

LOLITA G. BRAVO, PLAINTIFF-APPELLANT, VS. SPOUSES ERNESTO R. GUINTO AND SONIA R. GUINTO, RESPONDENTS-APPELLEES.

Ponente: BUESER, J.

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BUESER, J.:

Before this Court on appeal is the Order dated 22 May 2012[1] issued by the Regional Trial Court of Angeles City, Branch 56 (RTC), which dismissed the present petition for writ of possession filed by petitioner-appellant Lolita G. Bravo (“Appellant”) against respondents-appellees Spouses Ernesto and Sonia Guinto (“Appellees”) for failure to prosecute. Likewise on appeal is the RTC Order dated 25 September 2012,[2] which denied appellant’s motion for reconsideration of the aforesaid order of dismissal.

The Facts

The pertinent facts and antecedent proceedings, as borne by the records, are undisputed.

On 10 December 2010, appellant filed the present petition seeking the issuance of a writ of possession against appellees respecting the subject foreclosed land covered by Transfer Certificate of Title No. 042-2010010412 that was issued by the Registry of Deeds of San Fernando, Pampanga.

On 7 February 2012, the scheduled hearing for the petition was reset to 12 April 2012 on account of the renovation of the court’s building.

On 12 April 2012, the hearing was reset to 22 May 2012 due to the failure of the appellant to appear in court. Allegedly, appellant was under the mistaken belief that the hearing was on 18 April 2012.

On the scheduled hearing of 22 May 2012, appellant again failed to attend. This time, appellant claimed that she was suffering from an eye problem. Unbearable as it was, appellant even went to the hospital to have her eyes checked. Appellant’s counsel also failed to attend since in the morning of the hearing, his face was feeling numb. Like appellant, said counsel sought medical attention for his condition.

On 5 June 2012, appellant received the assailed Order of 22 May 2012 dismissing the case for failure to prosecute.

Appellant moved for the reconsideration of said Order offering her apologies to the court and pleading that she be given an opportunity to present evidence in support of her petition.

In its 25 September 2012 Order, the trial court denied appellant’s motion for reconsideration and decreed that the dismissal of the petition is considered as an adjudication of the merits of the case.

Hence, the present appeal.

The Issue

The main issue to be resolved in this appeal is whether the dismissal of the instant petition for failure to prosecute has factual and legal basis.

The Court's Ruling

We find the present appeal meritorious.

Section 3, Rule 17 of the 1997 Rules of Civil Procedure, states:

“SEC. 3. Dismissal due to fault of plaintiff. — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.”

From the foregoing rule, it is explicit that there are three (3) instances where the complaint may be dismissed due to the plaintiff's fault: (1) if he fails to appear during a scheduled trial, especially on the date for the presentation of his evidence in chief; (2) if he fails to prosecute his action for an unreasonable length of time; and (3) if he fails to comply with the rules or any order of the court.[3]

Pertinently, there is failure to prosecute when the plaintiff, being present, is not ready or is unwilling to proceed with the scheduled trial or when postponements in the past are due to the plaintiff's own making, intended to be dilatory or cause substantial prejudice on the part of the defendant.[4] Otherwise stated, while a court can dismiss a case on the ground of failure to prosecute, the true test for the exercise of such power is whether, under the prevailing circumstances, the plaintiff is culpable for want of due diligence in failing to proceed with reasonable promptitude.[5]

In the case at bar, a review of the factual and procedural antecedents of the case vis-à-vis the quoted legal provision bears out that although the appellant had indeed failed to attend two scheduled hearings, it cannot be concluded that she had actually failed to prosecute the case for an unreasonable length of time to warrant the dismissal of her petition.

As can be gleaned from the records, appellant failed to appear in court on 12 April 2012 and 22 May 2012 for various reasons but these postponements do not, as a matter of course, demonstrate or substantiate an evident design or scheme on her part to delay the case. Surely, two (2) hearing cancellations do not imply a dilatory ploy on the part of appellant, especially so since the latter, given her propriety claims over the subject property, has the most to lose if the case is unreasonably delayed.

As it is, while the appellant had failed to attend the 12 April 2012 hearing, the same can be attributed to excusable inadvertence. There is no proof that appellant deliberately failed to appear in court. In the same vein, considering that the same was on account of their medical conditions, appellant and her counsel's absence during the 22 May 2012 hearing should be deemed excusable. In fact, appellant presented documentary evidence to prove that she had consulted a physician to treat her eye problem.[6] Appellant's counsel also offered proof that he had a medical emergency in the morning of said hearing.

Thus, assuming that appellant's inadvertence on 12 April 2012 is to be considered as indefensible, the fact that the cancellation of the 22 May 2012 hearing is excusable negates any intention or design on the part of the appellant to delay or fail on the prosecution of her case. The trial court should have shied away from the precipitate dismissal of the petition and instead predicate its disposal and adjudication based on the evidence on record.

Besides, it bears to stress that reasonable deferment of the proceedings may be allowed or tolerated to the end that cases may be adjudged only after full and free presentation of evidence by all the parties, especially where the

deferment would cause no substantial prejudice to any part. The desideratum of a speedy disposition of cases should not, if at all possible, result in the precipitate loss of a party's right to present evidence.[7]

Indeed, the dismissal of the present petition on account of appellant's failure to attend the subject scheduled hearings tends to be severe and the effect thereof rather disproportionate to the prejudice that may be had by the appellant if the petition is dismissed on the basis thereof.

All told, with the circumstances attendant to the present case, it cannot be denied that substantial justice will indeed be best served if the parties are given the full opportunity to ventilate and litigate their respective claims and to thresh out the real issues in a full-blown trial. As stated, it is the policy of the Court to afford party-litigants the amplest opportunity to enable them to have their cases justly determined, free from the constraints of technicalities.[8]

WHEREFORE, the foregoing considered, the present appeal is hereby GRANTED and the assailed Orders dated 22 May 2012 and 25 September 2012 REVERSED and SET ASIDE. Accordingly, the records of the case are hereby REMANDED to the Regional Trial Court for further proceedings. No costs.

SO ORDERED.

De Guia-Salvador (Chairman) and Garcia, JJ., concur.

[1] Original Records, p. 45.

[2] Id. at p. 51.

[3] Olave vs. Mistas, G.R. No. 155193, 26 November 2004.

[4] Belonio vs. Rodriguez, G.R. No. 161379, 11 August 2005.

[5] Suarez vs. Villarama, G.R. No. 124512, 27 June 2006.

[6] Rollo, p. 32.

[7] Agulto vs. Tecson, G.R. No. 145276, 29 November 2005.

[8] Vette Industrial Sales Co., Inc. vs. Cheng, G.R. No. 170232, 5 December 2006.

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