

BERNARDINA FLORENDO, PLAINTIFF-APPELLEE, VS. BONIFACIA FLORENDO, DOROTEA FLORENDO AND RUFINA FLORENDO, DEFENDANTS-APPELLANTS.*G.R. No. L-24982. March 28, 1969*

Ponente: FERNANDO, J.

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The validity of an order of a lower court of March 19, 1965, denying a petition for relief from judgment predicated on the right to be heard not having been respected, is before us on appeal, defendants-appellants making much of such an alleged grievance.

The facts would show that in an ejectment suit filed as far back as September 15, 1962, an order was issued setting for hearing the case on the merits, copy whereof having been sent to the house of the then counsel of record. The envelope containing the same was, however, returned with the notation that it was unclaimed by such counsel. On the date of the hearing, on August 27, 1964, the lower court allowed plaintiff-appellee to present her first witness in the absence of defendants-appellants. After one witness had testified, and upon motion of plaintiff-appellee, the continuation of the hearing was set on a subsequent date, October 21, 1964. Again, a notice thereof was sent to the same attorney of defendants-appellants with the same result. Under the circumstances, the lower court, being of the belief that such a failure to claim his mail was willful, plaintiff-appellee was allowed to proceed to the trial of the case and to present further evidence on the date above mentioned. Thereafter, came a decision of October 31, 1964 in favor of plaintiff-appellee.

In a motion for reconsideration of November 17, 1964, defendants-appellants sought an opportunity to present their evidence, alleging that there was no such willful failure of their counsel to receive his mail. After an order of January 5, 1965, by the lower court, denying such motion for re-consideration, came the petition for relief from judgment instituted by defendants-appellants through a new counsel. It was asserted therein that defendants-appellants were never notified of the hearings held on August 27, 1964 and October 21, 1964, notices to their then counsel of record being un-availing as he was then taking a seminar in Manila preparatory to his assumption of office of election registrar. While it was admitted that certain persons found in the house of such counsel did receive such notices, he was not informed, however, of such a fact.

The petition would then stress that such failure on the part of counsel to get such notices of hearing constituted "excusable negligence" because during that time the then counsel "was then temporarily in Manila attending seminar and doing field work as election registrar, as aforesaid, and on the days that he [went to look for his mail] in the Post Office of Gerona, Tarlac, said notices were no longer there because they were already returned to sender; * * *".[1] Such petition would likewise raise the point that upon the acceptance by previous counsel of the position of election registrar, defendants-appellants did automatically lose the services of the lawyer to protect and defend their interest as he was further prohibited from the practice of his profession.[2] The motion was denied on March 19, 1965.[3]

For defendants-appellants, the above circumstances constituted a denial of their day in court. Their claim is thus buttressed on procedural due process. It is a fair restatement of this cardinal precept that due process in a judicial proceeding is satisfied if there be a competent court, not susceptible to the reproach that its actuation is tainted by bias and partiality,[4] possessed of jurisdiction to hear the matter before it, with the parties therein being accorded the right to be heard at every stage of the proceeding and with judgment to be rendered by the application of the appropriate law on the facts as duly ascertained.[5]

The crucial question, therefore, is whether or not under the circumstances detailed above defendants-appellants were not vouchsafed their day in court? The answer must be in the negative.

The lower court saw to it that notices for the trial of the case on the merits on the respective dates of August 27, 1964 and October 21, 1964 be furnished defendants-appellants. The very petition for relief from judgment admitted that the registry notices were in fact delivered in the house of the then counsel for defendants-appellants. There could be no denial, therefore, of their having been received by persons there present, although he apparently could not have personal knowledge, as he was then in Manila doing seminar work, preparatory to his assumption of the office of election registrar. What cannot be denied, however, is that the lower court did everything that was required of it under the law.

If fault there be then, it could not be attributable either to plaintiff-appellee or to the lower court. Defendants-appellants had only themselves to blame. Under the circumstances, it would be right to cast on them the duty, as would be in keeping with the normal course of events, to make the proper inquiries of their counsel as to when the suit was to be heard. They failed to act with due prudence and diligence. Their plea, therefore, that they were not accorded the right to procedural due process cannot elicit either approval or sympathy. The denial of their petition for relief from judgment cannot be stigmatized as contrary to law.

