

LAMBERTO FUNTILA, PETITIONER, VS. HON. COURT OF APPEALS AND LOLITA MARTIN, RESPONDENTS.

G.R. No. L-49829. September 25, 1979

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Petition for Review on Certiorari of the Decision of the Court of Appeals* setting aside the Order dated December 23, 1977 of the Court of First Instance of Rizal (Pasig, Branch XXV) in Civil Case No. 16958 granting the Petition for Relief from the Order dis-missing petitioner's Complaint.

The factual background is as follows:

On August 14, 1973, petitioner filed Civil Case No. 16958 with the Court of First Instance of Rizal for the recovery of damages for the injuries sustained by his minor daughter who was allegedly thrown out of a public utility bus owned by private respondent. Private respondent, however, denied ownership of the bus.

On June 4, 1976, the trial Court issued an Order dismissing the Complaint for failure of petitioner and his counsel to attend the hearing set on said date.

On July 8, 1976, petitioner filed a Motion for Reconsideration alleging that his counsel's failure to attend the hearing on June 4, 1976 was due to the fact that he became indisposed the day before (June 3, 1976) because of high blood pressure and was advised by his physician to rest; and that his counsel sent a telegram on the same day requesting for a resetting of the hearing of the case but that said telegram was received by the Court only on June 7, 1976.

In an Order dated September 27, 1976, the trial Court issued an Order denying the Motion for Recon-sideration for the reasons that the same was not under oath and that it did not contain any affidavit of merit. Petitioner's second Motion for Reconsider-ation was likewise denied by the trial Court in an Order dated December 14, 1976.[1]

Petitioner then filed a Petition for Relief on October 22, 1977 reiterating the reason for his failure to attend the hearing on June 4, 1976 and his having sent a telegram on June 3, 1976 request-ing for a resetting of the case, and further alleging that he has a good and substantial cause of action against private respondent.

In an Order dated December 23, 1977, the trial Court, finding that petitioner had already presented three witnesses and substantial and voluminous exhi-bits, namely, "A" to "A-2", "B" to "B-2", "C" to "C-58", "D" to "D-2", "E", "F", "G" to "G-1" and "H" to "H-1", and in compliance with the mandate that the Rules of Court shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding, granted the Petition for Relief and directed petitioner to continue with the presentation of his evidence on January 27, 1978.

A Motion for Reconsideration thereof was filed by private respondent, which was denied by the trial Court in an

Order dated March 30, 1978.

Private respondent then filed a Petition for Certiorari and Prohibition with Preliminary Injunction with the Court of Appeals contending that the trial Court committed grave abuse of discretion and acted without or in excess of its jurisdiction in granting the Petition for Relief for the reason that the same was filed beyond the period provided for in Section 3, Rule 38 of the Rules of Court.

In its Decision promulgated on November 20, 1978, the Court of Appeals set aside the Order of the trial Court, dated December 23, 1977, granting the Petition for Relief, as well as the Order dated March 30, 1978 denying private respondent's Motion for Reconsideration, in view of petitioner's admission that the Petition for Relief was filed 101 days after his receipt of the Order dismissing the Complaint and, therefore, beyond the period of sixty days provided for in Section 3, Rule 38 of the Rules of Court. Petitioner's Motion for Reconsideration thereof was denied by the Court of Appeals in a Resolution dated January 12, 1979.

Hence, this Petition for Review on Certiorari.

In a Resolution dated March 9, 1979, we denied the Petition for lack of merit. Petitioner then filed a Motion for Reconsideration.

In a Resolution dated June 27, 1979, we recon-sidered our previous Resolution of March 7, 1979, on grounds of substantial justice and equity, gave due course to the Petition, and required the parties to submit their Memoranda.

Petitioner claims that he received the Order dismissing the Complaint on July 3, 1976; that between that date up to October 22, 1977 when he filed the Petition for Relief, a total of 101 days had elapsed after excluding the periods during which Motions for Reconsideration were pending; that while the filing of the Petition for Relief was beyond the 60-day period, it was within the 6-month period provided for in Section 3, Rule 38 of the Rules of Court. Private respondent, on the other hand, contends that 10 months elapsed between January 7, 1977, the date that petitioner received the Order denying the 2nd Motion for Reconsideration, and November 9, 1977, when petitioner filed his Petition for Relief.

