

ELMER SUNBANUN, JR., GEORGIE S. TAN, RICHARD SUNBANUN AND DORIS SUNBANUN, PLAINTIFFS-APPELLEES, VS. AURORA B. GO, YIU WAI SANG AND YIU-GO EMPLOYMENT AGENCY, INC., DEFENDANTS, AU...

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HERNANDO, J:

Before this Court is an appeal filed by defendant-appellant Aurora B. Go seeking review of the Decision[1] dated January 26, 2004 of the Regional Trial Court (RTC), Branch 58, of Cebu City in Civil Case No. CEB-25778, an action for Damages.

The Antecedents:

On July 7, 1995, Doris Sunbanun and Aurora B. Go entered into a Contract of Lease[2] for the rental of the ground floor portion of a two-storey residential house located in 68-F Junquera Street, Cebu City. The parties agreed, among others, that the premises would be used only as a private dwelling or lodging house. However, it was discovered that Aurora and her husband, Yiu Wai Sang, were using the premises as the business office of Yiu-Go Employment Agency.

Thus, in November 2000, Elmer Sunbanun, Jr., Georgie S. Tan, Richard Sunbanun and Doris Sunbanun[3] filed a Complaint for Damages against Aurora, Yiu Wai Sang and Yiu-Go Employment Agency[4] before the court a quo, which was docketed as Civil Case No. CEB-25778. Appellees alleged that the use of the premises for business purposes allegedly increased the risk of loss by fire. They claimed that it caused a breach of warranty in the fire insurance policies that they made which described the property as purely residential type.

In their defense, defendants averred that they already left the premises and that during the entirety of their stay, they used the leased floor as a private residence, which at the same time also catered to lodgers. They asserted that Yiu-Go Employment Agency never held office there but at No. 127, Colon Street, Cebu City. Moreover, defendants stressed that the risk of fire is the same whether the house is used as a business office or as a lodging house.

After appellees presented their evidence, Aurora moved that her testimony be taken by deposition upon written interrogatories. She averred that she was uncertain when she could come home to the Philippines. Moreover, she already arranged with the Philippine consulate in Hong Kong to take her deposition. On November 21, 2002, the RTC granted[5] Aurora's motion.

A year passed without Aurora's deposition having been submitted. Thus, the RTC, in its December 1, 2003 Order,[6] deemed the defendants to have waived their right to present their evidence and considered the case submitted for decision. On January 26, 2004, the RTC rendered its assailed Decision finding only Aurora liable and ordering her to pay moral damages, attorney's fees, litigation expenses and costs.

On March 16, 2004, Aurora's former counsel of record, Atty. Jude Henritz R. Ycong, received a Motion to Direct Issuance of Entry of Judgment and Writ of Execution.[7] Shocked, Atty. Ycong filed an Opposition[8] asserting

that he was not aware of the adverse judgment against his client. He explained that the January 26, 2004 Decision was mistakenly sent to his former office address despite his previous notice to the court of his new office address. Nevertheless, on March 30, 2004, the trial court found appellees' motion premature as the judgment against Aurora has not yet attained finality as the 15-day period to appeal, counted from March 16, 2004, has not yet lapsed.

On March 31, 2004, Aurora filed a Motion for Reconsideration[9] but this was denied by the trial court in its April 27, 2004 Order.[10] On May 6, 2004, well after the expiry of the period for appeal, Atty. Ycong sought for the relaxation of the procedural rules and asked for an extension to file a notice of appeal. He expressed that Aurora has been busy campaigning for the local elections and that they have yet to discuss the consequences of appealing the instant case. Thereafter, on May 11, 2004, Atty. Ycong filed a Notice of Appeal.

On May 12, 2004, the RTC denied the notice of appeal on the ground that the reason espoused by Atty. Ycong was inexcusable. It did not fall under those exceptional instances when appeals are allowed to be perfected despite being filed out of time. Aurora sought for reconsideration but it was denied by the RTC on June 10, 2004.

Aggrieved, Aurora filed a Petition for Certiorari[11] with this Court on August 13, 2004, which was docketed as CA-G.R. SP No. 85897. However, on December 8, 2004,[12] We dismissed the petition for being procedurally flawed. Invoking the liberal construction of procedural rules, Aurora asked for reconsideration but it was, nonetheless, denied in this Court's April 8, 2005 Resolution.[13]

Not satisfied, Aurora elevated the case to the Supreme Court via a Petition for Review on Certiorari, which was docketed as G.R. No. 168240. On February 9, 2011, the Supreme Court granted her petition, the dispositive portion reads:[14]

WHEREFORE, the petition is GRANTED. The challenged Resolutions of the Court of Appeals in CA-G.R. SP No. 85897 dated December 8, 2004 and April 8, 2005 are REVERSED and SET ASIDE; the Orders of the Regional Trial Court of Cebu, Branch 58, dated May 12 and June 10, 2004 that denied Aurora Go's notice of appeal are likewise REVERSED and SET ASIDE. The Regional Trial Court of Cebu, Branch 58 is hereby DIRECTED to give due course to petitioner's Notice of Appeal dated May 11, 2004.

