

PATROCINIO QUIBUYEN, ET AL., PETITIONERS, VS. THE COURT OF APPEALS, ET AL., RESPONDENTS.*G.R. No. L-16854. December 26, 1963*

Ponente: PAREDES, J.

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Rizalina Pulido and Pantaleon Pulido, were the plaintiffs in Civil Case No. 33161, of the Manila CPI, and Patrocinio Quibuyen, Quirino Quibuyen and one Benigna C. Vda. de Quibuyen (deceased and represented by Jose V. Kayanan), were the defendants. When that case was called for hearing on December 5, 1957, neither the defendants nor their counsel appeared. Whereupon the plaintiffs were allowed to present their evidence. The defendants filed three motions, praying that they be granted the right to cross-examine the plaintiffs' witnesses or at least be permitted to present their (defendants') evidence, but they were denied. On August 15, 1958, judgment was rendered, ordering the defendants to pay the plaintiffs the sum of P5,388.89 with interests and collection expenses. On September 5, 1958, the defendants were notified of the judgment, and on September 29, 1958, they filed a pleading entitled "Petition for Relief from Judgment", which was denied by the trial judge on January 5, 1959. The defendants received a copy of this denial on January 8, 1959. On January 10 and 29, 1959, they filed their notice of appeal and appeal bond, respectively; but the record on appeal was not registered until February 4, 1959. On February 12, 1959, the plaintiffs filed their opposition to the approval of the defendants' appeal, on the ground that the order of January 5, 1958 and the judgment on the merits of August 15, 1958 are not appealable, the latter having already become final and executory. The plaintiffs also prayed for the issuance of the corresponding writ of execution. On April 27, 1959, the Judge issued an Order denying the defendants' appeal, for the reasons stated in plaintiffs' opposition dated February 12, 1959 and granted the issuance of a writ of execution.

On September 11, 1959, the Quibuyens filed a petition for certiorari with preliminary injunction and mandamus against the CFI, the Sheriff and the Pulidos, with the Court of Appeals, being CA-G.R. No. 25310-R. The Court of Appeals on September 22, 1959, gave due course to the petition and issued a writ of preliminary injunction upon the filing of P500.00 bond by petitioners. On February 23, 1960, the Court of Appeals rendered judgment, dismissing the petition with costs, against the petitioners, and ordered the dissolution of the preliminary injunction previously issued, stating—

“* * *. Neither copy of the order sought to be annulled nor of the 'Petition for Relief From Judgment' denied in the said order are attached or annexed, to the petition. Likewise no copies of the order pleadings and orders mentioned in the petition are attached thereto. Evidently, the herein petition originally filed with this Court, does not meet the requirements of section 2, Rule 49 of the Rules of Court, which provides that 'the petition shall be accomplished with supporting papers', the most important of which is the copy of the judgment or order to be reviewed and voided. The instant petition is, therefore, fatally defective. Presented as it is, we do not have any means of checking and verifying the correctness or completeness of the facts alleged in the petition, or of determining whether the stand taken by the respondents is fairly and adequately presented.' (Trinidad, et al. vs. Bayona, CA-G.R. No. 23895-R, December 29, 1958).

A motion was filed on March 14, 1960, by counsel for petitioners asking, for the reasons stated therein, that the decision be reconsidered and that the following pleadings be admitted, as annexes to the petition for certiorari:—

Annex

B

—

Petition for relief from Judgment

Annex

C

—

Opposition to petition for relief

Annex

D

—

Order of the respondent court denying petition for relief

Annex

E

—

Notice of appeal

Annex

F

—

Opposition to Defendant's appeal and motion for execution

with a note that "Annex F has not been actually reproduced because it was already attached by the respondents '(the Pulidos) in their answer, as Annex A". On March 22, 1960, the Court of Appeals denied the motion for reconsideration. The Quibuyena filed the present certiorari proceedings to review) the decision of the Court of Appeals, contending, in this instance, that the latter erred (1) In dismissing the petition on the ground that it did not meet the requirements of section 2, Rule 49, and that the same was fatally defective, and (2) In denying the motion for reconsideration.