A semblance of plausibility might have been imparted to the due process argument if the petition for relief gave any indication that a meritorious defense could have been inter-posed if the case were reset for a rehearing, wherein defendants-appellants could have presented such evidence. That is not the case, however. All appearances would indicate that a petition for relief cannot be distinguished from a tactic dilatory in character. The reality might have been otherwise, but there is nothing in the record from which such a conclusion could be legitimately based.

As a matter of fact, in the very petition for relief itself, all defendants-appellants could allege was that in possessing the land in controversy, "[they] were [of] the honest belief that they are entitled to the same; * * *." [6] What could be more eloquent of the absence of any valid defense. Perhaps, in order not to trifle with the truth, they did not assert any right to the land in question. All they were relying on was their "honest belief" justifying their possession thereof. If, from their own pleading, the positive averment that would signify that their claim was entitled to serious considerations was lacking, how could the lower court be considered as acting other than the way it should in accordance with the law when it denied such petition?

One more thing. Defendants-appellants submitted an eight-page brief. There was nothing in what they referred to as the exposition of the case and brief statement of facts that would in any wise show any right on their part to the land in controversy. When it came to their lone assignment of error, they merely contented themselves with the allegation that they did file a petition for relief within the reglementary period sufficient allegedly in form and substance under the governing procedural rules. Less than two pages of their far from-extensive brief were devoted to such an assignment of error. It is noteworthy that their sole reliance was on the alleged failure of the lower court to abide by what they considered, albeit erroneously, to be the controlling procedural doctrine. Parenthetically, it may be observed that not one decision from this Court was cited in support of such an untenable

plea.

What is equally undeniable, defendants-appellants did not, perhaps because they could not, even intimate that the opportunity for a rehearing, if granted, would be fruitful in the sense that they could justify their possession of the land in controversy. It would be, therefore, both time-consuming as well as futile and would undoubtedly result in a denial of justice, if the lower court did indulge them by assenting to their unwarranted petition for relief. Fortunately, such was not the case. What the lower court did find support no less in the controlling legal principles than in the interest of what is fair and what is just.

WHEREFORE, the decision of the lower court of October 31, 1964, in favor of plaintiff-appellee and against defendants-appellants as well as the order of March 19, 1965, denying the latter's petition for relief from judgment, are affirmed. With costs against defendants-appellants.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Record on Appeal, p. 79.

[2] Ibid, p. 80.

[3] Ibid, pp. 83-84.

[4] Gutierrez v. Santos, 2 SCRA 249 (1961); Austria v. Masaquel, L-22536, August 31, 1967; Zaldivar v. Estenzo, L-26065, May 3, 1968.

[5] As set forth in the leading case of Banco Español-Filipino v. Palanca (37 Phil. 921 (1918)), due process in a judicial proceeding requires that "(1) There must be a court or tribunal clothed, with judicial power to hear and determine the matter before it; (2) jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceeding; (3) the defendant must be given an opportunity to be heard; and (4) judgment must be rendered upon law-ful hearing." This case has been cited with approval in In re Estate of Johnson, 39 Phil. 156 (1918); Riera v. Palmaroli, 40 Phil. 105 (1919); PMC v. Imperial, 47 Phil. 810 (1925); Rivero v. Rivero, 59 Phil. 15 (1933); Perkins v. Dizon, 69 Phil. 186 (1939); Co Tiamco v. Diaz, 75 Phil. 672 (1946); People v. Lopez, 78 Phil. 286 (1947); Mabanag v. Gallemore, 81 Phil. 254 (1948); Sandejas v. Robles, 81 Phil. 421 (1948); Joson v. Nable, 87 Phil. 337 (1950); Dizon v. Leal, 105 Phil. 729 (1959); Pantaleon v. Asuncion, 105 Phil. 761 (1959); Koppel Phil. v. Magallanes, 107 Phil. 931 (1960); Rojas v. Papa, 107 Phil. 983 (1960).

[6] Record on Appeal, p. 81.

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