

**ROMEO C. CAMPOS, AS JUDICIAL
ADMINISTRATOR/ATTORNEY-IN-FACT OF THE ESTATE OF DON
GREGORIO MADRIGAL ACOP OVER TCT NO. 408,
PLAINTIFF-APPELLANT, VS. DR. RICO TORRES, LUCIO C. ALEJ...**

Ponente: SORONGON, E.D., J.

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SORONGON, E.D., J.

Assailed via Rule 41 of the Rules of Court is the Order[1] dated April 18, 2011 of the Regional Trial Court of Trece Martires City, Branch 23 dismissing the case for failure of the plaintiff-appellant to present a witness despite reasonable opportunity to do so. Impugned likewise is the November 4, 2011 Order[2] of the same court which denied plaintiff-appellants' motion for reconsideration.

The present controversy arose from the following factual milieu:

Plaintiff-appellant Romeo C. Campos (Campos) filed a complaint for quieting of title with prayer for preliminary injunction against defendant-appellee Dr. Rico Torres (Dr. Torres) over a parcel of land located at General Trias, Cavite and covered by TCT No. 408 registered under the name of Don Gregorio Madrigal Acop. In his complaint, Campos alleged that he is the attorney-in-fact of Don Gregorio Acop as per annotation at the dorsal portion of the said title and that he was and is in actual, continuous, open and adverse possession of said property. Lately, he learned that Dr. Torres had a title over the said property and that he (Dr. Torres) filed an ejectment case against the occupants of the said property. When the writ of execution[3] was implemented he filed a motion to have the property resurveyed considering that there is already a title issued to Acop. But the trial court denied his motion. Thus, this case.

Dr. Torres insisted on the authenticity of his title over the disputed property claiming that he purchased it from one Vicente A. Peralta who presented to him a valid and legitimate title thereof under his name. As an offshoot of the ejectment suit he filed against the illegal occupants of the subject lot, a writ of execution was issued to enforce a judgment in his favor. He wondered why Campos never intervened in the ejectment case to question in the proceedings therein his title to the disputed property. But Campos opted to stay silent and only when a decision was already rendered in Dr. Torres' favor that the former chose to scrutinize his title.

During the initial hearing on the issuance of a TRO, Campos' counsel manifested to prepare an affidavit instead of having their witness testifying in open court. At the scheduled hearing, Campos failed to present his evidence to support his prayer for TRO, thus, by Order[4] dated April 18, 2011, the trial court ordered the dismissal of the case ruling:

“Considering the vehement objection of the party-defendant and considering further that this is the second time that the party-plaintiff could not present their witness despite the fact that they were given time by the court, this case is hereby ordered DISMISSED.

SO ORDERED.”

On motion for reconsideration, Campos urged for the liberal interpretation of the rules and further harped on the alleged violation of his right to due process.

By Order[5] dated November 4, 2011, the trial court sustained its stand to dismiss the case opining:

“The Court after a consideration of all the allegations presented by both parties believed that the plaintiff should be vigilant over their case; that the hearing was for their prayer for the issuance of a temporary restraining order but for the second time after it was reset from the initial hearing on April 12, 2011, the plaintiff again failed to present their evidence on April 18, 2011, thus defendant objected to a resetting and instead prayed for the dismissal of the case. Such showing of laxity on their part is fatal on plaintiff’s case.

WHEREFORE, the Order of dismissal dated April 18, 2011 stays and the Motion for Reconsideration is hereby denied as it is DENIED.

SO ORDERED.”

Hence, this appeal.

Campos makes the following assignment of errors:

I.

THE COURT A QUO SERIOUSLY ERRED IN DISMISSING PLAINTIFFS-APPELLANT’S [CAMPOS] PRAYER FOR THE ISSUANCE OF TEMPORARY RESTRAINING ORDER; and

II.

WHETHER THE ISSUE OF OWNERSHIP IS SO INTERTWINED WITH THE ISSUE OF POSSESSION.

