

LEONORA S. PALMA, PETITIONER-APPELLANT, VS. HON. JOSE ORETA, PROVINCIAL SHERIFF OF RIZAL AND Q. & S., INC., RESPONDENTS-APPELLEES.*G.R. No. L-27807. August 31, 1970*

Ponente: FERNANDO, J.

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There is nothing commendable, much less exemplary, in the willful omission by petitioner to lend an impress of plausibility to her special civil action for certiorari and prohibition against respondent Jose Oreta of the City Court of Caloocan.[1] In seeking to nullify respondent Judge's decision in an ejectment case ordering her to vacate possession as well as the writ of execution thereafter issued, she alleged that at the time of such decision there was a restraining order against the respondent Judge, who was thus bereft of authority to act on the matter. The truth came out when in the motion to dismiss filed by one of the respondents, the lessor, Q. & S., Inc., it was shown that before the decision on May 25, 1962, the restraining order previously issued had been set aside as early as March 9 of that year. This petition for certiorari and prohibition was dismissed by the Court of First Instance of Rizal, Caloocan City Branch, the Honorable Fernando Cruz presiding. Hence, this appeal to us. We sustain the order of dismissal.

In the order of dismissal now on appeal, express reference was made to the failure of petitioner to mention that the restraining order had already been lifted. Thus: "In the instant petition, respondents maintain, the petitioner willfully and deliberately withheld from this Court the existence of the Order of March 9, 1962, of the Court of First Instance of Rizal in Civil Case No. 6974, wherein it was expressly ruled that 'the previous order issued by this Court restraining the defendant from proceeding with the case is hereby set aside'. It was clear, therefore, that on May 25, 1962 when the Municipal Court of Caloocan City tried and rendered its decision, there was no longer a restraining order. The decision of the City Court having long become final and executory, the issuance of the writ of execution became merely a ministerial duty on the part of the respondent Judge to give due course." [2]

It was the conclusion of the lower court therefore: "After a careful consideration of the petition and the motion to dismiss as well as the opposition thereto, the Court is of the opinion that the petition does not state a cause of action since the order of dismissal dated March 9, 1962 was without any qualification and did not therefore, carry the stay of the restraining order of March 5, 1962. If it did, the said order of March 9, 1962 should have stated in clear and unequivocal language. The Court is of the opinion that the order of March 5, 1962 was superseded by the order of March 9, 1962 and obliterated the former." [3]

The order of dismissal of February 16, 1967 now on appeal was thus a necessary consequence. There is nothing in the brief for petitioner, now appellant, that would call for a different conclusion. We affirm such order.

Petitioner did not, because she could not, deny that the restraining order had already been lifted as of the time the decision was rendered. Under the circumstances then, the power to act of respondent Judge Oreta could not be assailed. There is, nonetheless, in her brief as appellant, a persistence on the technicality that the Honorable

Fernando Cruz should rely not on the motion to dismiss but on the petition before him which, as above noted, took careful pains to withhold from the Court the vital information that such restraining order had already been lifted.

Petitioner's brief as appellant would stress this technical objection thus: "Pursuant to the above tests for the purpose of determining whether or not the Petition in the present case sufficiently states a cause of action against the appellee, we can only go back to the causes of action as alleged in the Petition, namely, the act of appellee Honorable Jose F. Oreta, through his auxiliary, Honorable Salvador S. Sevilla, of proceeding with the trial of the ejectment case subject of Civil Case No. 4491 on May 25, 1962 despite the existence of the restraining Order dated March 5, 1962 issued by the Court of First Instance of Rizal directing appellee Honorable Jose F. Oreta to refrain from proceeding with the trial of Civil Case No. 4491 until after a resolution on the Petition for certiorari and prohibition has been rendered and same becomes final. This fact is sufficiently alleged in the petition constituting the wrong or delict in violation of petitioner-appellant's rights. * * * [Only the contents of such petition may be taken] into consideration to determine whether or not the Petition states a cause of action." [4]

Petitioner is under a misapprehension as to the controlling principle of law. As was held in *Arvisu v. Vergara*: [5] "Under section 8 of Rule 67, Rules of Court, once the answer to the petition for certiorari is filed 'the court may order the proceedings complained of to be forthwith certified up for review and shall hear the case. But it is not mandatory upon the court to order the elevation of the proceedings and to hear the case. The court may deny the writ if from the answer it finds that the petition should be dismissed in the interest of justice. (II Moran, Comments on the Rules of Court, 3rd ed., p. 180.)" [6]

