 20, 2015.

[1] Decision penned by Presiding Judge Lilia Mercedes Encarnacion A. Gepty, Rollo, pp. 31-34.

[2] Rollo, p. 34.

[3] Record, pp. 1-18.

[4] Record, pp. 19-20.

[5] Record, pp. 67-68.

[6] Record, p. 308.

[7] Record, p. 24.

[8] Record, p. 25.

[9] Record, pp. 43-44.

[10] Record, p. 29.

[11] Record, pp. 33-40.

[12] Record, pp. 81-83.

[13] Record, p. 84.

[14] Record, p. 84.

[15] Record, pp. 87-90.

[16] Record, pp. 85-86.

[17] Record, pp. 94-95; Record, pp. 98-99.

- [18] Record, pp. 136-138.
- [19] Record, pp. 142-151.
- [20] Record, pp. 156-157.
- [21] Record, pp. 171-173.
- [22] Supra, note 1.
- [23] Rollo, p. 332.
- [24] Rollo, p. 23.
- [25] G.R. No. 177711, September 5, 2012.
- [26] Record, p. 84; Record, p. 84.
- [27] Record, pp. 81-83.
- [28] Record, p. 84.
- [29] Record, p. 84.
- [30] Record, pp. 85-86.
- [31] Record, pp. 94-95; Record, pp. 98-99.
- [32] Durban Apartments Corporation v. Pioneer Insurance and Surety Corporation, G.R. 179419, January 12, 2011.
- [33] Suico Industrial Corp. vs. Lagura-Yap, G.R. No. 177711, September 5, 2012.
- [34] Ibid.
- [35] Ibid.
- [36] Ibid.
- [37] Ibid.
- [38] Apex Mining v. Court of Appeals, G.R. No. 133750, November 29, 1999.
- [39] Venegas v. NLRC, G.R. No. 92758, August 31, 1992.
- [40] Record, p. 308.
- [41] Record, p. 26.
- [42] Spouses Bernales v. Heirs of Sambaan, G.R. No. 163271, January 15, 2010.
- [43] Record, pp. 325-327.
- [44] Heirs of Bucton v. Spouses Go, G.R. No. 188395, November 20, 2013.
- [45] Ibid.
- [46] Ibid.
- [47] Record, pp. 311-319.

[48] Record, pp. 320-322.

[49] *Mirasol v. De La Cruz*, 84 SCRA 337

[50] *Briones v. Macabagdal*, G.R. No.150666, August 3, 2010.

[51] Article 2229 of the Civil Code of the Philippines.

[52] *MERALCO v. Castillo*, G.R. No. 182976, January 14, 2003.

[53] G.R. No. 160545, March 9, 2010.

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