

**DOMINGO PADUA, PETITIONER, VS. HON. VICENTE ERICTA, ETC.,
RUNDIO ABJAETO, AND ANTONIO G. RAMOS, RESPONDENTS.***G.R. No. L-38570. May 24, 1988*

Ponente: NARVASA, J.

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Courts should not brook undue delays in the ventilation and determination of causes. It should be their constant effort to assure that litigations are prosecuted and resolved with dispatch. Postponements of trials and hearings should not be allowed except on meritorious grounds; and the grant or refusal thereof rests entirely in the sound discretion of the Judge. It goes without saying, however, that discretion must be reasonably and wisely exercised, in the light of the attendant circumstances. Some reasonable deferment of the proceedings may be allowed or tolerated to the end that cases may be adjudged only after full and free presentation of evidence by all the parties, specially where the deferment would cause no substantial prejudice to any part. The desideratum of a speedy disposition of cases should not, if at all possible, result in the precipitate loss of a party's right to present evidence and either in plaintiff's being non-suited or the defendant's being pronounced liable under an ex parte judgment.

**** (T)rial courts have *** the duty to dispose of controversies after trial on the merits whenever possible. It is deemed an abuse of discretion for them, on their own motion, "to enter a dismissal which is not warranted by the circumstances of the case" (*Municipality of Dingras v. Bonoan*, 85 Phil. 458-59 [1950]). While it is true that the dismissal of an action on grounds specified under Section 3, Rule 17 of the Revised Rules of Court is addressed to their discretion (*Flores v. Phil. Alien Property Administrator*, 107 Phil. 778 [1960]; *Montelibano v. Benares*, 103 Phil. 110 [1958]; *Adorable v. Bonifacio*, 105 Phil. 1269 [1959]; *Inter-Island Gas Service, Inc. v. De la Gerna*, L-17631, October 19, 1966, 18 SCRA 390), such discretion must be exercised soundly with a view to the circumstances surrounding each particular case (*Vernus-Sanciangco v. Sanciangco*, L-12619, April 28, 1962, 4 SCRA 1209). If facts obtain that serve as mitigating circumstances for the delay, the same should be considered and dismissal denied or set aside (*Rudd v. Rogerson*, 15 ALR 2d 672; *Cervi v. Greenwood*, 147 Colo 190, 362 P. 2d 1050 [1961]), especially where the suit appears to be meritorious and the plaintiff was not culpably negligent and no injury results to defendant (27 C.J.S. 235-36; 15! ALR 3rd 680)." (*Abinales vs. Court of First Instance of Zamboanga City*, Br. I, 70 SCRA 590, 595).

"It is true that the allowance or denial of petitions for postponement and the setting aside of orders previously issued, rest principally upon the sound discretion of the judge to whom they are addressed, but a ways predicated on the consideration that more than the mere convenience of the courts or of the parties of the case, the ends of justice and fairness would be served thereby (*Camara Vda. de Zubiri v. Zubiri, et al.*, L-16745, December 17, 1966). When no substantial rights are affected and the intention to delay is not manifest, the corresponding motion to transfer the hearing having been filed accordingly, it is sound judicial discretion to allow them (*Rexwell Corp. v. Canlas*, L-16746, December 30, 1961)." (*Panganiban vs. Vda. de Sta. Maria*, 22 SCRA 708, 712).

In the civil action at bar, the Trial Court rejected the plaintiff's plea for cancellation of one of three (3) hearing dates, the very first such plea made by that party, upon a ground not entirely unmeritorious in the premises, and

under such circumstances as would not be productive of any appreciable delay in the proceedings or any substantial prejudice to the defendants, and summarily dismissed the complaint. Such a dismissal was unwarranted and relief therefrom must be accorded.

The action that was thus summarily dismissed had been brought by Domingo Padua (petitioner herein) in the Court of First Instance at Quezon City.[1] In that action Padua sought to recover damages for the injuries suffered by his eight-year old daughter, Luzviminda, caused by her being hit by a truck driven by Rundio Abjaeto and owned by Antonio G. Ramos (private respondents herein). Padua was litigating in forma pauperis.

