

MANIGO K. RAMOS, PLAINTIFF/ APPELLANT, VS. SPOUSES PURITA G. ALVENIDA AND OSCAR ALVENIDA & ARACELI SEVERINO, DEFENDANTS/ APPELLEES.

Ponente: TAYAG, J.

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TAYAG, J.:

Subject of this Appeal pursuant to Rule 41 of the Rules of Court, as amended, are the Orders dated 01 October 1998 and 06 June 2000, rendered by Branch 253 of the Regional Trial Court of Las Piñas, Metro Manila in Civil Case No. LP-97-0107 for Cancellation of Title and Reconveyance, etc., etc., etc.

The assailed Orders decreed as follows:

“For failure of the counsel to appear despite due notice and for failure to file the pre-trial brief as mandated by the rules within the reglamentary period, the plaintiff is declared non-suited and the petition ordered DISMISSED.

SO ORDERED.

Las Piñas City, Metro Manila, October 1, 1998[1]”

“Acting on the Motion for Reconsideration and for the Reinstatement of the case with Apology and Prayer for Compassion filed by plaintiff, through counsel, and over the vehement objections of the answering defendants as contained in their respective Oppositions and since plaintiff did not come forward with the most persuasive of reasons for the relaxation of Rule 18, 1997 Rules of Civil Procedure, as amended, said motion is DENIED, as a contrary rule would result in a “heavy traffic” or clogging of cases which this Court abhors.

Answering defendants are advised to move accordingly.

SO ORDERED.

Las Piñas City, Metro Manila, June 06, 2000.[2]”

By way of factual milieu, the instant appeal was considered for decision per Resolution dated August 8, 2001. Two Motions for Early Resolutions[3] were received but pursuant to Office Order No. 65-06-RTR[4], it was only on March 20, 2006 when this case was raffled to herein ponente.

As culled from the records, it appears that during the scheduled Pre-Trial Conference of this case on October 1, 1998 at 8:30 o'clock in the morning, the parties and counsel for the defendants were present. Counsel for the plaintiff was not around. As alleged in the Appellant's Brief, plaintiff's counsel arrived at the premises of the trial court at 8:55 o'clock in the morning of the said day but was not allowed to enter the court room, “When he succeeded in gaining entry into the court room, the public respondent Judge shouted at him and ordered him to step out[5]” only to learn later that “upon verification at the Office of the Branch Clerk of Court that the case was dismissed because when called the herein counsel for the plaintiff-appellant was not yet in court, and additionally the pre-trial brief for the plaintiff was not yet on file.[6]”

Accordingly, on the said date the assailed Order dated 01 October 1998 was issued by the respondent court, as quoted above.

On 12 October 1998, plaintiff-appellant filed a Motion for Reconsideration thereto, which was denied per assailed Order dated 06 June 2000, as also quoted above.

Hence, the reason of the instant appeal.

Appellant imputes upon the trial court grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed orders. In his appeal, he raised the following issue to be considered by the Court.

“ASSIGNMENT OF ERRORS

The lower court erred:

1. In persisting to dismiss the case amounting to grave abuse of discretion even after a reasonable explanation had been made in the motion for reconsideration, which grave abuse of discretion was already very apparent when the Presiding Judge prevented the undersigned counsel from entering the courtroom and once inside shouted at him to step out and in failing to acknowledge that the plaintiff himself and his acting guardian were present in court at the time the case was called.[7]”

Defendants-appellees Spouses Jose and Araceli Severino filed their Counter Statement on Appellant's Assignment of Error as follows:

- The Trial Court is correct in declaring the plaintiff as non-suited and in dismissing the petition “for failure of counsel to appear despite due notice and for failure to file the pre-trial brief as mandated by the rules within the reglementary period;”
- The Trial Court is correct in denying “the motion for reconsideration and for the reinstatement of the case with apology and prayer for compassion filed by plaintiff through counsel, and over the vehement objections of the answering defendants as contained in their respective oppositions and since plaintiff did not come forward with the most persuasive of reasons for the relaxation of Rule 18, 1997 Rules on Civil Procedure, as amended, as a contrary rule would result in a “Heavy Traffic” which the Court of origin abhors.”[8]

Defendants-appellees Spouses Oscar and Purita Alvendia did not file any Appellee's Brief in this case.