The position of herein petitioners, may be summarized as follows:

Petitioners' petition for certiorari filed with the Court of Appeals was sufficient, otherwise, it would not have been given due course, for Rule 67 provides that the petition is issued only if the petition is sufficient in form and substance to justify such process. But the Court of Appeals found that the petition was fatally defective, in the sense that the necessary supporting papers were not attached with the petition, and most important, the precise order dated January 5, 1959, which petitioners sought to annul through said petition. Petitioners claimed that it was a regrettable clerical mistake. They contended that the order of January 5, 1959, the order of the trial judge

denying the petition for relief mentioned or designated in the prayer of the petition, was not. the order which was being assailed, but the order of April 27, 1959, which was attached as Annex A, to the petition for certiorari and this was the one refusing to give due course to the appeal from the order denying the petition for relief filed by the petitioners. Petitioners submit that Annex. A, order of the trial court under date of April 27, 1959, having been actually attached to the petition, it was no longer necessary for petitioners to attach the other supporting papers, such as the petition for relief, the opposition thereto, the order denying the said petition for relief and so forth.

It is contended that petitions for certiorari, are governed by Rule 67 of the Rules and save for the requirement that the constitutive facts be alleged "with certainty and praying that judgment be rendered annulling or modifying the proceeding's of such tribunal, board or officer, as the law requires, with costs", there does not appear to be any other requirement, arguing that if the rules require certain other documents, it would be explicit in such respect, such as the one provided in appeals by certiorari from the decision of the Court of Appeals to the Supreme Court, which says:

"The petition shall contain a summary statement of the matters involved and the reasons relied in for the allowance of the writ, and it should be accompanied with a certified copy of the judgment sought to be reviewed, together with the copies of the record on appeal, if any, as printed in the Court of Appeals * *". (Sec. 2, Rule 49, R.C.)

Petitioners concluded that sec. 2, Rule 49, does not apply, but Rule 67; and granting that section 2, Rule 49 applies, a copy of the order sought to be annulled was already attached to the petition filed with the Court of Appeals.

We are satisfied that it is a case of *lapsus calami*. The mistake consists in mentioning" in the prayer of the petition for certiorari in the Court of Appeals (G. R. No. 25310-R), that the writ be issued "annulling the aforesaid order of the respondent Judge of January 5, 1959, and directing the respondent Judge to give due course to the appeal interposed by the herein petitioners", without attaching" a copy of said Order, but accompanying the said petition, as Annex A, with a copy of the order of the court dated April 27, 1959, which states—

"* * for the reasons stated in the opposition of the plaintiff dated February 12, 1959, defendants' appeal is hereby denied. Let the corresponding writ of execution be issued against the defendants".

The order of January 5, 1959, as stated, was one denying the petition for relief "for lack of merit". While the order of April 27, 1959 was an order denying" the defendants' appeal and granting .the issuance of a writ of execution. The petition mentioned the order of January 5, 1959 .as the order assailed, instead of designating: that of April 27, 1959, as the order appealed from. We say that it was a mere case of *lapsus calami*, because of the averments of the petition itself. (Annex A, present petition).

Paragraph IX, after reciting all .the antecedent circumstances, states—

"The respondent Court, through an Order dated April 27, 1959, sustained the Opposition of respondents Pulido to the appeal and ruled that the appeal could not be given due course 'for the reasons stated in the opposition of plaintiffs dated February 12, 1959' and forthwith directed the issuance of a writ of execution as indeed, a writ of execution has now been issued against the herein petitioners. Copy of said Order of April 27, 1959 is hereto attached as Annex 'A' and made an integral part of this petition."