Trial of the case having been set in due course, Padua commenced presentation of his evidence on December 6, 1973. He gave testimony on direct examination in the course of which reference was made to numerous documents, marked Exhibits B, B-1 to B-109.[2] At the close of his examination, and on motion of defendants' counsel, the previously scheduled hearing of December 12, 1973 was cancelled, and Padua's cross-examination was reset on December 17, 1973.[3] However, the hearing of December 17, 1973 was also cancelled, again at the instance of defendants' counsel, who pleaded sickness as ground therefor; and trial was once more slated to "take place on March 6, March 7 and 13, 1974, all at 9:00 o'clock in the morning." [4]

After defendants' attorney had twice sought and obtained cancellation of trial settings, as above narrated, it was plaintiff Padua's counsel who next moved for cancellation of a hearing date. In a motion dated and filed on March 1, 1974,[5] copy of which was personally served on defendants' lawyer,[6] Padua's counsel alleged that he had "another hearing on March 6, 1974 in Tarlac Court of First Instance entitled: Salud Dupitas vs. Mariano Abella, Civil Case No. 4904 which is of 1966 stint, and said court in Tarlac is anxious to terminate said case once and for all," and that the cancellation would "at any rate *** leave plaintiff and defendants two (2) hearing dates on March 7 and 13, 1974;" and on these premises, he asked "that the hearing on March 6, 1974 *** be ordered cancelled." No opposition was filed by the defendants to the motion, whether on the ground that the motion had not been properly set for hearing, the clerk having merely been requested to "submit the *** motion upon receipt *** for the consideration of the Court," [7] or some other ground. Apart from filing this motion on March 1, 1974, plaintiff's counsel took the additional step of sending his client's wife to the Court on the day of the trial, March 6, 1974, to verbally reiterate his application for cancellation of the hearing on that day. This, Mrs. Padua did. The respondent Judge however denied the application and dismissed the case.

His Honor's Order, dictated on that day, March 6, 1974, reads as follows:[8]

"When this case was called for hearing today, neither plaintiff nor counsel appeared. The plaintiff's wife, however, appeared in Court and informed the Court that the plaintiffs counsel had to attend to a very important case in the provinces.

"The hearing for today was fixed by the plaintiff himself in open court after consulting his calendar and hence the Court will not grant the postponement on the ground that the plaintiff's counsel had a very important case in the provinces. Neither did the plaintiff himself appear.

"In view hereof, let this case be dismissed.

Padua moved for reconsideration,[9] but this was denied.[10] Hence, this petition.

The Trial Court unaccountably ignored the fact that defendants' counsel had twice applied for and been granted postponements of the trial; that plaintiff's counsel had filed a written motion for postponement five (5) days prior to the hearing sought to be transferred, and this was the very first such motion filed by him; that although the motion for postponement could have been objected to, no opposition was presented by defendants, which was not surprising considering that their counsel had himself already obtained two (2) postponements; that the ground for

cancellation was not entirely without merit: the counsel had a case in the Tarlac Court scheduled on the same day, March 6, 1974, which had been pending since 1964 and which the Tarlac Court understandably was anxious to terminate; that the Padua motion for postponement sought cancellation of only one (1) of three settings, leaving the case to proceed on the two (2) subsequent hearing dates; and the motion had been verbally reiterated by plaintiff's wife on the day of the hearing sought to be cancelled. Under the circumstances, and in the light of the precedents set out in the opening paragraphs of this opinion, the respondent Judge's action was unreasonable, capricious and oppressive, and should be as it is hereby annulled.

WHEREFORE, the writ of certiorari is granted and the Order of the Court a quo dated March 6, 1974, dismissing the petitioner's complaint, and the Order dated March 13, 1974 denying petitioner's motion for reconsideration, are hereby ANNULLED AND SET ASIDE; Civil Case No. Q-17563 is hereby REINSTATED and the Regional Trial Court which has replaced Branch XVIII of the Court of First Instance in which the action was pending at the time of dismissal, is DIRECTED to continue with the trial of the petitioner's action and decide the same on the merits in due course.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Docketed as Civil Case No. Q-1 7563, and assigned to Branch XVII then presided over by Hon. Judge Vicente Ericta.

[2] Rollo, p. 15.

[3] Par. 8. petition.

[4] Par. 9. petition.

[5] Annex F. petition.

[6] Rollo. p. 17.

[7] This was. of course, a violation of Sections 4 and 5. Rule 1 5 of the Rules of Court.

[8] Par. 11, petition.

[9] Rollo, pp. 18-19.

[10] Id., p. 20.

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