

LEONA CORPUS AND ILADIA CORPUS, PLAINTIFFS-APPELLEES, VS. JACINTA CORPUS AND PEDRO ADUCA, DEFENDANTS-APPELLANTS.*G.R. No. L-29695. February 27, 1987*

Ponente: PADILLA, J.

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On 11 May 1965, Leona Corpus and Iladia Corpus, claiming to be the legal heirs of the late spouses Domingo Corpus and Clara Sibayan, filed an action against the spouses Jacinta Corpus and Pedro Aduca, in the then Court of First Instance of Pangasinan, for the recovery of possession, with damages, of a parcel of land, with an area of 2,153 square meters, situated in Barrio Pinmaludpud, Urdaneta, Pangasinan, and registered in the name of "Heirs of Domingo Corpus" under TCT No 49663 of the Register of Deeds of Pangasinan.

The plaintiffs alleged in their complaint that the described property belonged to the spouses Domingo Corpus and Clara Sibayan, both of whom were already dead, the first having died in 1948 and the second in 1911; that the said spouses left two (2) children, namely: Leona Corpus, one of the plaintiffs herein, and Alberto Corpus who died in 1936 leaving as sole heir, his daughter Iladia Corpus, the other plaintiff herein; that during his lifetime, but after the death of Clara Sibayan, Domingo Corpus lived with one Fermina Tabas without benefit of marriage because she was then a married woman and he begot a daughter, Jacinta Corpus, one of the defendants herein; that on 13 May, 1964, Pedro Aduca, husband of Jacinta Corpus, purporting to represent the heirs of Domingo Corpus, prevailed upon one Doroteo Cresencia in whose name the property in question was erroneously registered under OCT No. 35511, to execute, as he did execute, a document denominated: "Deed of Reconveyance and Confirmation" whereby he (Doroteo Cresencia) reconveyed the property in question to the heirs of Domingo Corpus; that by virtue of said document, the defendant spouses took possession of the land and procured the issuance of TCT No. 49663 in the name of "Heirs of Domingo Corpus, represented by Pedro Aduca, his son-in-law, of legal age, Filipino, married to Jacinta Corpus and a resident of Lupao, Nueva Ecija, Philippines." [1]

Plaintiffs further alleged in their complaint that defendant Jacinta Corpus, not having any right to inherit from the late Domingo Corpus, is under obligation to deliver the possession of said land to the plaintiffs; that the plaintiffs have, on several occasions, demanded from the defendants the delivery of the possession of said parcel of land, as well as the owner's copy of TCT No. 49663 so that the same could be cancelled and transferred in the names of plaintiffs but the defendants, for no justifiable cause or valid reason, refused and still refuse to do so and instead claimed absolute and exclusive ownership over the land; and that before the filing of the suit, serious and earnest efforts were exerted by the plaintiffs to settle the case amicably with the defendants, but the same were of no avail so that the plaintiffs were constrained to go to court to protect their rights and incurred damages as a result thereof. [2]

Answering, the defendants denied that the property in question belonged to the late spouses Domingo Corpus and Clara Sibayan, claiming that they purchased the said property from Doroteo Cresencia by virtue of the document entitled: "Deed of Reconveyance and Confirmation" executed in their favor on 13 May 1964; and that, while the

vendees mentioned in said document, are the heirs of Domingo Corpus, the defendants, who are also heirs of Domingo Corpus, are the intended vendees. Wherefore, they prayed that the complaint be dismissed and the plaintiffs ordered to pay them damages and attorney's fees.[3]

After several postponements at the behest of both parties, the trial court, in an Order, dated 3 August 1967, set the pre-trial conference on 28 August 1967.[4] On 15 August 1967, however, counsel for the defendants filed a motion for the postponement of the pre-trial conference set for 28 August 1967 claiming that he had to appear before the Court of First Instance of Nueva Ecija on the same date in connection with Civil Case No. SD-206 of said court. A copy of the Order issued in Civil Case No. SD-206 of the Court of First Instance of Nueva Ecija was appended to the motion.[5]

When the motion for postponement was heard on 28 August 1967, counsel for the plaintiffs interposed vigorous opposition thereto, claiming that he was not furnished with a copy of said motion for postponement. The trial court, after finding that the case had been pending for a long time and that several postponements had already been granted the parties, and that the defendants' motion for postponement was not filed in accordance with the Rules of Court as to notice to the opposing party, denied the motion for postponement and allowed the plaintiffs to present their evidence ex-parte before the clerk of court who was commissioned to receive the same.[6]

A copy of the trial court's Order dated 28 August 1967 denying defendants' motion for postponement and allowing the plaintiffs to adduce evidence ex-parte was received by defendants on 12 September 1967.[7] Defendants took no step to have said Order reconsidered and set aside.

