

**PEOPLE'S HOMESITE & HOUSING CORPORATION,
PLAINTIFF AND APPELLEE, VS. MELCHOR TIONGCO AND MELCHOR
ESCASA, DEFENDANTS AND APPELLANTS.**

G. R. No. L-18891. November 28, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

Appellants Melchor Tiongco and Melchor Escasa, were registered squatters of Jot No. 23, Block No. E-156, containing an area of about 460 sq. meters. Since 1947, long before the plaintiff People's Homesite & Housing Corporation (PHHC for short), declared a parcel of land embraced in TCT 1366 of the Quezon City Register of Deeds, for subdivision purposes (a portion of which is the tat in question), appellants were already occupying the Portion and have introduced improvements thereon (a house of strong materials) and had declared the property for taxation purposes. In the census list of the corporation, the appellants were considered as bona-fide occupants of the property. During the same period also, they had applied to purchase the property from the PHHC. They found out later, that the same had already been awarded to Asuncion Enverga, a relative of a Congressman, in spite of the fact that she had not occupied the property at any time, nor introduced any improvements thereon. Immediately upon the discovery of the award, a complaint was lodged by Tiongco and Escasa with the appellee PHHC. After a preliminary investigation of the complaint, Eugenio Alvarado, Jr., Chief of Investigation & Research Section, PHHC Investigating Committee—

"* * * believes that prima-facie case exists against respondent squatter/awardee and respectfully indorses the case to the Honorable Investigating Committee for appropriate action."

On July 13, 1960, another investigation was conducted, this time by one Panfilo T. Bajade, who thereafter submitted a report, with the following "Remarks and Recommendations", to wit:

"In the above-mentioned lot, there are two bonofide squatters since 1949 and introduced improvements therein. That their names were included in the list of bonafide squatters during the census by the PHHC. That the complainant is capable of paying the lot, he being interested of Lot 23. Block 156.

"RECOMMENDATIONS :

"In my honest belief and ability I firmly believed that the complainant has the priority rights to purchase the lot for the simple reason that they were the pioneers of the place. Besides they are willing and able to pay the amount to the PHHC, anytime it is demanded.

"It is therefore, respectfully submitted to the Executive Committee to render their sound judgment to the abovementioned case."

No action was taken on the report. On June 29, 1960, however, four (4) months after the filing of the complaint, the PHHC instituted with the CFI of Rizal, Quezon City Branch, an action for Recovery of Possession (Civil Case No. Q-5227). After the issues have been joined, with the appellants interposing the Special Defense of Priority of

right to purchase, and ability to pay, as found by no less than the investigators of the appellee PHHC, the case was set for hearing on February 7, 1961. Defendants-appellants' counsel, Atty. Bonifacio Tañega, failed to notify appellants of the scheduled hearing and the case was heard, in their absence and plaintiff introduced evidence showing ownership of the property. On February 24, 1961, judgment was rendered, pertinent portions of which are re-produced hereunder, to wit:

"It appears from the evidence adduced that plaintiff is a corporation duly organized and existing under and by virtue of the laws of the Philippines; that plaintiff is the owner of a parcel of land situated in Quezon City and more particularly described as Lot No. 23, Block No. E-156, East Ave. Subdivision, this city and covered by Transfer Certificate of Title No. 1356 of the Register of Deeds of Quezon City; that sometime in the year 1954 the defendants without the knowledge and consent of the plaintiff entered upon and thereafter constructed their houses on portion of the land referred to therein depriving the plaintiff of the possession thereof; * * *."

"WHEREFORE, judgment is hereby rendered ordering the defendants and all person claiming under them to vacate the premises in question; to remove their houses and other improvements thereon and to pay the plaintiff the sum of P26.70 per month from the date of occupation until the premises in question is restored to the plaintiff; to pay the attorney's fees in the amount of P200.00 plus costs."

Although the above judgment was received by counsel for the appellants, he never informed the latter about the matter. Neither did he take steps to protect the interests of his clients, by presenting a motion for reconsideration and/or filing a petition to set aside judgment. Appellants only came to know that an adverse decision had been promulgated when on May 12, 1961, the Deputy Sheriff of Quezon City, served upon them a copy of a writ of execution ordering them to vacate the premises and to pay the amounts ordained therein. Appellants lost no time in contacting their counsel, Atty. Tañega, and failing to do so, they engaged the services of Atty. Ciriaco Sayson, who presented with the lower Court a Petition for Relief from Judgment, accompanied by affidavits of merit. The Presiding Judge cited Atty. Tañega to appear before him, because of the seriousness of the charges. Atty. Tañega admitted to the court that he did not inform the appellants of the hearing, as he forgot all about the same; that he received the decision but did not also inform the appellants about it, because he also forgot all about the case, explaining that he had so many ejectment cases then, that the orders and decisions in the case just escaped his attention.