SO ORDERED.

The Supreme Court retroactively applied the recent ruling in *Neypes v. CA*[15] to the instant case. It ratiocinated that procedural laws may be given retroactive effect to actions pending and undetermined at the time of their passage, there being no vested rights in the rules of procedure. Consequently, under the fresh period rule, Aurora still had until May 21, 2004 to file her notice of appeal since the denial of her Motion for Reconsideration of the trial court's January 26, 2004 Decision was received by her former counsel on May 6, 2004. Thus, Aurora had timely filed her notice of appeal on May 11, 2004.

Subsequently, on June 4, 2014, Aurora and Doris Sunbanun entered into a Compromise Agreement[16] wherein the parties agreed to drop all claims against each other in Civil Case No. R-36953, Civil Case No. CEB-18706, Civil Case No. CEB-25778, Civil Case No. CN-62 and Civil Case No. R-53354. Moreover, the parties agreed to a release, remise, quitclaim and discharge as to any liability which may have arisen out of the said cases. Since there is no showing that the compromise agreement was entered into through fraud, misrepresentation or coercion, the same is to be recognized as valid and binding. Accordingly, the claims of Doris Sunbanun against Aurora Go in the instant case should be dismissed. As to the remaining appellees, Elmer Sunbanun, Jr., Georgie S. Tan and Richard Sunbanun, who were not parties to the Compromise Agreement, their claims against Aurora remains.

Hence, We proceed with the current appeal before Us as regards appellees Elmer Sunbanun, Jr., Georgie S. Tan

and Richard Sunbanun.

The Issue:

The sole issue here is whether or not the trial court erred in deciding the instant case without waiting for the transcript of the deposition of defendant-appellant Aurora Go, thereby depriving her day in court.

The Court's Ruling

The appeal is bereft of merit.

The instant case presents the two facets of due process which must be carefully weighed and evaluated. Like a double-edged sword, on one side is Aurora's right not to be deprived of her property without being afforded her day in court,[17] and on the other side, is appellees' right to the speedy disposition of their case.[18]

In *Lopez, Jr. v. Office of the Ombudsman*,[19] the Supreme Court was emphatic that:

The constitutional right to a "speedy disposition of cases" is not limited to the accused in criminal proceedings but extends to all parties in all cases, including civil and administrative cases, and in all proceedings, including judicial and quasi-judicial hearings." Hence, under the Constitution, any party to a case may demand expeditious action on all officials who are tasked with the administration of justice.

Here, it is clear that an unreasonable delay in the taking of Aurora's deposition had unduly violated appellees' right to the speedy disposition of their case. A long period of time was allowed to elapse without the appellees' case having been tried. Indubitably, the Philippine consulate in Hong Kong is not solely to blame for the lethargic execution of Aurora's deposition. A perusal of the records would reveal that as early as November 21, 2002, the trial court had already granted Aurora's motion for the conduct of a deposition upon written interrogatories. Concededly, nothing was done to ensure the prompt execution of the deposition. It was only on November 7, 2003 that Aurora's counsel made a follow-up for the conduct of a deposition allegedly requested earlier that year.[20] The deposition was finally taken on December 2, 2004 and January 28, 2004. Coincidentally, it was conducted just a day after the trial court's December 1, 2003 Order deeming the defendants to have waived their right to present their evidence and considered the case submitted for decision. Apparently, defendants were only compelled to act hastily when an unfavorable ruling was already knocking on their doorstep, so to speak. Moreover, it is worth noting that even when the trial court already promulgated its assailed January 26, 2004 Decision, the transcript of Aurora's deposition had not yet been received. It was only on March 5, 2004 that the trial court received a copy of the belated transcript and certification issued by Consul Ma. Theresa B. Dizon-De Vega. Unfortunately, in its March 8, 2004 Order,[21] the trial court found these moot and academic in view of the January 26, 2004 Decision previously rendered.

Assayed from the foregoing disquisitions, the trial court did not err in deciding the instant case without waiting for the transcript of Aurora's deposition. It was merely protecting appellees' right to a speedy disposition of cases in view of the time-honored adage that justice delayed is justice denied.[22] Moreover, a prolonged delay is manifestly a violation of due process.[23] Thus, it was only proper for the trial court to place a heavier weight on appellees' right than the contention of Aurora that she was deprived of her day in court. In *Ricardo Silverio v. Court of Appeals*,[24] the Supreme Court elucidated on the true essence of due process, viz:

"The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense." (*Salonga v. Court of Appeals*, 269 SCRA 534; *PMI Colleges v. National Labor Relations Commission*, 277 SCRA 462)

"What is repugnant to due process is the denial of the opportunity to be heard." (*Garment and Textile Export Board v. Court of Appeals*, 268 SCRA 258)

"There is no denial of due process where a party was given an opportunity to be heard." (Gutierrez v. Commission on Elections, 270 SCRA 413)

