

PERLA VDA. DE MANJAC, BENEDICTO LIBRADILLA, ERNESTO LIBRADILLA, RDGARDO LIBRADILLA, VILMA CALIGUID, ANASTACIO TALABO, SARAH GAYANGAN, ELEUTERIO ALLANIC, ALICIA ALLANIC, MAXIMO A...

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Certiorari[1] filed by petitioners assailing the Resolution[2] of Branch 2, Regional Trial Court (RTC), Tagum City, Davao del Norte setting aside its previous order of allowing petitioners to formally offer their evidence, denying their formal offer of evidence and dismissing their complaint of Declaration of Nullity of TCT No. T-105075, the dispositive portion of which states:

WHEREFORE, premises considered, the Order dated May 16, 2011 granting plaintiffs the opportunity to submit their formal offer of evidence is hereby SET ASIDE. Plaintiffs cannot, at this stage, be allowed the said opportunity without causing grave damage to the adverse parties.

Consequently, plaintiffs' abovementioned formal offer is DENIED admission being filed late and this case is DISMISSED, as prayed for, without prejudice to its filing.

SO ORDERED.

The facts of the case are as follows:

In the action for Declaration of Nullity of TCT No. T-105075, Deed of Sale, Extra-Judicial Partition, Mortgage, Attorney's Fees and Damages filed by petitioners against Rogelio Engbino and Banco Davao, their previous counsel was able to present, on different dates from 1997 to 1999, 5 witnesses.[3]

For unknown reasons, the previous counsel failed to formally offer the documentary exhibits of the petitioners.[4] Consequently, Banco Davao filed a motion to dismiss for failure of the petitioners to formally offer their exhibits, which motion was denied by the RTC.[5]

On June 26, 2009, the current counsel of the petitioners formally entered his appearance.[6]

During the November 3, 2010 hearing, the RTC directed the parties to submit their memoranda.[7] It was when he was preparing the memorandum that he discovered that the documentary exhibits were not formally offered.[8] Consequently, he filed a Motion to File Formal Offer of Documentary Exhibits, with a prayer to hold in abeyance the filing of the memorandum until the documentary exhibits were formally filed.[9] The motion was granted by the RTC[10] and thus petitioners filed their formal offer of exhibits.[11]

Banco de Oro however moved for the reconsideration of the Order of the RTC granting the formal offer of exhibits contending, among others, that there was already an order issued by the RTC that petitioners had waived their right to make the formal offer.[12] The RTC set aside its previous order, thus denying petitioners to make their formal offer of evidence and dismissed the case.[13] The RTC argued that based on the records: (1)

petitioners rested their case on September 23, 1999 and was given 10 days to make their formal offer but they did not make their formal offer; (2) On January 21, 2004, petitioners were given 15 days to make the formal offer upon motion of their previous counsel but they still failed to make their formal offer; (3) On April 24, 2004, Banco de Oro moved that they be deemed to have waived their right to submit their formal offer, which motion was granted by the RTC; (4) The RTC directed the parties to submit their memoranda but petitioners filed their Formal Offer; and (5) Notices were sent to both the parties and their lawyers. Consequently, the RTC ruled that petitioners were not denied due process having been given the opportunity to make their offer twice and since their action hinges primarily on the documentary evidence, they have no case to speak of.[14]

Aggrieved, the petitioners filed the instant petition and raised the following errors:

I.THE PUBLIC RESPONDENT SERIOUSLY ERRED AND GRAVELY ABUSED HER DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN SETTING ASIDE THE MARCH 16, 2011 ORDER OF HER COURT;

II.THE PUBLIC RESPONDENT SERIOUSLY ERRED AND GRAVELY ABUSED HER DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN SHE ORDERED THE DISMISSAL OF CIVIL CASE NO. 2989;

III.THE PUBLIC RESPONDENT SERIOUSLY ERRED AND GRAVELY ABUSED HER DISCRETION WHEN SHE ORDERED THE EXPUNCTION FROM THE RECORDS OF THE PETITIONERS' MOTION FOR RECONSIDERATION OF HER MARCH 7, 2012 ORDER SUPPOSEDLY ON THE GROUND THAT THE SAID MOTION WAS FILED OUT OF TIME.

