

BENJAMIN P. PAULINO, PETITIONER, VS. HON. ARTHUR O. MALABAGUIO, PRESIDING JUDGE, RTC, BRANCH 93, QUEZON CITY, PHILIPPINE SCHOOL OF BUSINESS ADMINISTRATION-QUEZON CITY, JUAN D. L...

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Certiorari under Rule 65 of the 1997 Revised Rules of Civil Procedure assailing the Order dated December 5, 2013[1] of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 93, Quezon City in Civil Case No. R-QZN-13-02420-CV entitled “PHILIPPINE SCHOOL OF BUSINESS ADMINISTRATION INC. QUEZON CITY, JUAN D. LIM. JOSE F. PERALTA, AND ANTONIO M. MAGTALAS. Petitioners, versus BENJAMIN P. PAULINO, Respondent.”, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, the Omnibus Motion filed by the respondent is hereby DENIED for lack of merit.

SO ORDERED.”[2]

The facts are:

On August 8, 2013, private respondents Philippine School of Business Administration (PSBA) Quezon City, Juan D. Lim, Jose F. Peralta, and Antonio M. Magtalas filed a Petition for Injunction, Inspection of Corporate Books and Records, Accounting, Reimbursement, and Damages against petitioner Benjamin Paulino (Paulino for brevity).[3] The parties herein, petitioner Paulino and private respondents Juan D. Lim, Jose F. Peralta, and Antonio M. Magtalas are former and current members of PSBA's Board of Directors,[4] respectively.

Thereafter, on August 12, 2013, petitioner Paulino filed a Manifestation with Very Urgent Motion to Suspend/Defer Proceedings[5] averring that: there is a pending case involving him and private respondent Lim before the same court docketed as Civil Case No. RQZN-13-01167CV for Declaration of Nullity of Stockholders' Meeting and Election of Directors and Officers; the Motion to Inhibit filed in the said case has not yet been resolved; the instant proceeding should be deferred pending resolution of the same; the issues presented in both cases are basically intertwined; private respondent Lim, in filing the instant case, resorted to splitting a single cause of action; and, to allow the instant petition to proceed without first ascertaining the validity of the elections in Civil Case No. RQZN-13-01167CV would render the said case moot and immaterial.

In its Order[6] dated August 14, 2013, the lower court denied petitioner Paulino's Very Urgent Motion to Suspend/Defer Proceedings. The lower court held that deferring or suspending the petition even before its merits could be passed upon would be unfair. Also, the said Motion to Suspend is a prohibited pleading under Section 8 of the Interim Rules of Procedure Governing Intra-corporate Controversies. The lower court noted that these two (2) cases do not involve the same cause of action, as the instant petition is hinged on the right to inspect corporate

books and for accounting.

On August 16, 2013, the lower court granted private respondents' prayer for the issuance of a Temporary Restraining Order.[7] The lower court considered the testimony of private respondent Lim who declared that: petitioner Paulino committed acts which are inimical to the interest of PSBA-QC, its faculty, administrative staff, students, and stockholders; when private respondent Lim examined the financial records of PSBA-QC in January 2013, he discovered that petitioner Paulino had been: (1) charging personal expenses in his credit card for reimbursement by the school; (2) enrolling too many scholars which exceeded the limit of 5% of the total student population; and (3) charging non-school related activities in PSBA-QC's club shares; after the election of officers where private respondent Lim was elected as Chairman, and before the scheduled special stockholders' meeting on June 16, 2013, petitioner Paulino and his men forcefully took control of PSBA-QC Campus, causing a commotion; private respondents Lim and Magtalas were denied entry to the PSBA campus by the guards of petitioner Paulino; nonetheless, the special stockholders' meeting pushed through, with 98.99% of the outstanding capital stock of PSBA-QC present and represented; petitioner Paulino was not elected as Director and his forceful take-over of PSBA-QC continued, denying entry to the newly elected directors and officers; further, petitioner Paulino and his men prevented the deposit of cash collections to PSBA-QC accounts, and illegally collected tuition and other fees without machine validation; and, petitioner Paulino made illegal appointments of non-academic staff as well as illegal removal and appointment of academic staff.

