

LEONOR MANUEL CASTILLO UDAN, PETITIONER, VS. THE HON. MUNICIPAL JUDGE QUIRICO C. AMON, ETC., AND BEATRIZ CASTAÑEDA, RESPONDENTS.*G.R. No. L-24288. May 28, 1968*

Ponente: ZALDIVAR, J.

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A petition for certiorari to annul the order of respondent Judge issued on August 27, 1964 denying petitioner's motion for postponement of the hearing of Cadastral Case No. 12, LRC Cadastral Record No. 377 (Lots Nos. 9102 and 9103) of the Court of First Instance of Zambales, as well as his subsequent orders denying petitioner's motions for reconsideration.

The factual background of this petition is as follows: At the hearing of Cadastral Case No. 12 (LRC Cad. Rec. No. 377) of the Court of First Instance of Zambales on June 12, 1956, only respondent Beatriz Castañeda appeared, and so the court entered an order of general default, and said respondent was allowed to present evidence support of her claim of possession and ownership over two parcels of lands known as Lots Nos. 9102 and 9103.

On the following day, June 13, 1956, Tomas Manuel, grandfather of petitioner Leonor Manuel Castillo Udan, who was then a minor, filed in behalf of said petitioner an answer (opposition) claiming ownership and possession of the two lots. Thereafter, said Tomas Manuel, again in behalf of petitioner, filed a motion to set aside the hearing and/or order of default alleging that respondent Castañeda misrepresented that the two lots were in her possession although she fully knew that the lots were in the possession of petitioner and had been in the possession of her predecessor-in-interest since 1936, publicly, continuously, and peacefully; and that respondent was fully aware that those lots were sold by Maria Fontillas to Visitacion Aglibot, who in turn sold them to petitioner's mother, because in the morning of June 12, 1956, the day of the hearing, respondent Castañeda was with Tomas Manuel in the office of petitioner's counsel and was shown the deed of sale of said lots in favor of petitioner's mother. Acting on the motion of Tomas Manuel, the trial court issued an order, dated September 28, 1956, lifting the order of default and admitting the answer of petitioner.

Thereafter, respondent Castañeda filed motions to set the case for hearing, but the record does not show that the case was ever heard. On December 10, 1956, said respondent filed a motion to dismiss the opposition or answer of petitioner, which motion was granted by the trial court in its order of October 15, 1957, and thereupon the two lots were adjudicated to respondent. Contenting that the lower court erred in entering the aforementioned order adjudicating the lots in question to respondent Castañeda without giving petitioner an opportunity to be heard or present her evidence, petitioner brought an appeal to this Court, which was docketed as G. R. No. L-18372. On November 29, 1962, this Court rendered a decision, the dispositive portion of which reads:

"On the whole, we believe that the interests of justice will be subserved if this case is remanded to the court a quo for further proceedings, giving appellant Castillo the opportunity to present her evidence of alleged ownership of the lots in question." [1]

After the case was remanded to the Court of First Instance of Zambales, the district Judge, pursuant to Section 88 of Republic Act 296, issued Administrative Order No. 1 designating respondent Municipal Judge Quirico C. Amon of San Narciso, Zambales, to try the case. Thereupon, respondent Judge set the case for hearing on August 27, 1964, and notice of said hearing was received by petitioner's counsel on August 12, 1964.

On the day of the scheduled hearing, petitioner personally submitted to respondent Judge her counsel's motion (dated August 26, 1954) to postpone the hearing to the following day, based on the ground that he had to appear before the Court of First Instance of Olongapo, Zambales in the hearing of Civil Case No. 1684 and Cad. Case No. 14. This motion was forthwith denied by respondent Judge in his order issued on the same day, as follows:

"The Court noted that there is a motion for postponement attached to the record of the case, which motion was only received today. This fact was made known to Atty. Evangelista, counsel for claimant Beatriz Castañeda, and he manifested likewise that he only received a copy of the said motion at 9:00 a.m., today. Atty. Evangelista argued against the said motion for postponement contending, among others, that the said motion is not in conformity with the provisions of Rule 26, Rules of Court, in that the required three days notice was not complied with; that counsel for movant, (Atty. Dolojan) should not have presumed that his motion will be granted; and, that it said counsel, Atty. Gregorio Dolojan, wanted to postpone this case, he should have taken steps toward this end since it appears that he received notice since August 12, 1964, in order to spare the claimants unnecessary delay and expenses in coming all the way from Manila to this Court.

