

DOMINGO REBULLO, PLAINTIFF AND APPELLEE, VS. NARCISO PALO, ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-20751. July 30, 1965*

Ponente: PAREDES, J.

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On September 13, 1958, plaintiff presented with the Justice of the Peace Court of Tinambac, Camarines Sur, a complaint for Forcible Entry against Narciso Palo and seven (7) others. The case was heard on November 5, 1958, at which date, counsel for the defendants made an oral Answer to the complaint, it appearing that the writ ten Answers mailed to the Court and to plaintiff's counsel were not yet received by them. Hearing proceeded, and on November 12, 1958, the JP Court rendered judgment in favor of plaintiff. Twelve (12) days later, the JP Court received the answer mailed by counsel. On November 15, 1958, defendants appealed the decision of the JP Court, and on the following day, the record of the case was forwarded to the CFI of Camarines Sur. On January 31, 1959, within the reglementary period for the filing of an answer, the defendants' counsel presented a Manifestation that they were adopting and reproducing their written Answer, filed with the JP Court, as their Answer in the CFI. Plaintiff filed an Ex-Parte motion to declare the defendants in default, claiming that the letter failed to file answer in accordance with the Rules, and to allow her to present her evidence also ex-parte.

On February 21, 1959, the trial court declared the defendants in default and required the plaintiff to present, her evidence, in the absence of the defendants. A motion to "Set Aside the Order of Default and to Admit Answer, dated February 25, 1959," was admitted for the Court's resolution on February 26, 1959. Attached to said Motion was an Affidavit of Merit and the written Answer presented in the JP Court, which was not included when the record was elevated to the CFI. In the Answer, it was averred that plaintiff had no right whatsoever to the property, subject of the forcible entry case, inasmuch as defendant Narciso Palo was the owner thereof. On February 26, 1959, the motion was denied in open court and thereafter the trial proceeded to hear the evidence for the plaintiff, in the absence of the defendants and/or their counsel. On the same date, the trial court rendered the following judgment:

"Considering that the plaintiff has substantially established all the allegations in the complaint; that is that she has been in the possession of the portion of land in question since the time she bought the same in 1957; and that subsequent thereto, on August 21, 1958 the defendants entered the land and are occupying it until the present, judgment is hereby rendered in favor of the plaintiff and against the defendants in the following tenor viz: (a) the plaintiff is declared the owner of the land in question and has the right to possession thereof; (b) that the defendants entered the land in question and having deprived the plaintiff from the possession thereof, they are ordered to vacate the land and to deliver possession to the plaintiff; (c) ordering that the defendants to jointly and severally pay the plaintiff the amount of P400.00 as damages and P250.00 as attorney's fees; and (d) ordering the defendants to pay the costs of the proceedings."

On March 13, 1959, the defendants filed a motion for relief from judgment and to set aside order of default and to admit answer, alleging:

"4. That as has been stated in our previous motion, a written Answer has been filed by the defendants in the Justice of the Peace Court of Tinambac, which Answer was unfortunately not attached and included in the records of the case when the Justice of the Peace Court forwarded the same to this Court on appeal;

5. That when the undersigned counsel reminded the Honorable Justice of the Peace Court of Tinambac of the written Answer filed by the defendants at the time of the trial in said Court, she remembered having received the written Answer, so much so, that on March 5, 1959, Atty. Eriberto Fante received a true copy off the said Answer from the Justice of the Peace of Tinambac, * * *;

* * * * *

7. That the defendants has a valid cause of defense and that if the judgment and the order of default is set aside and the defend ants be allowed to file their Answer and adduce their evidence at the trial of the case, the defendant Narciso Palo could prove that he is the owner and possessor of the land in question and that his possession has been since time immemorial up to the present and as evidence of defendants' ownership and possession, we have submitted during the trial of the case before the Justice of the Peace Court of Tinambac the documents of ownership of defend ant Narciso Palo, Tax Declarations Nos. 7402 and 7441 and the tax receipts now attached to the records of the case and marked numerically;

* * * * *

An Affidavit of Merit accompanied the Motion for Relief.

On April 9, 1959, the plaintiff objected to the Motion for Relief from Judgment, etc., claiming that the same was not in accordance with the Rules, because the same was not verified; and that even if the motion could be granted, it would not benefit two of the defendants (Epifanio Palero and Eugenio delos Santos), because they were in default, even before the Manifestation for the reproduction of the written Answer in the JP Court. On April 15, 1959, defendants filed a Motion for Admission of "Verification," and on February 13, 1960, the trial court issued the following Order—

"In view of all the foregoing considerations, the motion of the defendants to set aside the order of default and the judgment rendered herein is hereby denied.

However, the portion of the dispositive part of the decision declaring the plaintiff the owner of the land in question is hereby stricken out."

The above Order was taken to the Court of Appeals; the latter certified the same to this Court, stating that the issues raised are purely legal.

It would seem that the dominant issue We are called upon to determine in the instant case, is whether the CFI of Camarines Sur erred in not granting the motion for Relief from Judgment and not Setting Aside the Order of Default and not Admitting the Answer.

It has been disputed that the written Answer was, in fact, received by the JP Court, albeit after judgment was rendered by the said court but before said judgment was appealed to the CFI. When appellants manifested that they were reproducing and adopting their written Answer filed with the JP Court, as their Answer in the CFI, the defendants had all the reasons to believe that their Answer was forwarded to the latter court. Admittedly, the written Answer was received on November 24, 1958, by the JP Court, and the Manifestation for Reproduction and Adoption was presented on January 31, 1959. Proper administration of justice could have persuaded the trial court, to set aside its Order of Default and Admit the Answer and permit defendants to adduce evidence to support their defenses. Under the facts and circumstances obtaining in the case, it would clearly appear that the non-admission of defendants' Answer and the hearing conducted in their absence, amounted to a denial of their

day in court, since it was not their fault that the writ ten Answer they had filed was not forwarded by the JP Court to the CFI, because it was "misaid." It is true that the rules provide that if Answer is not presented within the reglementary period, the defendant may be declared in default. However, it is equally true that when the failure has been occasioned by fraud, accident, mistake, and/or excusable negligence, relief may be granted (Rule 38).

Furthermore, We find that even the trial court was of the belief that plaintiff was not the owner of the property, which she claimed to have been forcibly occupied by defend ants, because in the Order of February 13, 1960, denying the Motion for Relief, it ordered expunged that portion of the decision declaring plaintiff as the owner.

Premises considered, the order appealed from should be, as it is hereby set aside, and another entered remanding the case to the CFI of Camarines Sur, which is ordained to admit the answer of defendants and proceed to trial and render judgment accordingly. No special pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes J. B. L., Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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