Subsequently, or on August 22, 2013, petitioner Paulino filed a Very Urgent Motion to Inhibit[8] stating that: the Motion to Inhibit in Civil Case No. RQZN-13-01167CV has not yet been resolved; a prior pending incident on the question of judicial integrity should first be settled before any issue affecting the very rights of the litigants is determined; the recent acts of the public respondent in proceeding with the case, notwithstanding sufficient reasons to dismiss, or at the very least defer the same, had further eroded petitioner Paulino's confidence in the independence and integrity of the court; and, petitioner Paulino is ready and willing to submit his Answer to the complaint, and reserves the right to file the same pending resolution of the motion to inhibit.

On even date, the lower court issued an Order[9] giving the private respondents one (1) day to submit their Comment and/or Opposition thereto. Meanwhile, petitioner Paulino filed a Manifestation[10] stating that the Answer to the complaint is subject to the resolution of the Motion to Inhibit, and that to compel the filing of the Answer might compromise the interest of the parties as the issues would already be joined.

On August 27, 2013, the lower court rendered an Order[11] denying petitioner Paulino's Very Urgent Motion to Inhibit. According to the lower court, the motion did not cite any valid ground to justify the public respondent's recusal. A reading of the records of the instant case and Civil Case No. RQZN-13-01167CV would reveal that the public respondent had been very fair and objective in handling the motions and manifestations filed by petitioner Paulino. Further, the Orders issued by the public respondent were not without legal and factual basis.

On August 28, 2013, petitioner Paulino filed his Answer with Compulsory Counterclaim[12] stating, among others, that: the May 4, 2013 Board of Directors' Meeting is void and without legal effect; Directors were not properly notified of the meeting, while those who were present did not constitute a quorum; all acts performed under the May 4, 2013 special meeting and all claims flowing from it are void; the stockholders' meeting and organizational meeting held on June 16, 2013 are likewise void and without legal effect; the election of the members of the Board of Directors who would serve for the ensuing year was illegal; petitioner Paulino did not violate any policy of PSBA-QC and he never forcefully took over its premises; the alleged irregularities are attributable to private respondents' own fault; he did not illegally collect funds; and, the instant petition must be dismissed for forum shopping, *litis pendentia*, and splitting of cause of action.

Private respondents, for their part, filed a Motion to Expunge Answer and declare petitioner Paulino, respondent therein, in Default[13], on the ground that his Answer was filed only on August 28, 2013, or five (5) days late.

Petitioner Paulino countered with a Comment/Opposition[14] arguing that the period to file the Answer was interrupted by public respondent's acknowledgment of the Very Urgent Motion to Inhibit during the August 22, 2013 hearing. As summons was served on August 8, 2013, and the period to file an Answer was interrupted on August 22, 2013, petitioner Paulino had one (1) more day from the time the lower court resolved the Motion to Inhibit to file his Answer. Thus, the Answer with Compulsory Counterclaim filed on August 28, 2013 was timely filed. Petitioner Paulino maintained that the relaxation of the rules is compelling if it is in the interest of substantial justice.

In its Order[15] dated October 30, 2013, the lower court declared petitioner Paulino in default and ordered the Answer expunged from the records. The lower court noted that petitioner Paulino, in order to beat the deadline for submission of an Answer, deliberately filed the Motion to Inhibit on the fourteenth day to suspend the expiration of the period. The timing of the filing of the said motion, which is one (1) day prior to the last day for filing an Answer, is questionable. Petitioner Paulino, in effect, sought an extension of time to file an Answer which is a prohibited pleading under the Interim Rules of Procedure Governing Intra-Corporate Controversies.

Undaunted, petitioner Paulino filed an Omnibus Motion[16] praying that the Order of Default be lifted and that private respondents be declared non-suited and the petition dismissed due to their absence in pre-trial.

In the assailed Order[17] dated December 5, 2013, the lower court, through respondent Judge Arthur O. Malabaguio, denied petitioner Paulino's Omnibus Motion for lack of merit. The lower court noted that petitioner Paulino filed his Answer five (5) days late. Rules of procedure have often been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business. Anent the absence of private respondents during pre-trial, the lower court observed that the setting for Pre-trial Conference on November 11, 2013 was canceled and the said hearing was devoted to the Motion for Consolidation of cases filed by petitioner Paulino. Further, both petitioner Paulino and the private respondents were not able to attend the said hearing as only their counsels were present. According to the lower court, petitioner Paulino's counsel did not question the absence of the private respondents nor move for the dismissal of the petition, which confirms that the said setting was only for the Motion for Consolidation of cases and not pre-trial.