Even if petitioner were correct in his assumption that only what he did set forth could be the basis of the lower court decision, still he had failed to make a case for himself. To insist on such a doctrine in the face of the admitted fact that the petition was so artfully worded as to conceal the truth from the lower court which was revealed in the motion to dismiss, is to put a premium on technicality. It would be to thwart the judiciary in its avowed mission of rendering justice according to the facts as they exist, and not as falsely painted by one of the parties, animated by desire to attain his objective even at the cost of perverting the truth. Even on the assumption that only in an answer, and not in a motion to dismiss, could there be an allegation as to the non-existence of the restraining order, still such a matter being brought to the attention of the court and being verified would have sufficed for the dismissal of this petition. It would then be to sacrifice needlessly the ends of a just and expeditious solution to a controversy if, in deference to what had been shown to exist and could not thus be denied, the dismissal sought was granted. Certainly, the action taken by the lower court does not call for a reversal.

As was so aptly expressed by Justice Moreland in *Alonso v. Villamor*, [7] decided as far back as 1910, "technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." [8] To that norm, this Court has remained committed. The late Justice Recto in *Blanco v. Bernabe*, [9] was of a similar mind. For him the interpretation of procedural rule should never "sacrifice the ends of justice." While "procedural laws are no other than technicalities" to view them in their entirety, "they were adopted not as ends in themselves for the compliance with which courts have been organized and function, but as means conducive to the realization of the administration of the law and of justice." [10] We have remained steadfastly opposed, in the highly rhetorical language of Justice Felix, to "a sacrifice of substantial rights of a litigant in the altar of sophisticated technicalities with impairment of the sacred principles of justice." [11] As succinctly put by Justice Makalintal, they "should give way to the realities of the situation." [12] In the latest decision in point promulgated in 1968, [13] Justice Zaldivar was partial to an earlier formulation of Justice Labrador that rules of procedure "are not to be applied in a very rigid, technical sense"; but are intended

"to help secure substantial justice." [14] What the lower court did was precisely to honor the above pronouncements.

There is need, likewise, to give expression to our disapproval of what was done by counsel for petitioner. It is understandable, as a matter of fact it is expected of him, that he should defend with zeal and militancy his client's cause. Such a duty, however peremptory in character, has its limits. It certainly cannot go as far as justify a willful and deliberate omission to give the color of persuasiveness to an action clearly devoid of merit. For he is likewise an officer of the court. He is equally an instrument in the dispensation of justice through law. It is required of him that in discharging his role as advocate, he does not mislead the court by an allegation which, as in this case, was clearly shown to be contrary to the truth and was just as easily exposed. Unfortunately, counsel for petitioner was deaf to such a command that the profession rightfully imposes and thus was guilty of a betrayal of the high standard expected of every member of the bar.

WHEREFORE, the order of dismissal is affirmed. With costs against petitioner Leonora S. Palma.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] The other respondents named were the Provincial Sheriff of Rizal and the Q. & S., Inc.

[2] Order, February 16, 1967, pp. 2-3.

[3] Ibid., pp. 3-4.

[4] Arguments, Brief for the Petitioner-Appellant, pp. 24-25.

[5] 90 Phil. 621 (1951).

[6] Ibid., p. 623.

[7] 16 Phil. 315 (1910). The Villamor decision was cited with approval in *Register of Deeds v. Phil. Nat. Bank*, 84 Phil. 600 (1949); *Potenciano v. Court of Appeals*, 104 Phil. 156 (1958) and *Uy v. Uy*, L-14243, June 30, 1961, 2 SCRA 675.

[8] Ibid., p. 322.

[9] 63 Phil. 124 (1936).

[10] Ibid., p. 128.

[11] *Potenciano v. Court of Appeals*, 104 Phil. 156, 161 (1958).

[12] *Urbayan v. Caltex*, L-15379, Aug. 31, 1962, 5 SCRA 1016, 1019.

[13] *Udan v. Amon*, L-24288, May 28, 1968, 23 SCRA 837 citing *McEntee v. Manotok*, L-14968, Oct. 27, 1961, 3 SCRA 272.

[14] Ibid., p. 843.

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