In seeking a reversal, Campos invokes the liberal construction of the rules. He justifies his failure to present a witness during the scheduled hearings on the fact that Mr. Cris Pakingan, his supposed witness, opted to execute an affidavit instead of testifying in open court. Thus, the trial court’s hasty dismissal of the case infringes his right to due process without considering the merits thereof. Campos thus prayed to us now that he be afforded ample opportunity to ventilate his case rather than injudiciously dispose the case on technicality.

On the one hand, Dr. Torres insists that no fault could be attributed to the trial court in ruling the way it did because Campos is not exactly without blame. It was him who was neglectful of his duty to pursue his case with utmost expediency given the allegations in the complaint that his peaceful possession and occupation of the subject lot was allegedly disturbed by Dr. Torres’ claim of ownership and title over the same property. Yet, he failed to present evidence thereby negating the urgency of the sought TRO. Thus, the dismissal was in order.

We now resolve.

First and foremost, it bears stressing that rules of procedure should always be treated with utmost respect and due regard since these are tools designed to facilitate the effective and efficient administration of justice. Hence, every plea for its liberal interpretation is not some mantra which automatically veils the pleader with the protection against its stringent application. In another words, invocation for its liberality will not ipso facto cast away all the evident lapses committed by Campos in the proceedings below and which consequently tie the hands of the court from exercising its discretion.

Jurisprudence teaches that “procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a

relaxation in the application of the rules, this was never intended to forge a bastion for erring litigants to violate the rules with impunity. The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.[6] (Underscoring is supplied)

Notwithstanding, we cannot likewise be oblivious to the glaring fact that Campos had initially made out a prima facie case meriting a full ventilation of the facts and circumstances surrounding the case. Recall that there was already an Answer filed but the case has yet to be set for pre-trial since a hearing on the TRO application was scheduled ahead. At most, the denial of the injunctive writ prayed for is but a commensurate consequence of Campos' failure to present evidence on this aspect of the case but not totally dismiss the case as a whole based on such oversight alone. While the trial court has the discretion to dismiss a case on the ground of non prosequitur, such power should be exercised soundly. In the case at bar, dismissing the main case based only on Campos' failure to present evidence in support of its prayer for TRO is evidently not an exercise of a sound discretion. Such actuation of the trial court is certainly an infringement of his right to be heard. Deferment of the proceedings could have been allowed and tolerated by the trial court so long as the delay is not so unreasonable as to deprive Dr. Torres of the right to enjoy the fruits of a favorable judgment.

Furthermore, taking into account the conflicting property rights of not just the parties holding a valid title over the disputed land but considering that there are other occupants on the said land who will be ousted therefrom should the writ of execution be enforced, a stringent application of the rules particularly on postponements of scheduled hearings, will basically frustrate the ends of justice.

However, we are to remind Campos that we cannot countenance his chant of liberality with reckless abandon to the point of defeating the very rationale of its existence and yet, we will not hesitate to allow him the laxity because of the peculiarities of the case which impel this Court to grant a second chance to the latter with a stern caveat that any further delay will no longer be tolerated. Thus, it is our view that the interest of justice will be better served by the continuation of the proceedings and final disposition of the case on the merits before the trial court.

That said, we dispense with discussion on the second issue raised because this will already encroach into the substantial merits of the case, the resolution of which requires precisely the presentation of evidence in a full blown trial and allow disputing parties to defend their respective causes.

WHEREFORE, the assailed Orders of the trial court are SET ASIDE and a new one is entered REMANDING the case to the court of origin which is directed to hear and resolve the main case with dispatch.

SO ORDERED.

Reyes, Jr., A.B., Chairperson, and Rosario, R. R., JJ., concur.

[1] Rollo, p. 43

[2] Rollo, p. 45

[3] Records, pp. 22-24.

[4] Supra at note 1

[5] Supra at note 2

[6] Garbo v. Court of Appeals, 327 Phil. 780, 784 (1996).

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