

LUISA BRILLANTE

G.R. No. L-48190. August 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a petition praying for the reversal of the decision[2] rendered in Civil Case No. 5643 of the Court of First Instance (CFI) of Albay which was a case for the annulment of judgment[3] with writ of injunction in Civil Case No. 5013 for the Quieting of Title, Ejectment and Damages filed by private respondents against petitioners herein. The CFI decision in Case No. 5013 in the dispositive portion reads:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs[4] and against the defendants[5] as follows:

“1. Declaring the plaintiffs to be the legitimate and lawful owners and possessors of the property described in paragraph 2 of the complaint and at the same time nullifying the claim of ownership of the defendants over the said property;

“2. Ordering the defendants to vacate the premises in question;

“3. Ordering the defendants to jointly and severally indemnify the plaintiffs damages and expenses of litigation and for attorney’s fees in proven sum of 11,000.00 and

“4. To pay the costs of this suit.

“SO ORDERED.” (p. 25, Rollo)

The trial court in Civil Case No. 5013 based its decision upon consideration of the following findings of fact:

"Counsel for the plaintiffs presented plaintiff Andres Arboleda as his sole witness who testified to the following:

“That he and his wife are the absolute owners and possessors of Lot No. 3720-C, which is a portion of Lot No. 3720 of the Cadastral Survey of Guinobatan, evidenced by Transfer Certificate of Title No. 19916 (Exhibit "A"); that said parcel of land was originally owned and possessed by the spouses Cecilio Arboleda and Hilaria Brillante, and after their death, Andres and Cirilo Arboleda being the only heirs took possession of the land. In 1959, Andres Arboleda bought the rights, interests and participation of his brother, Cirilo over the property for the sum of P300.00. However, it was only in 1964 when they actually executed the deed of extra-judicial partition and sale (Exhibit "B" and "B-1"). From 1959, plaintiffs had been in actual and peaceful possession of the entire Lot No. 3720-C. He had also paid the land taxes therefor (Exhibits "C", "C-1" to "C-4"). At the same time, he caused the property to be declared in his name (Exhibit "C-5")”

"During the lifetime of Hilaria Brillante, mother of the plaintiff Andres Arboleda, she allowed her sister, Pamfila Brillante to construct a house on the land in question. Later on, when the daughter of Pamfila Brillante, defendant Luisa Ocampo, had a family of her own, she also constructed a house on the land in question without the knowledge and consent of the plaintiffs. The other defendants, Catalino Ocampo and

Roberto Ocampo who are also the children of Luisa Ocampo constructed their houses on the land in question, also without the knowledge and consent of the plaintiffs. In like manner, defendant Alejandro Brillante, a son of a brother of Hilaria Brillante, constructed his house on the land of the plaintiffs without their knowledge and consent. For humanitarian considerations and because of the closeness of their blood relationship, the plaintiffs tolerated the stay of the defendants on the premises. But in 1966, the defendants began destroying the improvements on the land, like the barbed wire fence and had harvested the produce therefrom and asserted ownership over the same. To protect their interest, the plaintiffs brought the matter to the attention of the administrative authorities of Guinobatan and the PC, and exhausted all avenues for an amicable settlement with the defendants, but the latter completely ignored and disregarded all attempts to settle the case. The plaintiffs then went to Atty. Rodrigo Reantaso for advice. Atty. Reantaso wrote the defendants to vacate the premises (Exhibits 'D', 'D-1' to "D-3", inclusive), which were all sent by registered mail (Exhibits "D-4" to 'D-7', inclusive). Again, the defendants ignored the request of Atty. Reantaso.

"Because of the unwarranted acts of the, defendants, the plaintiffs had spent more than P1,000.00 for litigation expenses plus the sum of P600.00 which he paid his lawyer.

"The defendants in their answer aver that Pamfila Brillante, mother of defendants Roberto, Catalino and Luisa, all surnamed Ocampo, is the co-heir of Hilaria Brillante and that the plaintiffs had fraudulently secured the title of the land to the exclusion of the defendants who are co-heirs of the property. The defendants however failed to include or attach in their answer any documents to support their claim. Furthermore, if the defendants really did have some documents to support their claim of being co-heirs to the property, during the time that the plaintiffs were asking for an amicable settlement when they were called by the administrative authorities, namely, the PC, the Station Commander of the Guinobatan Police Station and the Municipal Mayor of Guinobatan, they should have presented the same, to end once and for all their dispute being blood relatives. Again, when Atty. Reantaso wrote them, the defendants did not inform him that they are co-heirs to the property and therefore cannot be ejected from the premises. But defendants just completely ignored and disregarded the invitation to settle, thus prompting the belief that they have no document on which to support their claim of being co-heirs to the property in question.

"In view of the foregoing, the Court has no other alternative since the evidence on hand points to the legitimacy and lawful ownership of the property in question described under paragraph 2 of the complaint to the plaintiffs, except to declare the plaintiffs rightful owners of the same." (pp. 23-25, Rollo)

Defendants' motion for reconsideration was denied and consequently upon motion of plaintiffs, a writ of execution was issued ordering defendants to vacate the premises.

Thereafter, defendants, thru their lawyer, Atty. Antonio delos Reyes, filed a petition for relief from judgment reiterating substantially the same ground relied upon in their motion for reconsideration. Finding the petition to be merely a rehash of the previous motion for reconsideration and that the same was filed beyond the reglementary period, the court denied said petition.

On June 23, 1977, defendants in Civil Case No. 5013 instituted Civil Case No. 5643 for the annulment of the judgment in Civil Case No. 5013 trying to establish the fact that spouses Andres and Ester Arboleda, as well as Cirilo Arboleda were not the only heirs of the property in question. Said complaint reiterated the same grounds previously pleaded in their motion for reconsideration and petition for relief in Civil Case No. 5013.