Our Ruling

The petition is with merit.

At the outset let it be stressed that petitioners' reliance on the alleged gross misconduct of the previous lawyer is misplaced. The Supreme Court once held:

"The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel within the scope of the authority is regarded, in the eyes of the law, as the act or omission of the client himself. A recognized exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law. For the exception to apply, however, the gross negligence should not be accompanied by the client's own negligence or malice, considering that the client has the duty to be vigilant in respect of his interests by keeping himself up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against him.

Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.[15]"

Petitioners' cannot take refuge on the inaction of the previous counsel since they also have a duty to keep themselves updated on the case in order for them to protect their interest. Interestingly, over a year had passed since the new counsel entered his appearance for the petitioners before the new counsel realized that there was no formal offer of exhibits. If the petitioners kept themselves updated on the case, they could have told the new counsel of the lack of formal offer. In the same manner, the new counsel could have easily perused the records of the case and discovered that no formal offer was made.

On the core issue of the petition, sections 4, 5 and 6, of Rule 15 of the Rules of Court provide:

Section 4. Hearing of motion. — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Section 5. Notice of hearing. — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

Section 6. Proof of service necessary. — No written motion set for hearing shall be acted upon by the court without proof of service thereof.

In the instant case, the order assailed is the order resolving the motion for reconsideration. An examination of the motion for reconsideration would reveal the following: (1) It was dated June 30, 2011[16]; (2) It has a Notice of Hearing which sets the hearing on June 30, 2011 at 8:30 in the morning[17]; and (3) Service to the other party is by registered mail[18].

A pleading dated and scheduled to be heard on the same day fails to comply with the Rules. "Time and again, we have held that non-compliance with Section 4 of Rule 15 of the Rules of Court is a fatal defect. A motion which fails to comply with said Rule is a mere scrap of paper. If filed, such motion is not entitled to judicial cognizance.[19]" Being a mere scrap of paper, there is no basis for the RTC to act on it. Consequently, error was committed by the RTC when it acted on the motion for reconsideration. "Grave abuse of discretion arises when a lower court or tribunal violates the Constitution, the law or existing jurisprudence.[20]" The order, being based on a defective motion, must therefore be annulled. Necessarily, the order denying petitioners' motion for reconsideration of the order based on a defective motion must likewise be annulled.

Consequently, the Order allowing the petitioners to make their formal offer of evidence stands. Besides, to allow the petitioners to make their formal offer would serve the interest of substantial justice. "The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, this Court has consistently held that rules must not be applied rigidly so as not to override substantial justice.[21]"

WHEREFORE, the instant petition is GRANTED. The assailed Orders of the Regional Trial Court SET ASIDE. The case is Remanded to the Regional Trial Court for further proceedings.

SO ORDERED.

[*]Borja, (Acting Chairperson), and Perez, JJ., concur.

[*] Designated Member vice J. Camello, per Raffle dated June 18, 2014

[1] Rollo, pp. 5-36

[2] Rollo, pp. 42-45

[3] Rollo, pp. 11-12

[4] Rollo, p. 12

- [5] Rollo, p. 12
- [6] Rollo, p. 13
- [7] Rollo, p. 13
- [8] Rollo, p. 13
- [9] Rollo, p. 13
- [10] Rollo, p. 14 and 71-72
- [11] Rollo, p. 14 and 73-79
- [12] Rollo, pp. 14 and 81-83
- [13] Rollo, pp. 15 and 42-45
- [14] Rollo, pp. 42-45
- [15] Bejarasco, Jr. v. People, G.R. No. 159781, February 2, 2011
- [16] Rollo, p. 83
- [17] Rollo, p. 84
- [18] Rollo, p. 84
- [19] Camarines Sur IV Electric Coop. Inc. v. Aquino, G.R. No. 167691, September 23, 2008
- [20] Fernandez v. COMELEC, G.R. No. 171821, October 9, 2006
- [21] Penoso v. Dona, G.R. No. 154018, April 3, 2007

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