

LEONOR J. BIALA, PETITIONER, VS. COURT OF APPEALS (FOURTH DIVISION) AND MARIA P. LEE, RESPONDENTS.

G.R. No. L-43503. October 31, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals reversing the decision of the Court of First Instance (now Regional Trial Court) of Pangasinan, in Civil Case No. D-2610 entitled "Maria P. Lee v. Leonor Biala" which dismissed the complaint for sum of money in favor of petitioner, who is the defendant in the trial court.

The antecedent facts of this case are as follows:

On November 3, 1970, respondent Lee filed an action for collection of sum of money against petitioner Biala, in the amount of P31,338.76, based on several causes of action, evidenced by documents of real estate mortgages and promissory notes executed by petitioner in favor of private respondent, as follows:

- (1) Deed of Real Estate Mortgage on August 15, 1956 over two residential houses on Lot 374-C of the cadastral survey of Dagupan in the amount of P12,000.00, redeemable within a period of five (5) years from the date of execution of the deed;
- (2) Deed of Real Estate Mortgage on April 8, 1958 over Lot 374-C on which the two residential houses previously mortgaged stand, in the amount of P2,000.00 payable within two (2) years from April 8, 1958;
- (3) Deed of Second Real Estate Mortgage over the same lot 374-C in the amount of P4,857.00 payable within one (1) year from the date of the contract;
- (4) Promissory note dated March 28, 1960, in the amount of P2,330.00 payable on or before April 8, 1960;
- (5) Promissory notes dated May 27, 1960 in the amount of P500.00 payable on or before April 8, 1961;
- (6) Promissory note dated December 15, 1960 in the amount of P4,790.00 to be paid on or before January 1, 1961;
- (7) Promissory note dated April 14, 1951 in the amount of P300.00 to be paid on or before May 8, 1961;
- (8) Promissory note executed on May 5, 1961, for P100.00 payable on or before June 30, 1961;
- (9) Promissory note dated May 23, 1961, for P700.00 payable on or before August 31, 1961;
- (10) Promissory note signed on June 30, 1961 for P310.00 to be paid on or before September 30, 1961;
- (11) Promissory note dated July 18, 1961, in the amount of P200.00 to be paid on or before December 30, 1961;
- (12) Promissory note executed on July 31, 1961 for P2,193.46 payable on or before December 31, 1961;
- (13) Promissory note dated August 18, 1961 in the sum of P565.00 payable on or before December 30, 1961;

(14) Promissory note executed on August 21, 1961 for P100.00 to be paid on or before December 21, 1961;

(15) Promissory note dated April 24, 1963 in the amount of P100.00, with the following statement: "This account of mine will be paid if I will pay all my accounts to her and all conditions will follow my previous accounts with her."

Respondent Lee also claimed the additional amount of P295.00 which the former allegedly paid Atty. Rivera, counsel for petitioner.

Petitioner denied all respondent's allegations in her answer and contended that although she signed for the amount of P12,000.00 as stated in the first cause of action, the real amount she actually received from respondent was only P2,000.00 as shown in the latter's affidavit dated May 27, 1958; that the claims of respondent in the second, third, fourth, fifth and ninth causes of action had already been settled, and even if not settled, the action has already prescribed; and that the amounts stated under the other causes of action were never received by her.

On December 5, 1972, the trial court rendered a decision dismissing the complaint on the ground of prescription of all claims prayed for therein. The dispositive portion of the decision states:

"WHEREFORE, in view of all the foregoing, the Court hereby renders judgment in favor of the defendant. The plaintiff is ordered to pay the defendant the following: (1) The amount of Five Thousand Pesos (P5,000.00) as the actual, moral, and exemplary damage(s) suffered by the defendant (2) The sum of Two Thousand Pesos (P2,000.00) as attorney's fees and (3) To pay the costs of suit.

"SO ORDERED." (p. 58, Records)

Not satisfied with the decision, respondent Lee appealed the decision to the Court of Appeals. On January 15, 1976, respondent appellate court rendered judgment reversing the decision of the trial court in favor of respondent Lee, the dispositive portion of which reads as follows:

"WHEREFORE, the decision appealed from is REVERSED, and a new one shall be entered, ordering defendant-appellee to pay plaintiff-appellant the amount of P28,215.46, plus 12% interest on the amount from the date the instant suit was initiated in the lower court; to pay attorney's fees in the amount of P3,000.00; and to pay the costs.