Plaintiff PHHC interposed an opposition to the Petition for Relief claiming, in the main, that the same was filed out of time, because the decision was received by former counsel on March 7, 1961, and the petition was presented only on May 19, 1961.

Under date of June 17, 1961, the court a quo issued an order denying the petition for relief, the pertinent excerpts thereof reading as follows:

"From the foregoing it is therefore very dear that the petition for relief from judgment was presented beyond the elementary period of 60 days from the date defendants' attorney received copy of the decision which was, as above-stated on March 7, 1961 to May 9, 1961 when the petition for relief was filed more than 60 days has elapsed. It is a constant doctrine laid down by our Supreme Court, not to cite any particular one, that notice to the attorney of a party litigant is equivalent to a notice to the party itself represented by said attorney and the mistake or negligence of an attorney is binding upon his client. As pointed to by our Supreme Court in its numerous decisions, if such ground would be admitted as reason for re-opening a case or set aside the decision, there would be no end to a suit so long as new counsel could be employed and could show that the prior counsel had not been sufficiently diligent or inexperienced or learned,"

The above judgment is now before Us on appeal posing the following propositions:

- (1) Whether the petition for relief from judgment was filed within the reglementary period; and

(2) Whether under the circumstances, the acts of appellants' former counsel should bind them.

Viewed from the strictly legal perspective, it appears that the petition was presented outside the reglementary period of sixty (60) days from notice of the judgment. Nevertheless, due to the very peculiar circumstances obtaining in the premises, We consider that the rule was substantially complied with and the petition for relief from judgment was seasonably filed. The rules should receive liberal interpretation in order to promote their object and to assist the parties in obtaining a just, speedy and inexpensive determination of every action. Procedural technicality, should not be made a bar to the vindication of a legitimate grievance. When such technicality "deserts from being an aid to justice", the Courts are justified in excepting from its operation a particular case. We find no better opportunity to apply this court's prerogative than in the case at bar.

There was something fishy and suspicious concerning the actuations of former counsel Atty. Tañega, in this case. He did not give any significance at all, to the processes of the court, which has proven prejudicial to the rights of his clients. There was nothing which could have prevented the appellants from attending the trial of the case themselves, or moving for a reconsideration of the decision or taking the necessary appeal from the judgment, if only their counsel had informed them of the court's processes. Counsel had simply ignored the rights of his clients by giving a lame and flimsy explanation that the court's processes just escaped his attention. He deprived them of their day in court.

There should be no dispute regarding the doctrine that normally notice to counsel is notice to parties, and that such doctrine has beneficent effects upon the prompt dispensation of justice. Its application to a given case, however, should be looked into and adopted, according to the surrounding circumstances; otherwise, in the court's desire to make a short cut of the proceedings, it might foster, wittingly or unwittingly, dangerous collusions to the detriment of justice. It would then be easy for one lawyer to sell one's rights down the river, by just alleging that he just forgot every process of the court affecting his clients, because he was so busy. Under this circumstance, one should not insist that a notice to such irresponsible lawyer is also a notice to his clients.

Moreover, the petition for relief from judgment under consideration, may even be considered as one for relief from the order of execution, which was filed within the reglementary period, inasmuch as Section 2 of Rule 38, Revised Rules, does not only refer to judgments, but also to orders, or any other proceedings.

The very allegations in the petition for relief and affidavits and other documents attached thereto, justify the return of the case to the court of origin so that, in the interest of justice, appellants may be given a chance to prove their defenses.

The attention of the trial court is invited to the censurable conduct of Atty. Bonifacio Tañega in this particular case, and to take such action as may be warranted in the premises.

Conformably with the foregoing, the Order of the lower court dated July 17, 1961, is hereby set aside and another entered, remanding the case to the court of origin for further proceedings, and thereafter to render judgment accordingly. With costs against appellee PHHC, in both instances.

Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Repaid, Bengzon, J. P. and Zaldivar, JJ. concur.

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