On 1 April 1968, the trial court rendered a decision, the dispositive part of which reads as follows:

"WHEREFORE, considering that the allegations in the complaint had been satisfactorily established and proven, and finding the claim of the plaintiffs to be meritorious, the court, hereby renders judgment in favor of the plaintiffs and against the defendants as follows:

- (a) Declaring the plaintiffs the legal heirs of the deceased spouses Domingo Corpus and Clara Sibayan, and, therefore, the exclusive and lawful owners of the herein controverted property registered under Transfer Certificate of Title No. 49663 of the Office of the Register of Deeds for Pangasinan issued in the name of the "Heirs of Domingo Corpus";
- (b) Ordering the defendants to vacate the aforementioned property and to turn over the possession thereof and deliver the corresponding certificate of title (T.C.T. No. 49663) thereto, to the plaintiffs; and
- (c) Ordering further the defendants to pay to the plaintiffs the sum of P400.00 for damages, P200.00 for attorney's fees and the costs of this suit."[8]

Counsel for the defendants received a copy of the decision on 7 June 1968, and on 1 July 1968, he filed a motion for new trial, praying that: (1) a new trial be held on the ground that the failure of the defendants and their counsel to be present at the pre-trial conference set for 28 August 1967 was due to mistake or excusable negligence; (2) the decision dated 1 April 1968 be set aside and the defendants be allowed to cross-examine the witnesses for the plaintiffs and to present evidence on their behalf; and (3) the defendants be awarded such other reliefs and remedies as are just and equitable under the premises.

In support of his motion for new trial, counsel for the defendants contended that he complied with the requirement regarding notice to adverse parties by sending a copy of his motion for postponement to counsel for the plaintiffs by registered mail on 15 August 1967; and that his non-appearance at the pre-trial conference on 28 August 1967 was justified as he had to attend on the same date another hearing in the Court of First Instance of Nueva Ecija.

Counsel for the defendants further claimed that Domingo Corpus died on 15 April 1956, and not in 1948, as

claimed by the plaintiffs, so that the defendant Jacinta Corpus, although a spurious child of Domingo Corpus, is entitled to a share in the estate of said Domingo Corpus. A copy of the death certificate of Domingo Corpus, attested to by the Local Civil Registrar of Muñoz, Nueva Ecija where the said Domingo Corpus died, was attached to the motion[9]

The trial court, however, in an Order dated 6 August 1968, denied the motion for new trial on the grounds that the Order issued on 28 August 1967, copy of which was received by counsel for the defendants on 12 September 1967, had already become final when the defendants filed their motion for new trial on 1 July 1968; and that the alleged misrepresentation by the plaintiffs of the true date of the death of Domingo Corpus is not a ground for new trial.[10]

Whereupon, the defendants interposed the present appeal. They claim that the lower court erred: (1) in denying their motion for postponement and in allowing the plaintiffs to present their evidence ex-parte; and (2) in denying their motion for new trial.[11]

We find no merit in the appeal. To begin with, we see nothing abusive or irregular in the actions taken by the lower court in denying the defendants-appellants' motion for postponement of the pre-trial conference set for 28 August 1967, and their motion for new trial. A close examination of the record shows that said motion for postponement does not show that a copy thereof had been served upon the adverse party as there is no proof of service thereof. In fact, the movants did not indicate therein the manner by which a copy of the motion was served upon counsel for the plaintiffs-appellees. Counsel for the defendants-appellants merely stated therein: "Copy furnished Atty. Federico R. Vinluan, San Nicolas, Pangasinan." In the motion for new trial, counsel for the defendants-appellants claimed that he sent to plaintiffs-appellees' counsel a copy of the motion for postponement by registered mail. The motion for postponement, however, does not contain an affidavit of the person who mailed the motion, showing compliance with the provisions of Section 5, Rule 11 of the Rules of Court, and the registry receipt issued by the mailing office, as required by Section 10 of the same Rule.

Neither does the motion for postponement adverted to state the time and place for the hearing of the same, as required by the Rules of Court. In the said motion for postponement, counsel of the defendants-appellants addressed the Clerk of the Court of First Instance of Pangasinan, Urdaneta Branch, thus: "Upon receipt of the foregoing motion please submit the same to the Honorable Court for its consideration."

And yet, the provisions of the Rules of Court requiring that a motion shall state the time and place of the hearing of the same are quite clear. Sections 4 and 5, Rule 15 of the Rules of Court expressly provide that a motion shall state the time and place of the hearing and shall be served upon all the parties concerned at least three (3) days in advance. And, according to Section 6 of the same Rule, no motion shall be acted upon by the court without proof of such notice, and it has been held that, in such a case, the motion is nothing but a useless piece of paper. The reason is obvious: unless the movant sets the time and place of hearing, the court would have no way of determining whether the adverse party agrees or objects to the motion, and if he objects, to hear him on his objection, since the Rules do not fix any period within which he may file his reply or opposition thereto.[12]

Besides, it appears that it was defendants-appellants' counsel who had to be in Cabanatuan City on the date of hearing so that the defendants-appellants themselves could have appeared in Court on the date set for the hearing since their presence at the pre-trial conference was also required.[13] But, as it stands, both defendants-appellants and their counsel failed to appear at the pre-trial conference. It is a well-settled rule that the grant or denial of a motion for postponement is discretionary on the court. The defendants-appellants, as well as their counsel, should not have presumed that the motion for the deferment of the pre-trial conference would be granted. They had no right to rely on the liberality of the court or on the generosity of the adverse party.