"Considering that this case has been pending for already a long time, and finding that the vigorous opposition of counsel for claimant Beatriz Castañeda to be well taken and meritorious and for an overriding consideration that any lawyer has no reason to assume that this Court would grant his motion for postponement (Montelibano, et al. vs. Benares, G. R. No. L-10824) the Court is constrained to deny the motion for postponement.

"IN VIEW OF THE FOREGOING, the previous order of this court adjudicating the property in question in favor of the claimant Beatriz Castañeda stands undisturbed."

On September 1, 1964, petitioner filed her motion for reconsideration, but the same was denied for lack merit. On October 24, 1964, petitioner filed her second motion for reconsideration, and this was again denied respondent Judge in his order of December 4, 1964 for being pro forma and for non-compliance with the rules. When her third motion for reconsideration was also denied by respondent Judge, petitioner filed, on March 11, 1965, the instant petition for certiorari before this Court, imputing abuse of discretion on the part of respondent Judge in denying her motion for postponement and her subsequent motions for reconsideration.

The issue before this Court now is whether, or not, respondent Judge had abused his discretion in issuing his order of August 27, 1964 denying petitioner's motion for postponement of the hearing and forthwith reviving the previous order of the court adjudicating the property in question in favor of respondent Beatriz Castañeda, and in denying later the subsequent motions for reconsideration that were filed by petitioner.

Motions for postponement are addressed to the sound discretion of the courts. That discretion must be exercised wisely, considering the peculiar circumstances obtaining in each case and with a view to doing substantial justice.[2] In the case at bar, it is not denied that on the day of the hearing petitioner herself submitted to the court her counsel's motion for postponement of the hearing because the counsel had to attend to other trials in the Court of First Instance at Olongapo, Zambales on the same day. The fact that counsel for petitioner requested that the hearing be postponed even to the following day shows that his purpose was not to delay the proceedings. The record shows that that was the first time that the case was set for hearing after it was remanded from the Supreme Court, and that was also the first time that petitioner asked for postponement. Considering that the case was remanded by the Supreme Court precisely for the purpose of giving the petitioner the opportunity to present her

evidence, We believe that respondent Judge should have granted the motion.

In the case of *Crisologo, et al. v. Duran*, L-19885, July 31, 1965, one of the plaintiffs therein, at the scheduled hearing on June 28, 1961, delivered to the court personally the telegram of their counsel asking for postponement of the trial. The court denied the motion and upon appeal this Court set aside the order of denial, and held:

"There seems to be no question that motions for continuance are addressed to the sound discretion of the court. However, it has been repeatedly held that the said discretion must be exercised wisely (*Capital Subdiv. v. Prov. of Neg. Occ.*, L-6204, July 31, 1956). It is evident from the records, that appellants were not neglectful of their duties and obligations towards the court. One of the plaintiffs (*Eufasia Capiao*) was present during the hearing of June 28, 1961, and she was the one who presented the telegram of their counsel to the court. A delay in the adjudication of a case occasioned by a reasonably justified continuance of the hearing to afford a party (here the plaintiffs) the opportunity to present his evidence would not materially prejudice the defendant. On the contrary, one more postponement in the instant case, would be in consonance with fair play and justice (*Ty v. Fil. Cia. de Seguros, et al.*, L-15928-33, Sept. 3, 1960). In a case of recent vintage, We have made the following pronouncements:

'Viewed from the strictly legal perspective, it appears that the pe-tition was presented outside the reglementary period of sixty (60) days from notice of the judgment. Nevertheless, due to the very peculiar circumstances obtaining in the premises, We consider that the rule was substantially complied with and the petition for relief from judgment was seasonably filed. The rules should receive liberal interpretation in order to promote their object and to assist the parties in obtaining a just, speedy and inexpensive determination of every action. Procedural technicality, should not be made a bar to the vindication of a legitimate grievance. When such technicality "deserts from being an aid to justice", the Courts are justified in excepting from its operation particular case. x x x.' (*PHHC v. Tiongco, et al.*, L-18891, Nov. 28, 1964.)"