Indeed, the dates given by the contending parties are at variance. However, we note from the Order of December 23, 1977 of the trial Court,[2] that it issued the Order denying plaintiff's two Motions for Reconsideration on July 28, 1977; that petitioner received that Order on August 10, 1977; and that petitioner filed the Petition for Relief on October 22, 1977. The dates mentioned by petitioner tally more with those of the trial Court than those asserted by private respondent. In fact, the Court of Appeals anchored its Decision on the 101-day period claimed by petitioner and held "while this period of 101 days (if true) is of course within the six months period computed from date of entry, it is certainly BEYOND the 60-day period from notice given to the private respondent, hence it is inaccurate to say that the petition for review under Rule 38 of the Rules of Court was seasonably filed." [3]

From a strictly legal perspective, there can be no gainsaying that the Petition for Relief was pre-sented out of time, particularly in the light of doctrinal jurisprudence which mandates that the two reglementary periods provided for in Section 3, Rule 38, of sixty-days after a petitioner learns of the Order complained of, and six-months after the order or proceeding has taken place, must both be taken into consideration.[4]

Upon the other hand, it is not disputed that petitioner had already presented the substance of his evidence in support of his claim for damages against private respondent and was, in fact, about to present his last witness at the hearing on June 4, 1976 when the dismissal Order was issued. In fact, due to the non-appearance by plaintiff and his counsel on said date, private respondent merely moved that trial be considered terminated and the case deemed submitted. However, since there was, as yet, no offer of evidence by petitioner, the trial Court opted to dismiss the Complaint. Indeed, this case could have seen a speedier disposition on the merits if the trial Court had

reconsidered its Order of dismissal, particularly, since petitioner twice sought to have the Order dismissing his Complaint reconsidered. While it is the duty of judges to terminate cases with promptness and dispatch,[5] a reminder is not amiss that inconsiderate dismissals are not a solution to congestion of Court dockets. "While they lend a deceptive aura of efficiency to records of individual judges, they merely postpone ultimate reckoning between the parties. In the absence of clear lack of merit or intention to delay, justice is better served by a brief continuance, trial on the merits, and final disposition of cases before the court." [6]

Due to the very peculiar circumstances obtaining in this case, therefore, the Petition for Relief may be considered as having substantially complied with the Rules and, therefore, seasonably filed.[7] Petitioner's minor daughter had suffered injuries. He was almost through with the presentation of his evidence except for one witness. As a matter of conscience, in keeping with the demands of equity and to attain substantial justice,[8] we except this case from the strict operation of the Rules. It is always within the power of the Court to suspend its own rules, or to except a particular case from its operation, whenever the purposes of justice require it.[9] Moreover, the Rules should receive a 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.[10] In this suit, it is to avert a miscarriage of justice and to prevent petitioner from being deprived of a substantial right to be heard that relief is granted.

WHEREFORE, the questioned Decision and Resolution of the Court of Appeals are hereby set aside and another entered remanding the case to the Court of origin for further proceedings, and thereafter to render judgment accordingly.

No pronouncement as to costs.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Fernandez, Guerrero, and De Castro, JJ., concur.

* Fourth Division, composed of Justices Ramon G. Gaviola, Jr., B. S. de la Fuente, and Edgardo L. Paras, ponente.

[1] July 28, 1977, per Order of the trial Court dated December 23, 1977, pp. 39-40, Rollo.

[2] Pp. 39-40, Rollo.

[3] P. 52, Rollo.

[4] Samson vs. Dinglasa, 109 Phil. 803 (1960).

[5] Magdamo vs. Pahimulin, 73 SCRA 111 (1976).

[6] Abinales vs. CFI of Zamboanga City, et al., 70 SCRA 590 (1976).

[7] PHHC vs. Tiongco, et al., 12 SCRA 471 (1964).

[8] Vda. de Sta. Ana vs. Rivera, 18 SCRA 588 (1966).

[9] cf., Vda. de Ordoveza vs. Raymundo, 63 Phil. 275 (1936).

[10] PHHC vs. Tiongco, supra.

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