

MENO PE BENITO, PLAINTIFF AND APPELLEE, VS. PRESIDENT ZOSIMO MONTEMAYOR OF THE MINDANAO AGRICULTURAL COLLEGE, DEFENDANT AND APPELLANT.

G. R. No. L-17437. May 31, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

The case at bar was certified to this Court by the Court of Appeals, stating that the issue involved is purely of law.

The incidents apropos the appeal may be summarized as follows :—

On June 25, 1956, Meno Pe Benito was appointed Temporary Instructor in Agricultural Engineering, and In-Charge, Buildings and Ground for Mindanao Agricultural College, Musuan, Maramag, Bukidnon, upon recommendation of Zosimo Montemayor and approved by G. Hernandez, then Secretary of Education, as Chairman of the Board of Trustees of said College.

On June 29, 1957, Meno Pe Benito filed a petition for Mandamus and Prohibition against Zosimo Montemayor, in the latter's capacity as President of the College, alleging that Montemayor, without justifiable cause and without jurisdiction or authority of law, is attempting to and is about to exclude Pe Benito from the use and enjoyment of his office, by informing him (Pe Benito) that his services will be considered terminated at the close of business hours on June 30, 1957. He prayed that Montemayor be ordered to refrain from excluding him. (petitioner) in the use and enjoyment of his office.

Montemayor by himself, filed an Answer and Motion to Dismiss the Petition on July 10, 1957, claiming that as Head of the College, he is authorized, pursuant to Sections 3 and 4-e of Republic Act No. 807, to recommend prospective appointees to any position in the College Plantilla; that under the same provision, he has the power not to recommend the re-appointment of any temporary employee; and that being a temporary employee, petitioner's services can be dispensed with, at any time (Montero, et al. vs. Castellanes, 108 Phil., 744; Ferrer vs. De Leon, 109 Phil., 202).

At the hearing, Montemayor appeared without assistance of counsel, and submitted the case without presenting any evidence. On July 26, 1957, the lower court rendered the following judgment:

"Wherefore, the respondent is hereby ordered to refrain from excluding the petitioner from the use and enjoyment of his office aforesaid; to assign to the petitioner appropriate work; and to pay the costs of these proceedings. In accordance with the prayer for other equitable relief, the respondent is hereby ordered to have petitioner's salary paid until the petitioner shall have been lawfully removed from his position."

The above judgment was received by the respondent on July 29, 1957, and no appeal was perfected therefrom. On September 26, 1957, the office of the Solicitor General filed a petition for relief from judgment with preliminary injunction, supported by an affidavit of merit—alleging that as the case involved the official acts of government officials, the State, thru the Solicitor General, should have been given a chance to appear and represent respondent

Montemayor; that if a new trial was granted, the Solicitor General could prove that the Board of Trustees of the College had separated Pe Benito from the service prior to July 31, 1957; and that the failure of respondent Montemayor to notify the office of the Solicitor General of the pendency of the case and his personal appearance in his own behalf, constitute excusable negligence and mistake which warrant the granting of a new trial. The motion was denied in an Order dated September 27, 1957. A motion for Reconsideration filed was also denied by the Court a quo.

In his appeal brief, the Solicitor General assigns five (5) errors, supposedly committed by the lower court, which do not require discussion, except one, that is— whether the grounds alleged in the petition for relief are sufficient in order to set aside the judgment, under section 2 of Rule 33. The Solicitor General contends that the failure of respondent-appellant Montemayor to notify the office of the Solicitor General regarding the pendency of the case and in appearing for his own behalf, constitute excusable negligence and mistake. The following proceedings took place in court before the respondent-appellant submitted the case, without presenting any evidence:

Court:

"Don't you know that your legal counsel under the law is the Solicitor General?

Respondent Montemayor:

Well, I don't know that, air

Court:

"Well, your answer here does not dispute the facts in the allegation of the petition, so that will be deemed admitted. Your only defense here is that you have power to recommend the separation of the petitioner; that is the only question insofar as your pleading is concerned.

Respondent Montemayor:

"In this particular case, Your Honor, I pray that the hearing of this case be postponed until I can get the proper counsel to stand for me." (tsn. p. 3).

* * * * *

Court:

"What do you say to the request of Mr. Montemayor, Mr. Azura?