"SO ORDERED." (p. 37, Rollo)

Hence, the petition is filed with the petitioner assigning the following errors:

"I

THE RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT THE ACTION IS BARRED BY LACHES.

"II

THE RESPONDENT COURT OF APPEALS ERRED IN DISCARDING THE AFFIDAVIT OF PRIVATE RESPONDENT DATED MAY 27, 1958 (EXHIBIT I) AND GIVING MORE WEIGHT AND CREDENCE TO HER ORAL TESTIMONY IN COURT.

"III

THE RESPONDENT COURT OF APPEALS ERRED IN DISREGARDING THE TESTIMONY OF PETITIONER THAT THE ALLEGED INDEBTEDNESS HAS ALREADY BEEN PAID AND GIVING MORE FORCE AND CREDIT TO HER ALLEGATIONS IN HER ANSWER.

"IV

THE RESPONDENT COURT OF APPEALS ERRED IN NOT AFFORDING PETITIONER JUDICIAL PROTECTION UNDER ARTICLE 24 OF THE NEW CIVIL CODE.

We find the petition devoid of merit.

Anent the first assigned error, petitioner alleges that the action brought by respondent Lee before the trial court is barred by laches on the ground of unreasonable delay of nine (9) years before the filing of the action.

Laches is the failure or neglect, for an unreasonable length of time to do that which, by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. (*Tijam, et al. v. Sibonghanoy*, G.R. 21450, April 15, 1968, 23 SCRA 29; *Tejido v. Zamacoma*, No. 63048, August 7, 1985, 138 SCRA 78).

The four basic elements of laches are: 1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complainant seeks a remedy; 2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute suit; 3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and 4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.

While the first element is present in this case, all the other elements are missing. The lapse of nine (9) years within which respondent Lee had not instituted her suit cannot be considered as unreasonable delay to warrant the application of laches. In the first place, the action filed by respondent has not yet prescribed, since it was instituted well within the period of ten (10) years from the time the cause of action accrued as provided by law. The doctrine of laches, being an equitable principle, should not be applied to supplant what is clearly stated in the law, especially if it would defeat and not promote justice.

Moreover, the petitioner, in invoking laches, has not sufficiently shown that she has no knowledge that respondent Lee would assert her right for the collection of the obligations which the former owes the latter. On the contrary, petitioner admits the existence of the real estate mortgages on the properties and the promissory notes signed by her in favor of respondent Lee. Although she raised the defense of payment of all her debts in her answer before the trial court, there was no proof presented evidencing payment thereof as correctly found by the appellate court. Hence, there was more truth to the allegations of respondent, which were not refuted by petitioner, that several demands had been made to the latter for the payment of all her debts, and that petitioner had merely given her word and promises to settle such obligations (p. 13, Brief for Private Respondent). Thus, the doctrine of laches cannot be taken against respondent where petitioner is shown to have promised from time to time the relief sought for (*Cristobal v. Melchor, et al.*, G.R. No. L-43203, July 29, 1977, 78 SCRA 175)

As to the last element of laches, there is no showing that the petitioner would be the party injured or prejudiced if the suit is not held to be barred. There was satisfactory proof that petitioner owed the respondent several amounts of money and that payment had not been made thereof. If the suit is allowed to prosper against petitioner and the latter adjudged liable, her liability would be confined merely to the settlement of her due and demandable obligations and the payment of proper interest to respondent for the default incurred. Laches, being an equitable defense, he who invokes it must come to court with clean hands. (*Bailon-Casilao v. Court of Appeals*, G.R. 78178, April 15, 1988, 160 SCRA 738).

Anent the second assigned error, petitioner submits that the affidavit executed by respondent Lee dated May 27,

1958 which states that the real indebtedness of petitioner is only P2,000.00 with respect to the deed of real estate mortgage should be given more weight than respondent's oral testimony in court which states that the petitioner's obligation is P12,000.00.

Said the respondent appellate court on this matter:

"In her answer to the first cause of action of the complaint, defendant-appellee claimed that 'the real amount she received from x x x plaintiff is only P2,000.00, and not P12,000.00.' But when she testified before the lower court, defendant-appellee stated that she did not receive even the P2,000.00

"x x x.

"Defendant-appellee cited the affidavit of plaintiff-appellant, dated May 27, 1958 (Exhibit 'T'), in which she stated that there is only one document so far executed x x x in the amount of P2,000.00 x x x and not P12,000.00.' The execution of that affidavit was explained by plaintiff-appellant, as follows:

'Q. x x x Is it not a fact that you executed this affidavit as appearing in Exhibit 'T'.

