

FERNANDO PIEDAD, PETITIONER, VS. AGUSTINA BATUYONG AND COURT OF FIRST INSTANCE OF ILOCOS NORTE, RESPONDENTS.

G.R. No. L-38024. February 28, 1974

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court finds that petitioner as defendant below was present and ready with his evidence and witnesses for the initial hearing but without fault, malice or negligence was constrained to ask for a continuance due to his lawyer's last-hour withdrawal from the case and that respondent court gravely abused its discretion and ignored the ends of justice and fairness in denying petitioner the requested continuance and right to a day in court by its refusal to grant his plea for a reasonable opportunity to engage the services of new counsel.

On November 22, 1972, respondent as plaintiff filed a complaint with the respondent court of first instance of Ilocos Norte at Laoag City against petitioner as defendant for recovery of an unregistered parcel of land in petitioner's possession, with both parties apparently claiming right of ownership by purchase from the original owner thereof (Pascual Castillo).

After the issues were joined, pre-trial was held on June 8, 1973, with the parties assisted by their respective counsels.

On the first scheduled date of trial on August 23, 1973, petitioner was present with his witnesses in court but filed an undated manifestation prepared by his lawyer, Atty. Aproniano Nicolas, and signed by himself asking for postponement of the scheduled hearing in view of Atty. Nicolas' "decision to withdraw and desire to be relieved . . . as my counsel" and to have "an opportunity to engage the services of another counsel."

Respondent court summarily denied the requested postponement and ordered the trial to proceed. Respondent adduced her testimonial and documentary evidence and rested her case. Petitioner by himself prayed for continuance but respondent court denied his plea and declared the case submitted for decision and on the same date, August 23, 1973, rendered its ex-parte decision in favor of respondent and against plaintiff, (finding that respondent purchased the land "for valuable consideration" on December 22, 1958 from the original owner whom she allegedly left in possession of the land as a tenant), besides sentencing petitioner to pay P540.00 as respondent's share of the palay crop from 1968, P500. — attorney's fees and costs of suit.

On the same date, August 23, 1973, upon learning of the swift decision, petitioner filed his verified "motion to lift order of default and to allow defendant his day in court" attaching thereto as Annexes A to O, his evidences of title and tax declarations and receipts showing that he had been in possession of the land since 1950 (as against respondent's complaint that he had seized possession thereof in 1968) as the original owner had mortgaged the same to his father, Juan Piedad, until the mortgage after a series of additional amounts totalling P1,350.00 received by the owner-mortgagor was converted into a public deed of absolute sale on April 23, 1959 when the land was duly declared in his father's name as owner for tax purposes and that his father had been religiously paying the yearly taxes on the land since 1950 to 1958 (as mortgagee) and since 1959 to the present as owner.

Respondent court summarily denied petitioner's motion "for lack of merit" per his order of August 27, 1973.

On the following day, August 28, 1973, petitioner through new counsel, Atty. Harold M. Hernando, filed a verified motion for reconsideration and to allow him to present his evidence on the merits, submitting that petitioner should not be deprived of his right to a day in court due to his former counsel's deliberately absenting himself on the scheduled date of trial and abandoning petitioner's case, notwithstanding petitioner's being personally present with his witnesses to substantiate his just and valid defenses to the action, and praying that disciplinary action should be taken by respondent court against said former counsel and not to petitioner's prejudice by denying him his day in court.

Respondent court in its order of September 7, 1973 again peremptorily denied petitioner's motion for reconsideration, stating its "belief" that petitioner's misunderstanding with his counsel resulting in counsel's failure to appear for trial "is not, for the present, its concern and consequently not a ground for reconsideration of its decision."

Hence, petitioner filed his notice and record on appeal and appeal bond on September 8, 1973 (within sixteen days from the date of the adverse ex-parte decision on August 23, 1973) which were approved by respondent court on September 10, 1973 and forwarded to this Court as involving a pure question of law. Republic Act No. 5440 being applicable, the Court ordered petitioner on December 6, 1973 to file the corresponding petition for review which was promptly filed on December 27, 1973.

Upon receiving the comment of adverse party, the Court resolved to treat the petition as a special civil action and to consider the case submitted for decision in view of the simple legal issue involved.

The sole issue at bar is whether or not respondent court gravely abused its discretion in denying petitioner's motion for continuation of the initial hearing and in rendering judgment after receiving the unilateral evidence of respondent alone and in denying later petitioner's two motions pleading for his right to a day in court and to present his evidence on the merits of his defense.

Under the circumstances of record of this case as above narrated, the Court finds that petitioner without fault, malice or negligence was present and ready with his evidence and witnesses for the initial hearing but was constrained to ask for continuance due to his lawyer's last-hour withdrawal from the case, and hence, respondent court gravely abused its discretion and ignored the ends of justice and fairness in denying petitioner the requested continuance and right to a day in court by its refusal to grant his plea for a reasonable opportunity to engage the services of new counsel.

It is settled doctrine, as stressed by the now Chief Justice in *Limon vs. Candido** that "(I)t is true that the allowance or denial of motions for postponement and the setting aside of orders previously issued rest principally upon the sound discretion of the court to which the same are addressed; but such discretion should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case the ends of justice and fairness would be served thereby. When no substantial rights are affected and the intention to delay is not manifest, the corresponding motion to transfer the hearing having been filed accordingly, it is sound judicial discretion to allow the same x x x."

The Court therein further emphasized that if the continuance is at first denied because the reason therefor does not appear indubitable, a subsequent plea for reconsideration on valid grounds — such as in the case at bar where petitioner showed his lack of fault and blame for his former counsel's last-hour abandonment of his case and submitted his affidavit of merit and documentary evidence showing apparently just and valid defenses to the action — should not be lightly ignored by the trial court.

The discretion of trial courts must be exercised wisely and prudently, never capriciously, with a view to substantial justice and should not be unmindful of the fact that a litigant is entitled to a reasonable delay and opportunity to obtain presence of material evidence and the services of new counsel and to prevent miscarriage of justice.

Here, petitioner has been unduly put to great effort and expense to seek just recourse from this Court and the time and attention of the Court which it could well devote to meritorious cases have been needlessly taken up — due to respondent court's improper refusal to accede to the just and reasonable pleas of petitioner for an opportunity to engage the services of counsel and to have his day in court.

ACCORDINGLY, the decision of respondent court dated August 23, 1973 and its orders dated August 27, 1973 and September 7, 1973 are hereby set aside and the case is ordered remanded to the court a quo for further proceedings in order to allow petitioner to cross-examine respondent-plaintiff and to present his evidence, oral and documentary, in support of his defense and for the rendition of judgment on the merits as the evidence thus submitted may warrant. With costs against respondent.

Makalintal, C.J., Castro, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

* 21 SCRA 11166, 1166 (1969), italics supplied.

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