On July 14, 1977, spouses Andres and Ester Arboleda, instead of filing an answer, filed a motion to dismiss Civil Case No. 5643 on the ground that the trial court had jurisdiction and on the further ground of *res judicata*.

In its order, dated July 29, 1977, the CFI dismissed Civil Case No. 5643. On August 8, 1977, the petitioners moved to reconsider the dismissal but the motion was denied, hence, this petition on the following grounds:

"I. The order of default against defendants[6] in Civil Case No. 5013 was without legal and procedural basis.

"II. The order of dismissal in Civil Case No. 5643 was without sufficient procedural and legal basis.

"1. Plaintiffs-petitioners have a valid and substantial cause of action.

"2. Plaintiffs-petitioners were denied "due process" of law. (Petitioners' Memorandum, p. 71, Rollo)

Petitioners' contentions are untenable.

The record shows that the trial court in Civil Case No. 5013 had set the pre-trial on October 22, 1974. This date was reset to December 11, 1974, upon motion of defendants (petitioners herein) since they had not yet been able to engage the services of a lawyer. Again the pre-trial was reset to June 23, 1976 for the reason that on December 11, 1974, there was then no Judge present to preside over the case. On June 23, 1976, defendants moved for postponement thus resulting in the resetting of the pre-trial to September 3, 1976. When this case was called for pre-trial on September 3, 1976 only the plaintiffs (private respondents herein) and their counsel appeared notwithstanding the fact that all the defendants received due notice as evidenced by the registered return cards signed by them. On motion of counsel for the plaintiffs, the defendants were declared in default and thus plaintiffs were allowed to present evidence ex-parte before the court on September 10, 1976 at 2:30 o'clock in the afternoon. On the basis of evidence presented in said hearing, the trial court rendered a decision dated October 5, 1976.

Petitioners now argue that they were denied due process, and that consequently the judgment in Civil Case No. 5013 must be rendered null and void. Such argument merits no consideration in the light of the foregoing paragraph.

The judgment rendered in Civil Case No. 5013 is in-deed founded upon the evidence adduced by the private respondents. The fact that the trial court in said case proceeded to hear evidence ex-parte can only be attributed to petitioners' fault. Thus in the order, dated January 10, 1977 of the trial court in Civil Case No. 5013 denying the motion for reconsideration, said court declares that:

"Submitted for resolution is the motion for reconsideration filed by defendant Luisa Ocampo herself and the opposition thereto by counsel for the plaintiffs. The motion for reconsideration is to the effect that the decision in this case was premised on the ground that the defendants, despite due notice, did not appear during the pre-trial on September 3, 1976, at 8:30 in the morning; that the defendants on September 3, 1976 at 8:30 in the morning really appeared in Branch I of this Court up to 11:00 o'clock in the morning, when one of the clerks in Branch I called their attention that the pre-trial of this case will be in the sala of Branch III; that without delay, the defendants proceeded to Branch III, but Branch III had adjourned; and that in justice, to the herein defendants, they be given a chance to be heard.

"It is very unfortunate indeed that the defendants did not secure the services of counsel in filing their answer and during the scheduled pre-trial of this case. It is likewise unfortunate that they did not seek the services of counsel in filing the instant motion for reconsideration in order that they could be well informed of the requirements of the law.

"Be that as it may, the ground relied upon by the defendants, even without touching on the technicalities imposed by the Rules, cannot merit any consideration. First, the decision was not based on the ground that the defendants did not appear during the pre-trial. The decision in this case was rendered after a proper hearing before the Presiding Judge of this Court, with the plaintiffs presenting oral and documentary evidence to support their action. Second, the Court cannot believe that any employee of this Court will misled the defendants by directing them to proceed to Branch III. Inasmuch as the defendant themselves have prepared the answer as well as the motion for reconsideration, it is safe to assume that the defendants are intelligent

enough to know that this case pertains to Branch I of this Court and not Branch III. As a matter of fact, in their motion for reconsideration, they captioned the same as pertaining to Branch I.

"In the light of the foregoing discussions, and considering that the motion for reconsideration and for new trial does not comply with the requirements of the Rules of Court, the instant motion is DENIED.

"SO ORDERED." (pp. 55-56, Rollo)

It is undisputed that the trial court was liberal in granting several postponements of the pre-trial conferences before it was prompted to declare petitioners in during the hearing on September 10, 1976. As earlier stated, petitioners were duly notified of every proceeding by the court. Having been properly notified, it is up to them to choose whether or not to put up their defense. Certainly, due process was never denied the petitioners.

There exists compelling reasons which justify the dismissal of Civil Case No. 5643, to wit:

1) The allegations in petitioners' complaint in Civil Case No. 5643 do not warrant the setting aside of the afore-said decision for want of any showing that the respondents had committed extrinsic fraud upon the petitioners, or that the court in Civil Case No. 5013 had no jurisdiction over the subject matter and parties, or that the decision in the same case is patently void on its face.

2) All the elements of res judicata are present.

The finality of the decision in Civil Case No. 5013 is not to be ignored as this is an important aspect of the case that bars any further inquiry into the merits of the same. The petitioners could have properly disputed the decision by means of a timely appeal or by means of a petition for certiorari within a reasonable period, but they did not, thereby making the decision a settled issue as between the petitioners and the respondents.

WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit. This decision is immediately executory, and there will be no extension of the period within which to file a motion for reconsideration.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

[1] Pleadings and the decision of the court a quo referred to petitioners as "Brillante" only and not "Brillantes" as used in their Petition for Review on Certiorari.

[2] Penned by Judge Romulo P. Untalan.

[3] Written by Judge Arsenio Solidum.

[4] private respondents herein

[5] petitioners herein

[6] Petitioners herein

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