'A. I executed this affidavit because this Leonor Biala got a fire insurance of P10,000.00 and she told me that she is going to put in my name because in case the house will get burn (sic), the public will not have any question on my name. So, she put the fire insurance of P10,000.00 just to cover this affidavit.

COURT:

'Q. Did you put that arrangement about that fire insurance?

'A. It was not put in the arrangement but the truth is that they put my name as beneficiary in the fire insurance in order that I may get the proceeds of fire insurance and thus was made to guarantee the amount.

'Q. Did you have any document or policy to this fact that you would be the beneficiary?

'A. Yes, sir.

'Q. And that P2,000.00 is not really the P12,000.00 which is now the amount of the loan?

'A. No, it is P12,000.00 because she put the fire insurance in my name that is why she made me sign the affidavit.

'Q. So you are now claiming the amount of P12,000.00.

'A. I will claim the whole amount.

'Q. But the P12,000.00 is considered as fire insurance in your favor?

'A. Yes, sir. But I didn't receive any fire insurance money.

'Q. Why?

'A. She got the money when the house was burned.

(t.s.n, pp. 52-54, Hearing on October 7, 1971).'

"x x x.

"It is said that the insurance company would not insure the two houses unless there is a document to the effect that the mortgage lien thereon was only P2,000.00, to justify the insurance of the two houses for P10,000.00." (pp. 31-34, Rollo)

We agree with the findings of the appellate court. Respondent's testimony satisfactorily explained the details

behind the declaration she previously made in an affidavit. Taken along with the documentary evidence consisting of the deed of real mortgage for the amount of P12,000.00 and with the other facts and circumstances surrounding the case, said testimony is worthy of belief. Contradictions between an affidavit and testimony may be explained by the fact that an affidavit will not always disclose the whole facts and will oftentimes and without design incorrectly describe without the deponent detecting it, some of the occurrences narrated. Being taken *ex parte*, the affidavit is almost always incomplete and inaccurate, sometimes from partial suggestions and sometimes from the want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected collateral circumstances necessary for the correction of the first suggestions of his memory, and for his accurate recollection of all that belongs to the subject (*People v. Andaya*, G.R. 63862, July 31, 1987, 152 SCRA 570).

In support of his third assigned error, petitioner submits that her testimony in court wherein she stated that she had paid all her indebtedness to respondent Lee should be considered as having amended the allegations in her answer stating that she never received the amounts claimed in the sixth to eight and tenth to fifteenth causes of action under the complaint.

The respondent appellate court found petitioner's testimony unreliable, for being inconsistent with the allegations in her answer that she never received the amounts stated in the promissory notes. It also arrived at the conclusion that petitioner's claim of payment of all her obligations which were covered by the documents was not proved by evidence sufficient to overcome the presumption which arises from private respondent's possession of the documents.

No compelling reasons exist herein to justify the reversal by this Court of the findings of the appellate court. When the existence of a debt is fully established by the evidence contained in the record, the burden of proving that it has been extinguished by payment devolves upon the debtor who offers such a defense to the claim of the creditor (*Chua Chienco v. Vargas*, 11 Phil. 219 cited in *Servicewide Specialists Inc. v. Hon. Intermediate Appellate Court, et al.*, G.R. No. 74553, June 8, 1989, 174 SCRA 80). In the case at bar, all the documents evidencing petitioner's debts are still in the possession of respondent Lee. No receipts or other satisfactory evidence was presented by the petitioner to prove the alleged payment to respondent. Promissory notes in the hands of the creditor are proofs of indebtedness rather than proofs of payment (*First Integrated Bonding and Insurance Company v. Isnani*, G.R. 70246, July 31, 1989, 175 SCRA 753). Further, it is settled in our jurisprudence that findings of facts of the Court of Appeals are final and conclusive and cannot be generally disturbed on appeal by certiorari before this Court.

Anent the fourth assigned error, petitioner contends that courts of justice must be vigilant to protect persons like her who are poor and illiterate unlike the respondent, who is a prosperous business woman.

Petitioner's contention must fail. Justice must be done according to law. Emotional appeals for justice while they may wring the heart of the Court, cannot justify disregard of the mandate of the law as long as it remains in force (*Aguila v. CFI*, G.R. 48335, April 15, 1988, 160 SCRA 352).

ACCORDINGLY, the petition is hereby DENIED and the assailed decision of the respondent appellate court dated January 15, 1976 is AFFIRMED.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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