"The essence of due process is simply an opportunity to be heard and not that an actual hearing should always and indispensably be held." (Conti v. National Labor Relations Commission, 271 SCRA 114)

"The essence of due process is simply an opportunity to be heard." Ysmael v. Court of Appeals, 273 SCRA 165 and Carvajal v. Court of Appeals, 280 SCRA 351)

"A formal type or trial-type hearing is not at all times and in all instances essential to due process the requirements of which are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of controversy." (Taberrah v. National Labor Relations Commission, 276 SCRA 431)

"For as long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met." (Bangalisan v. Court of Appeals, 276 SCRA 619)

"As long as the party was given an opportunity to defend her interests in due course, she cannot be said to have been denied due process of law, for this opportunity to be heard is the very essence of due process." (Legarda v. Court of Appeals, 280 SCRA 642)

Evidently, Aurora was given every opportunity to defend her interests but she apathetically acted on it. She displayed no zeal and vigilance in fighting for her cause and in protecting her rights. This did not escape the Supreme Court's attention when it aptly ruled that:[25]

x x x It is Aurora's duty, "as a client, to be in touch with [her] counsel so as to be constantly posted about the case. [She] is mandated to inquire from [her] counsel about the status and progress of the case from time to time and cannot expect that all [she] has to do is sit back, relax and await the outcome of the case."

All told, Aurora's right to due process was not violated. The trial court could not be expected to just wait aimlessly until Aurora finally decided to have her deposition taken. The long-drawn wait had, at that point, undermined appellees' right to a speedy disposition of their case. Thus, the trial court was justified in disregarding Aurora's evidence.

In any event, after taking a fastidious review of the transcript of Aurora's deposition, this Court finds no cogent reason to reverse the trial court's judgment. The deposition failed to satisfactorily rebuff appellees' allegation that Aurora was using the leased property for business purposes. Conversely, the newspaper clippings[26] submitted by appellees, which showed advertisements posted by Yiu-Go Employment Agency and indicating its address at 68-F Ground Floor Junquera Street, Cebu City, adequately belies Aurora's claim that she used the leased premises exclusively for residential and lodging house purposes. Parenthetically, Aurora avers that they started Yiu-Go Employment Agency only in February 2001.[27] However, the abovementioned newspaper clippings disclose that Yiu-Go Employment Agency was already established as far back as October 15, 2000. Moreover, there is nothing substantial in the deposition that would overturn the trial court's finding that Aurora violated the Contract of Lease which she entered into with Doris Sunbanun. Consequently, it is only proper to hold Aurora liable for damages.

WHEREFORE, on the foregoing premises, the Court hereby renders judgment:

- On the June 4, 2014 Compromise Agreement between Aurora B. Go and Doris Sunbanun, which agreement is approved as it does not contravene any law, morals, public order or public policy; and
- Denying the appeal of Aurora B. Go as regards appellees Elmer Sunbanun, Jr., Georgie S. Tan and Richard Sunbanun. As to the latter appellees, the Decision dated January 26, 2004 of the Regional Trial Court, Branch 58, of Cebu City is hereby **AFFIRMED** with **MODIFICATION** that the claims of appellee Doris Sunbanun against

Aurora Go are hereby DISMISSED by virtue of the Compromise Agreement. Aurora Go is ordered to pay only appellees Elmer Sunbanun, Jr., Georgie S. Tan and Richard Sunbanun the amounts awarded by the court a quo.

SO ORDERED.

Quijano-Padilla, and Francisco,[*] JJ., concur.

[*] vice Justice Marie Christine Azcarraga-Jacob per Office Order No. 15-14-GTI dated June 30, 2014.

[1] Penned by Hon. Gabriel T. Ingles, Original Records, pp. 220-224.

[2] Original Records, pp. 138-140

[3] Hereinafter appellees.

[4] Hereinafter defendants.

[5] Original Records, p. 184.

[6] Original Records, p. 205.

[7] Original Records, pp. 302-303.

[8] Original Records, pp. 307-308.

[9] Original Records, pp. 312-317.

[10] Original Records, p. 397.

[11] Original Records, pp. 425-433.

[12] Original Records, pp. 459-460.

[13] Original Records, pp. 477-480.

[14] Original Records, p. 754.

[15] G.R. No. 141524, September 14, 2005.

[16] Rollo, pp. 102-103.

[17] Section 1, Article III, Constitution.

[18] Section 16, Article III, Constitution.

[19] G.R. No. 140529, September 6, 2001.

[20] Original Records, p. 211.

[21] Original Records, p. 300.

[22] Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branches 72 And 22, Narvacan, Ilocos Sur, A.M. No. 06-9-525-RTC, June 13, 2012.

[23] Alfredo R. Enriquez, et. al. v. Office of the Ombudsman, G.R. Nos. 174902-06, February 15, 2008.

[24] G.R. No. 109979, March 11, 1999.

[25] Original Records, p. 752.

[26] Original Records, pp. 109-113.

[27] Rollo, p. 65.

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