Atty. Azura:

If your Honor may please. It seems as if this case has dragged already for sometime now. The expectation of this representation is that it would be acted upon expeditiously, but in view of the supposed termination of the services of the petitioner was July 1st, Your Honor, and that this petition was filed sometime in the last part of the month of June yet.

* * * * *

Court:

"You will remember Mr. Montemayor that under the technical rules of pleading, you will not gain anything from preparing your answer yourself. The only question to be resolved here is a legal question. And so far from the pleadings, the Court does not want to prejudge the case, so far from the pleading, you do not have a leg to stand on. Let us recess this for a while. I want to confer with you, gentleman. (Recess at 9:15 and resumed at 10:15).

Court:

"All right. Any manifestation on the part of the parties in this case?

Respondent Montemayor:

"In view of the interest of public service, the time element and the need for settling this case expeditiously, I move to withdraw my motion to postpone and to submit the case to be considered by the Court on the basis of its merits. May I add that this motion for postponement and submitting the case for resolution by the Court on its merit is further supported by the Boards' refusal to act on the separation of the petitioner from the service, pending the decision of the Court over the petitioner's petition for Mandamus with Prohibition.

Court:

"Well, as the Court sees the pleadings now, there is no trouble, no difficulty in deciding the case. What do you say, Mr. Azura?

Atty. Azura:

"In view of the fact that respondent has withdrawn his previous petition to give his time to secure the services of counsel and considering further that the answer as filed fails to controvert the material allegations in the petition, we will, therefore, pray that the case be decided on its pleadings, in accordance with the provisions of Section 10 of Rule 35, of the Rules of Court of the Philippines. It is clearly provided for in Republic Act No. 807, section 5, letter (c).

* * * * *

Court:

"Mr. Montemayor, do you wish to make any manifestation to the request of Mr. Azura that judgment be rendered on the pleadings?

Respondent Montemayor:

"Believing always in the fairness in dealing of matters like this by the Court, I feel that this Court decides the case in its discretion, taking into consideration all the angles, official and otherwise, that are involved in the matter. * * * (tsn. pp. 5-7).

It becomes, therefore, clear from the above, that respondent did not know, of his own knowledge, that the Solicitor General should represent him in the case; that he requested sufficient time to secure the services of the proper counsel; and that in view of this request, the trial judge recessed the hearing and asked the parties for a conference, and that immediately thereafter, respondent withdrew his manifestation for postponement. What had transpired during the conference, does not appear. The court a quo knew beforehand that the matter was an important and delicate one. It categorically stated that the "only question to be resolved here is a legal question" and that "so far from the pleadings you do not have a leg to stand on", addressing the respondent. The respondent is not a lawyer, and there is no indication that he is conversant with the law. Not aware of the technicalities of procedure and the law, respondent could not have known the implications of his acts (like submitting the case only on the pleadings). Under these circumstances, we believe that the ends of justice will be better served, and the rights of the parties protected, if the relief prayed for be granted. There was manifestly, a mistake and excusable negligence on the part of respondent, in appearing in his own behalf and acting in the way he did. The motion or relief from judgment, filed within the reglementary period, was accompanied with the requisite affidavit of merit, executed by the office of the Solicitor General, wherein it was stated that valid and material defenses exist to counteract petitioner's claim which the lower court did not believe as sufficient to alter the

decision already made. Respondent's allegation on the questions of law and fact should have been proved. In acting in the premises without benefit of counsel and legal advise, amounted to a deprivation of the chances to be heard. "Legal rights are too valuable to be risked, and should not be chanced on a toss of coins or dice" (Alonzo vs. Villamor, 16 Phil. 321, 322; Farrar vs. Farrar, 182 Pac, 989; Ison vs. Empemano, et ah, 45 Off. Gaz., 2199, cited in Francisco's Rules, Vol. I, Part II, p. 774).

Wherefore, we find the Order of the lower court dated September 27, 1957, denying the Motion for Relief from Judgment, not supported by the facts and jurisprudence on the matter. The judgment dated July 26, 1957, is hereby set aside, and the case remanded to the court of origin for new trial. The Writ of Preliminary Injunction prayed for in the Motion for Relief is also granted, only for the purpose of restraining the execution of the judgment of July 26, 1957.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Dizon, JJ., concur.

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