

**RAMONITO ALFREDO C. EUBANAS, PLAINTIFF-APPELLANT, VS.
RUDOLFO UY CHUANICO AND ADELIA CAMACHO CHUANICO,
DEFENDANTS-APPELLEES.**

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Order[1] dated September 7, 2012 issued by the Regional Trial Court of Manila, Branch 14, in Civil Case No. 11-126818, which dismissed plaintiff-appellant's complaint for damages on the ground of his and his counsel's failure to appear during the pre-trial.

The facts are not disputed.

On November 17, 2011, plaintiff-appellant Ramonito Alfredo C. Eubanas filed a Complaint[2] of even date, alleging that defendants-appellees Rudolfo Uy Chuanico and Adelia Camacho Chuanico, together with their unnamed driver, committed violent acts upon his person, resulting to physical injuries, on April 4, 2009, in Malate, Manila; that upon medical examination he was found to have contusions, hematoma and conjunctivitis; that the matter was referred to the Lupon ng Barangay of Barangay 696, Zone 76, District V of the City of Manila but no amicable settlement was reached; that the defendants-appellees were unrepentant even as he continued to undergo medical treatment for his injuries; and that he is entitled to P8,000,000.00 as compensatory damages, P1,000,000.00 as moral damages and P200,000.00 as attorney's fees, with P5,000.00 for every court appearance.

In their Answer[3] dated May 21, 2012, the defendants-appellees claimed that the complaint suffered from non-compliance with a condition precedent, that is, proof that earnest efforts were exerted to settle the case, the parties being close family relatives; that it was actually plaintiff-appellant who was the assailant during an altercation over a parking space in their compound at 1827 Taft Avenue, Malate Manila; and that defendant-appellee Rudolfo Uy Chuanico suffered injuries which incapacitated him to work for more than a month. As counterclaim, defendants-appellees sought the payment of P50,000.00 as actual damages, P500,000.00 as moral damages, P200,000.00 as exemplary damages and another P200,000.00 as attorney's fees.

Plaintiff-appellant filed his Reply[4] on June 18, 2012. Thereafter, pre-trial conference was set on September 7, 2012.[5]

On the scheduled date of the pre-trial, however, neither the plaintiff-appellant nor his counsel appeared. Thus, on motion of the defendants-appellees' counsel, the court a quo issued the Order dismissing the complaint.

In his Motion for Reconsideration[6] dated September 26, 2012, plaintiff-appellant blamed the sickness of his counsel as reason for the latter's failure to appear during the pre-trial. He, therefore, prayed that the order of dismissal be reconsidered and he be given the opportunity to prosecute his case.

In an Order[7] dated November 29, 2012, the court a quo denied the motion for reconsideration, noting that, aside from not attending the pre-trial on September 7, 2012, the plaintiff-appellant also failed to file his pre-trial brief. According to the court, citing Section 6, Rule 18 of the Rules of Court, failure to file the pre-trial brief has the

same effect as failure to appear at the pre-trial.

Hence, this appeal.

In support of the appeal, the plaintiff-appellant alleges that:

- THE TRIAL COURT ERRED IN DISMISSING THE CASE ON PURE TECHNICALITY UNDER ITS ORDER OF SEPTEMBER 7, 2012;
- IN DENYING THE MOTION FOR RECONSIDERATION IN ITS ORDER OF NOVEMBER 29, 2012, DESPITE JUSTIFIABLE REASON FOR FAILURE TO APPEAR DURING PRE-TRIAL CONFERENCE, AND IN NOT RESOLVING THE CASE ON THE MERITS BY ALLOWING THE PARTIES TO PROVE THEIR CASES AND DEFENSES (SIC) IN A FULL-BLOWN TRIAL;
- THE TRIAL COURT FAILED TO CONSIDER THAT THE COMPLAINT IS MERITORIOUS.[8]

Defendants-appellees failed to file their Appellees' Brief despite notice. Hence, in a Resolution[9] dated September 24, 2013, the Court deemed the appeal submitted for decision.

The issue for the Court's resolution is whether or not the court a quo committed reversible error in dismissing the Complaint dated November 17, 2011 for failure of the plaintiff-appellant to appear during the pre-trial.

The appeal is bereft of merit.

The plaintiff-appellant is praying for a liberal application of the rules, saying that he has a meritorious case and the dismissal thereof was based purely on a technical ground. Well, he is not the first and this is not the first time that litigants have sought leniency from the courts over their neglect in prosecuting or in attending their cases. And like in previous occasions, the Court will affirm the dismissal.

Section 4, Rule 18 of the Rules of Court provides that:

SEC. 4. Appearance of parties.—It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

The effect of failure to appear during the pre-trial is provided for by Section 5, Rule 18, thus:

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.

The foregoing rules on pre-trial are mandatory. As explained in *Fountainhead International vs. Court of Appeals*,^[10] the Rules require not only the lawyers but also the parties to be present, otherwise they may be non-suited or considered as in default. Also, in the same case, it was held that in the absence of the parties, they may be represented by counsel provided that the said counsel has "special authority."

In the case at bar, both plaintiff-appellant and his counsel were not present during the pre-trial. While plaintiff-appellant explained that his counsel was sick at the time, he had no excuse why he did not appear during the pre-trial. According to the Rules, it is his presence that was required during the pre-trial, his counsel merely his alternate, provided that the latter had "special authority."

Furthermore, plaintiff-appellant also failed to file his pre-trial brief, the consequence of which is similar to "failure to appear at the pre-trial." Thus, Section 6 of Rule 18 of the Rules of Court provides that:

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.

The plaintiff-appellant's plea that the Complaint is, nevertheless, impressed with merit and, hence, the rules of procedure should be relaxed, fails to sway the Court.

In *Rural Bankers Association vs. Tanghal-Salvaña*,^[11] the Supreme Court ruled that:

Obedience to the requirements of procedural rules is needed if the parties are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction. 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 insure an orderly and speedy administration of justice.

Indeed, we find it contradictory for the plaintiff-appellant to claim that he has a meritorious case when the record demonstrates that he failed to pursue his case with the diligence expected of a passionate plaintiff. Mere words, without action, are useless.

In fine, the court a quo did not err in dismissing the Complaint due to the plaintiff-appellant's failure to appear during the pre-trial and to file his pre-trial brief. Said dismissal is pursuant to the express and mandatory provisions of the Rules of Court.

WHEREFORE, the instant appeal is DISMISSED and the Order dated September 7, 2012 issued by the Regional Trial Court of Manila, Branch 14, in Civil Case No. 11-126818 is AFFIRMED IN TOTO.

SO ORDERED.

Zalameda, and Diy, JJ., concur.

[1] Rollo, p. 28.

[2] Record, p. 1.

[3] Record, p. 56.

[4] Record, p. 78.

[5] Record, p. 84.

[6] Record, p. 110.

[7] Record, p. 131.

[8] Appellant's Brief, pp. 1-2; Rollo, pp. 15-16.

[9] Rollo, p. 42.

[10] G.R. No. 86505, February 11, 1991.

[11] G.R. No. 175020, October 4, 2007.

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