In the case of *Aurora Camara Vda. de Zubiri v. Zubiri, et al.*, L-16745, December 17, 1966, this Court said:

"Although the allowance or denial of petitions for postponement and the setting aside of previous duly issued orders rest principally upon the sound discretion of the magistrate to whom they are addressed (*Tell v. Tell*, 48 Phil. 70; *Macke v. Campo*, 5 Phil. 185; *Salve v. Palacio, et al.*, G. R. No. L-4247, January 30, 1952), the exercise of this power, however, ought to be prudent and just. It should always be predicated on the consideration that more than the convenience of the courts or of the parties of the case, the ends of justice and fairness would be served thereby. In the case at bar, this, consideration seems to have been incompletely observed.

"In the first place, the motion for postponement under consideration was the very first filed by the counsel for the ap-pellant. Its ground was not unreasonable and hardly flimsy since it is not denied that then, the counsel for the appellant was under some contractual commitments from which he needed time to be released. Under these circumstances, it does seem that the denial of the motion prevented rather than serve the ends of justice."

This Court has held that in incidents of this nature before the trial court two circumstances should be taken into consideration, namely, (1) the reasonableness of the postponement and (2) the merits of the case if the movant.[3]

While the filing of the motion for postponement in the instant case may not be timely because it was done only on the day of the hearing, the circumstance, however, was that counsel for petitioner had a trial commitment in another court. As We have adverted to, the motion for postponement could not have been intended for delay as counsel for petitioner asked that the hearing be postponed to the next day.

The record shows that on the day of the hearing, on August 27, 1964, the petitioner was in possession of the two lots in question.[4] Possession is an attribute of ownership. This Court in remanding this case to the court below, as ordered in the decision in G. R. No. L-18372, November 29, 1962, was precisely impressed by the merit of the

claim of ownership of petitioner.

We are of the considered view that under the circumstances obtaining in this case in the court below respondent Judge gravely abused his discretion when he issued the order of August 27, 1964 denying petitioner's motion to postpone the hearing of this case to the day following the date set for the hearing and reviving the previous order of the court adjudicating the property in question to respondent Beatriz Castañeda without giving petitioner a chance to present evidence in support of her claim of ownership over the said property. Likewise, respondent Judge gravely abused his discretion when he denied the three motions for reconsideration of the order of August 27, 1964 filed by petitioner.

At this juncture We consider it meet to quote what this Court said in the case of *McEntee v. Manotok*, *supra*, as follows:

"At this stage of the proceedings we must remind judges and counsel that the rules of procedure are not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure substantial justice. (Rule 1, Sec. 2). If a technical and rigid enforcement of the rules is made, their aim would be defeated. In the case at bar, it appears that the rules which are merely secondary in importance are made to override the ends of justice; the technical rules had been misapplied to the prejudice of the substantial right of a party."

WHEREFORE, the writ of certiorari prayed for is granted. The orders of respondent Judge in Cadastral Case No. 12, LRC Cad. Record No. 377 (Lots Nos. 9102 and 9103), of the Court of First Instance of Zambales, dated August 27, 1964, September 26, 1964, December 4, 1964, and February 3, 1965, respectively, are set aside. Respondent Judge is ordered to reopen the proceedings in the cadastral case herein-mentioned and receive the evidence that petitioner Leonor Manuel Castillo Udan will present in support of her claim of worship over Lots Nos. 9102 and 9103, and decide the case accordingly. Costs against respondent Beatriz Castañeda.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, and Angeles, JJ., concur.

[1] The facts are as they appear in the decision of this Court in G. R. No. L-18372, November 29, 1962.

[2] *People v. Bueser*, L-14262, February 26, 1959.

[3] *McEntee v. Manotok*, L-14968, October 27, 1961; *De cases v. Peyer*, L-18564, August 31, 1962. In the case of *Dayao v. Lopez, et al.*, L-17698, December 27, 1962, this Court held that the most important factor to consider is circumstance number 2 - whether movant has a meritorious case or a valid and good defense.

[4] Respondent Castañeda filed a motion for a writ of possession on December 24, 1964 during the pendency of petitioner's third motion for reconsideration in the court below.

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