Hence, this petition for certiorari raising the following issues[18]:

“i. WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN

i.i. ISSUING THE ASSAILED ORDER WHICH DENIED THE OMNIBUS MOTION REQUESTING FOR THE LIFTING OF THE ORDER OF DEFAULT;

i.ii. ISSUING THE ASSAILED ORDER WHICH DENIED THE OMNIBUS MOTION TO DECLARE THE RESPONDENTS NON- SUITED.

ii. WHETHER OR NOT A TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY INJUNCTION SHOULD IMMEDIATELY ISSUE AGAINST THE ENFORCEMENT OF THE ASSAILED ORDERS.

iii. WHETHER OR NOT THE PUBLIC RESPONDENT SHOULD BE PROHIBITED FROM PRESIDING ON THE CASE/S BEFORE THE LOWER COURT.”

The petition is partly meritorious.

Petitioner Paulino essentially contends that: the public respondent gravely abused its discretion when it denied the Motion to Lift the Order of Default; before the expiration of the reglementary period to file the Answer, petitioner Paulino filed a Very Urgent Motion to Inhibit; as such, he had a valid ground to wait for the Order of the public respondent resolving the same before filing his Answer in order to prevent the joining of issues; he believed in good faith that all proceedings were deemed suspended in view of the filing of the Motion to Inhibit; further, he was able to file his Answer before private respondents moved to declare him in default; the Answer with Compulsory Counterclaim raised special and affirmative defenses including, but not limited to, *litis pendentia*, forum shopping, and splitting of cause of action; and, PSBA-QC's counsel failed to appear during the pre-trial while the counsel for private respondents Lim, Peralta, and Magtalas was not clothed with a special power of attorney authorizing him to appear in behalf of his clients.

Private respondents, on the other hand, maintain that: petitioner Paulino failed to show that public respondent acted arbitrarily, despotically, and capriciously in declaring him in default; the belated filing of the Answer is inexcusable; and, the invocation of “substantial justice” is not a magic wand that will automatically compel a court to suspend procedural rules.

The pivotal issue in this case, therefore, is whether the lower court's Order of Default[19] should be lifted, which entails the admission of petitioner Paulino's belated Answer with Compulsory Counterclaim.[20]

After a judicious consideration of the arguments raised by the parties, as well as the law and jurisprudence pertinent thereto, this Court finds that the default order issued against petitioner Paulino should be lifted, in the interest of truth and substantial justice. While petitioner Paulino was clearly wrong to assume that the reglementary period to file his Answer was suspended by his Motion to Inhibit, circumstances extant in the records show that the delay was minimal and that private respondents were not prejudiced by the same. Likewise, there was no indication of a manifest intent on the part of petitioner Paulino to delay the proceedings.

Sections 6 & 7, Rule 2 of the Interim Rules of Procedure Governing Intra-Corporate Controversies provide:

“SEC. 6. Answer. - The defendant shall file his answer to the complaint, serving a copy thereof on the plaintiff, within fifteen (15) days from service of summons.

xxx

xxx

xxx

SEC. 7. Effect of failure to answer. - If the defendant fails to answer within the period above provided, he shall be considered in default. Upon motion or *motu proprio*, the court shall render judgment either dismissing the complaint or granting the relief prayed for as the records may warrant. In no case shall the court award a relief beyond or different from that prayed for.” (Emphasis supplied)

It is undisputed that summons was served upon petitioner Paulino on August 8, 2013.[21] Thus, the period to file an Answer expired on August 23, 2013. Petitioner Paulino, however, filed a Very Urgent Motion to Inhibit on August 22, 2013[22], or just a day before the expiration of the period.

It was only on August 28, 2013[23] when petitioner Paulino filed his Answer. To justify the belated filing, he argues that there was a pending Very Urgent Motion to Inhibit which he waited to be resolved.

However, worth noting is that in the said Very Urgent Motion to Inhibit[24], petitioner Paulino explicitly prayed[25] that the lower court issue an Order granting his request to reserve the right to file an Answer pending resolution of the motion. Clearly, as no such Order was ever issued by the lower court, petitioner Paulino's request

was never granted and his reservation did not take effect. The reglementary period continued to run, and petitioner Paulino was well aware of it, hence the request for an Order.