Immediately after said paragraph, petitioners proceeded to state in par. X thereof, as follows—

"Petitioners respectfully allege that the respondent Judge in denying to give due course to said appeal acted without or in excess of his jurisdiction and/or with grave abuse of discretion, and there is now no appeal or any other plain, speedy and adequate remedy in the ordinary course of law."

Paragraph XI of the same petition proceeded to set forth why such an order (of April 27, 1959), constituted an act without or in excess of jurisdiction or with grave abuse of discretion, and in paragraph XII,—

"Petitioners likewise respectfully allege that the aforesaid Order, Annex 'A' (April 27, 1959) of the respondent Judge is a patent nullity, proceeding as it does from the assumption that such an Order can not be appealed from and that the steps towards the perfection of an appeal were performed outside of the reglementary period when in truth and in fact, all were seasonably done,"

And the prayer recited—

Wherefore, it is respectfully prayed that a writ of certiorari be issued by this Honorable Tribunal annulling- the aforesaid Order of the respondent Judge to give due course to the appeal interposed by the herein petitioners."

It is seen, therefore, that the designation of the order by date, in the petition was a mistake, which are oftentimes inadvertently incurred by lawyers, in the course of their practice.

The only ground set forth by the respondent Court in dismissing the petition for certiorari was the lack of supporting papers. Since a copy of the order sought to be annulled was actually attached to the certiorari petition, as Annex A, the next question posed is: Was it necessary, as respondents contend, for petitioners to attach still "other supporting papers?" The query invites a negative answer, because it being a special action of certiorari, Rule 67 governs, at least, in matter of form of the petition. All that the Rules require is that the petition be verified, the facts be alleged with certainty and it must pray for the annulment of the judgment order complained of (sec. 1, Rule 67). These requisites were met by the petitioner with the respondent Court. Granting for the sake of argument, that Section 2, Rule 49 is applicable, the same was also substantially complied with. The copy of the order of April 27, 1959 was filed as (Annex A), with the petition, on the date the petition was presented, and the other pleading's such as the Petition for Relief from Judgment (Annex B), apposition to petition for relief (Annex C), order of the respondent court denying petition for relief (Annex D), Notice of Appeal (Annex E), Opposition to Defendants' appeal, and Motion for Execution (Annex F), with the motion for reconsideration, dated March 14, 1960, of the order of dismissal of the petition, which served to cure the alleged defect, in form and substance, of the petition in question. If at all, petitioners were guilty of a technical violation of procedural requirements, a technicality which does not seem to be of much moment presently, since the reason for its existence had been satisfied. Pleading's, as well as remedial laws, should be construed liberally, in order that the litigants may have ample opportunity to prove their respective claims, and that a possible denial of substantial justice, due to legal technicalities, may be avoided (*Conception, et al. vs. Payatas Estate Co.* 103 Phil., 1016.)

The respondents discussed, at length, the merits of the appeal, which was denied by the trial court and which, order of denial was precisely the subject of the certiorari proceedings with the respondent court. The sole issue; however, in the present petition, is whether the petition for certiorari filed before the Court of Appeals (CA-G.R. No. 25310-R), is sufficient in form and substance, such that a dismissal by said Court of said petition on the ground that it is "fatally defective" would not be justified. This being the case, it would seem improvident to discuss the merits of the appeal, because this involves questions of fact, which the respondent Court should pass upon and which it could not legally do, without first giving due course to the petition for certiorari, brought before it. In paragraph XIX of petition for Certiorari before the Court of Appeals, petitioner allege that the petition was in aid of the Court's appellate jurisdiction and should the appeal be given course "petitioners intend to raise in said appeal questions of fact as well as questions of law" (Annex A, petition). It is beyond our competence, to dwell on the merits of the appeal. It is for the best interest, of justice, that the same be decided by the respondent court.

In view hereof, the Order of dismissal complained of, should be, as it is hereby reversed, and the case remanded to respondent Court, for further proceedings, without pronouncement as to costs.

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

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