Defendants-appellants should also have taken upon themselves the duty to inquire as to what action the court took on their motion for the postponement of the pre-trial conference. In this, they failed.

Moreover, we see no wisdom in re-opening the case for the reception of the evidence of defendants-appellants. Their theory is weak and the presentation of their relied upon evidence, consisting of the death certificate of Domingo Corpus, will not, as we see it, vary the terms or outcome of the judgment. It will also result in a change of the theory of the defense which is not allowed. The case involves the ownership and possession of a parcel of land with an area of 2,153 square meters situated in Barrio Pinmaludpud, Urdaneta, Pangasinan, registered in the name of "Heirs of Domingo Corpus, represented by Pedro Aduca, his son-in-law, of legal age, Filipino, married to Jacinta Corpus and a resident of Lupao, Nueva Ecija, Philippines" under TCT No. 49663 of the Register of Deeds of Pangasinan. The plaintiffs-appellees claim that they are the legitimate heirs of Domingo Corpus, the plaintiff-appellee Leona Corpus being his daughter and the plaintiff-appellee Iladia Corpus, his granddaughter, and therefore, entitled to the whole estate of said Domingo Corpus at the time of his death in 1948. They further claim that the defendant-appellant Jacinta Corpus, the wife of the defendant-appellant Pedro Aduca, is a spurious child of Domingo Corpus and, therefore, without any successional rights to his estate at the time of his death in 1948.

Upon the other hand, defendants-appellants do not really claim successional rights over the land. Defendants-appellants base their right over the land upon the document, entitled: "Deed of Reconveyance and Confirmation" which they claim to be a simple deed of sale of the land executed in their favor by its registered owner, Doroteo Cresencia.

A careful reading of the aforestated document will show that it is not a simple deed of sale in favor of the defendants-appellants, as claimed by them, but a deed of reconveyance of a parcel of land, as it purports to be, where the assignor has acted as a trustee in securing the title of the land in his name and now is transferring the same to the rightful owners, the heirs of Domingo Corpus. Essential portions of the document read as follows:

"That I, DOROTEO CRESENCIA, of legal age, Filipino, married to Maximiana Benigas and a resident of Urdaneta, Pangasinan, for and in consideration of the sum of ONE HUNDRED PESOS (P100.00), Philippine Currency, to me paid in full to my entire satisfaction, the receipt of which is hereby acknowledged from the Heirs of DOMINGO CORPUS, represented by Pedro Aduca, his son-in-law, of legal age, Filipino, married to Jacinta Corpus and a resident of Lupao, Nueva Ecija, Philippines do by these present, hereby reconvey all my rights, interests and participations over that portion consisting of TWO THOUSAND ONE HUNDRED FIFTY THREE (2,153) square meters, or Lot B of Subdivision Plan Psd-34444, of that parcel of land more particularly described and bounded as follows:

xxx

xxx

xxx

"That I promised to the vendee before that as soon as I receive the ONE HUNDRED PESOS (P100.00), Philippine Currency, I will execute the foregoing instrument to be registered and I promised that I merely acted as a trustee in securing the title for the above-named vendee until I receive the said title and I could have executed the proper document for registration." [14]

As may be seen therefrom, the defendant-appellant, Pedro Aduca, merely acted as the representative of the heirs of Domingo Corpus. The fact that Domingo Corpus may have died in 1956 (and not in 1948) will not make his (Aduca's) claim any better.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**, without pronouncement as to costs.

SO ORDERED.

Fernan, (Chairman), Alampay, Gutierrez, Jr., Paras, Bidin, and Cortes, JJ., concur.

[1] Record on Appeal, pp. 1-4

[2] Id., pp. 5-6

[3] Id., p. 9

[4] Id., p. 11

[5] Id., p. 12

[6] Id., p. 14

[7] Id., p. 35

[8] Id., p. 16

[9] Id., p. 20

[10] Id., p. 14

[11] Defendants-Appellants' Brief, p. 1

[12] Manila Surety & Fidelity Co. v. Datu Construction Co., L-16636, June 24, 1965, 14 SCRA 435; Fulton Insurance Co. v. MRR, L-24263, November 18, 1967, 21 SCRA 974; Sebastian v. Cabal, L-25699, April 30, 1970, 32 SCRA 453.

[13] Sec. 1, Rule 20, Rules of Court

[14] Record on Appeal, pp. 6-7

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