It may be well to stress that the said instance was not the first time petitioner Paulino tried to effectively suspend the proceedings. Previous to the Very Urgent Motion to Inhibit, petitioner Paulino filed a Very Urgent Motion to Suspend/Defer Proceedings[26] which was already denied by the lower court on August 14, 2013.[27] It bears emphasis that under Rule 1, Section 8 of the Interim Rules of Procedure Governing Intra-Corporate Controversies, motions for postponement or other motions of similar intent, and even motions for extension of time are considered prohibited pleadings. Notably, after the denial of his Very Urgent Motion to Suspend/Defer Proceedings, petitioner Paulino filed the Very Urgent Motion to Inhibit just one (1) day before the expiration of the reglementary period to file an Answer.

From the foregoing, it can be said that petitioner Paulino was in no position to assume that the reglementary period was suspended. Yet, he let the reglementary period expire and filed his Answer five (5) days late.

However, despite fault on the part of petitioner Paulino, this Court finds that his Answer with Compulsory Counterclaim should nonetheless be admitted in the interest of justice so that the claims of both parties could properly and thoroughly be threshed out.

By analogy, in *Fernando Go v. Michael Tan*[28], petitioner therein, on the last day to file his Answer, relied on the judge's utterance that the court will wait for his answer, and claimed that it was an implied grant of extension. What happened was that the judge asked petitioner's counsel whether he has filed an Answer, and when he replied in the negative, the judge remarked that the court will wait for him to file his Answer. The Supreme Court, however, noted that the trial court, still, did not grant the petitioner any extension of time to file an Answer, and the latter's reliance on the judge's remarks was misplaced. Nonetheless, the Supreme Court set aside the Order of Default, holding that there was no apparent scheme to delay the proceedings or to flagrantly transgress the rules.

Indeed, the policy of the law is to have every litigant's case tried on the merits as much as possible. Judgments by default are frowned upon. A case is best decided when all contending parties are able to ventilate their respective claims, present their arguments and adduce evidence in support thereof. The parties are thus given the chance to be heard fully and the demands of due process are subserved. It is only amidst such an atmosphere that accurate factual findings and correct legal conclusions can be reached by the courts.[29]

In this case, the fact remains that petitioner Paulino was able to file his Answer with Compulsory Counterclaim, albeit five (5) days late. Incidentally, two of these days fell on a weekend, while August 26 is a holiday. It was on August 27, 2013[30] when the lower court resolved the Very Urgent Motion to Inhibit, then petitioner Paulino filed his Answer the very next day, August 28.[31] Under the aforesaid circumstances, this Court believes that petitioner Paulino had no manifest intent to needlessly delay the proceedings, as he mistakenly thought that the Motion to Inhibit should first be resolved. Thus, when the lower court addressed the same four (4) days after the reglementary period, petitioner Paulino lost no time in filing his Answer the following day. It should be borne in mind that the issuance of orders of default should be the exception, rather than the rule, to be allowed only in clear cases of obstinate refusal by the defendant to comply with the orders of the trial court.[32]

In addition, there is no showing that private respondents were prejudiced by the belated filing of the Answer.

In *Spouses Magtoto v. Court of Appeals, et al.*[33], the Supreme Court upheld the Order of Default, noting that the delay was unreasonable and unjustified as petitioners filed their Answer three (3) months after they were declared in default.[34] In contrast to this case, petitioner Paulino's Answer had already been filed two (2) months before he was declared in default on October 30, 2013[35]. In fact, the Answer was already filed even before

private respondents moved to declare him in default.[36]

The rule is that a defendant's Answer should be admitted where it is filed before a declaration of default and no prejudice is caused to the plaintiff. Indeed, where the Answer is filed beyond the reglementary period but before the defendant is declared in default and there is no showing that defendant intends to delay the case, the Answer should be admitted.[37]

In *Cathay Pacific Airways, Ltd. v. Romillo, Jr.*,[38] the Supreme Court ruled that it was error to declare the defending party in default after the Answer was filed.[39]

Verily, the hornbook rule is that default judgments are generally disfavored. While there are instances when a party may be properly declared in default, these cases should be deemed exceptions to the rule and should be resorted to only in clear cases of obstinate refusal or inordinate neglect in complying with the orders of the court.[40] In *Indiana Aerospace University v. CHED*,[41] the Supreme Court held that the trial court gravely abused its discretion when it declared the respondent in default despite the latter's filing of an Answer, and that placing respondent in default thereafter served no practical purpose. The Supreme Court added that the defendant's Answer should be admitted because it was filed before the declaration of default, and no prejudice was caused to the plaintiff.