The pivotal issue to be resolved in this case, on appeal, is:- “Whether or not the public respondent court is correct in dismissing the complaint” for failure of the counsel to appear despite due notice and for failure to file the pre-trial brief as mandated by the rules within the reglementary period thereby justifying the assailed orders.

Sections 5 and 6, Rule 18 of the 1997 Rules of Civil Procedure provide:

“SECTION 5. Effect of failure to appear – The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice unless otherwise ordered by the Court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence ex-parte and the court to render judgment on the basis thereof.

SECTION 6. Pre-trial brief – The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least, three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, etc., etc., xx xx xx.”

“Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial” (Underscoring supplied for emphasis).

It is obvious from the letter of the above-quoted Sections of the Rules that the requirement of the filing of the

Pre-trial Brief at least three (3) days before the date of the Pre-trial Conference is mandatory.

Let it be emphasized that Pre-trial is that stage of the proceedings when the last pleading has been filed and the parties explore possible ways to avoid a protracted trial. It is an answer to the clarion call for the speedy disposition of cases and hailed as the “most important procedural innovation in Anglo Saxon justice in the nineteenth century.”[9]

“Pre-trial seeks to achieve the following: -

- the possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;
- the simplification of the issues;
- the necessity or desirability of amendments to the pleadings;
- the possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proofs;
- the limitation of the number of witnesses;
- the advisability of a preliminary reference of issues to a commissioner;
- the propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefore be found to exist;
- the advisability or necessity of suspending the proceedings; and
- such other matters as may aid in the prompt disposition of the action.”[10]

In the light of these objectives, the parties are required to submit a pre-trial brief which must contain the following:

- a statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution indicating the desired terms thereof;
- a summary of admitted facts and proposed stipulation of facts;
- the issues to be tried or resolved;
- the documents or exhibits to be presented, stating the purpose thereof;
- a manifestation of their hivesy availed or their intention to avail themselves of discovery procedures or referral to commissioners; and
- the number and names of the witnesses, and the substance of their respective testimonies.[11]

Hence, the Pre-trial brief serves as a guide during the pre-trial conference so as to simplify, abbreviate and expedite the trial, if not, indeed, to dispense with it. It is an essential device to the speedy disposition of disputes, and parties cannot brush it aside as a mere technicality. Thus, if a party is allowed to serve the brief at any time after the scheduled pre-trial or, on the date of the pre-trial, the purposes of the procedure is defeated as the parties will not be given sufficient time to study the proposals of the adverse party and to decide whether or not to accept the same.

“Pre-trial rules are not to be belittled or dismissed because their non-observance may result in prejudice to a party's substantive rights. Like all rules they should be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtfulness in not complying with the procedure.”¹²Indeed, as correctly pointed out by the public respondent

court in its Order dated 06 June 2000 in denying petitioner's Motion for Reconsideration that “plaintiff did not come forward with the most persuasive of reasons for the relaxation of Rule 18, 1997 Rules of Civil Procedures, as amended, such being the case, this Court is left with no other alternative but to sustain said conclusion.

WHEREFORE, premises considered, the instant appeal is hereby DENIED for lack of merit. The assailed Orders of the Regional Trial Court, Branch 253, Las Piñas City, Metro Manila, in Civil Case No. LP-97-0107 are AFFIRMED.

SO ORDERED.

Salazar Fernando, (Chairman) and Tijam, JJ., concur.

[1] Rollo, p. 33

[2] Rollo, p. 34

[3] Rollo, p. 66 (Motion for Early Decision dated May 24, 2005); Rollo, pp. 76-78 (Motion for Early Decision dated August 23, 2005)

[4] Rollo, p. 99

[5] Rollo, p. 26

[6] Rollo, p. 26

[7] Appellant's Brief, p. 7; Rollo, p. 22

[8] Rollo, p. 37

[9] Tiu vs. Middleton. G.R. No. 134998, July 19, 1999

[10] Section 2, Rule 18 of the 1997 Rules of Civil Procedure

[11] Section 6, Ibid

[12] Saguid vs. Court of Appeals, G.R. No. 15061, June 10, 2003

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