Anent petitioner Paulino's insinuation that private respondents should have been declared non-suited, this Court finds no cogent reason to depart from the following findings of the lower court:

“The records would show that the pre-trial conference on the principal case was set on November 11, 2013 (Order dated September 5, 2013). However, a Motion for Consolidation of Cases was filed by the respondent on November 5, 2013. Hence, due to the aforesaid pending incident, the previous setting for Pre-trial Conference on November 11, 2013 was cancelled and the hearing on said date was devoted to the Motion for Consolidation of Cases filed by the respondent on November 5, 2013. Moreover, both the petitioners and the respondent were not able to attend the said hearing on November 11, 2013 and only their counsels namely Atty. Gregorio Bonifacio and Atty. Nicolai Noel Lazaro attended the hearing. It should be noted that counsel for respondent did not question the absence of the petitioners on that date and neither did he move for the dismissal of the petition in view of the absence of the petitioners. This would only confirm the fact that the setting for that hearing date is only for the Motion for Consolidation of Cases and not for Pre-trial.”[42]

Petitioner Paulino's prayer to prohibit respondent judge from presiding and hearing all the cases pending before the lower court which involve the herein parties is unavailing for utter lack of basis.

All told, this Court finds that despite the mistaken belief of petitioner Paulino that his Motion to Inhibit tolls the period to file an Answer, the Order of Default issued against him should nonetheless be lifted. At the end of the day, court litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth.[43]

WHEREFORE, premises considered, the instant petition for certiorari is partly GRANTED. The assailed Order dated December 5, 2013 of the RTC, Branch 93, Quezon City in Civil Case No. R-QZN-13-02420-CV is hereby REVERSED and SET ASIDE. The trial court is directed to admit petitioner's Answer with Compulsory Counterclaim and thereafter to act on this case with dispatch.

No costs.

SO ORDERED.**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Bruselas,Jr., A.D., and Gaerlan, S. H., JJ., concur.

[1] Rollo, pp. 17-21, penned by Judge Arthur O. Malabaguio

[2] Rollo, p. 21

[3] Rollo, p. 5

[4] Rollo, pp. 155, 165

[5] Rollo, pp. 22-28

[6] Rollo, pp. 29-31

[7] Rollo, pp. 32-37

[8] Rollo, pp. 38-43

[9] Rollo, p. 44

[10] Rollo, pp. 45-47

[11] Rollo, pp. 48-50

[12] Rollo, pp. 51-76

[13] Rollo, pp. 77-80

[14] Rollo, pp. 81-88

[15] Rollo, pp. 97-99

[16] Rollo, pp. 100-113

[17] Rollo, pp. 17-21

[18] Rollo, p. 8

[19] Rollo, pp. 97-99

[20] Rollo, pp. 51-76

[21] Rollo, p. 82

[22] Rollo, p. 89

[23] Rollo, p. 51

[24] Rollo, pp. 38-43

[25] Rollo, p. 40

[26] Rollo, pp. 22-28

[27] Rollo, pp. 29-31

[28] G.R. No. 130330. September 26, 2003.

[29] Spouses Guillerma and Pascual Lumanas v. Esterlita Sablas, et al., G.R. No. 144568. July 3, 2007.

[30] Rollo, p. 50

[31] Rollo, p. 51

[32] Fernando Go v. Michael Tan, et al., G.R. No. 130330. September 26, 2003.

[33] G.R. No. 175792. November 21, 2012.

[34] Spouses Ruben and Artemia Magtoto v. Court of Appeals, et al., G.R. No. 175792. November 21, 2012.

[35] Rollo, pp. 97-99

[36] Rollo, pp. 77-80

[37] San Pedro Cineplex Properties, Inc. v. Heirs of Manuel Humada Enaño, G.R. No. 190754. November 17, 2010.

[38] G.R. No. L-64276. March 4, 1986.

[39] Spouses Guillerma and Pascual Lumanas v. Esterlita Sablas, et al., G.R. No. 144568. July 3, 2007.

[40] Indiana Aerospace University v. Commission on Higher Education, G.R. No. 139371. April 4, 2001.

[41] G.R. No. 139371. April 4, 2001.

[42] Rollo, pp. 20-21

[43] Rosalino Acance, et al. v. Court of Appeals, et al., G.R. No. 159699. March 16, 2005; Fernando Go v. Michael Tan, et al., G.R. No. 130330. September 26, 2003.

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