

HEIRS OF LOMUS: HARRY LEGUISAN, MARCELO LEGUISAN, ANTONIO LEGUISAN, RUFINO LEGUISAN, JR., AMALAI L. SALAPI, AND MARIAM L. AKAZ, ACTING FOR HERSELF AND BENJAMIN USMAN, ACTING AS ...

Ponente: CAMELLO, J.

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CAMELLO, J.:

This is a Petition for Annulment of Judgment[1] under Rule 47 of the Rules of Court seeking to annul the Decision dated July 2, 2002 of the Regional Trial Court, Panabo City, Branch 4.

Petitioners, Heirs of Leguisan Lomus, namely: Harry Leguisan, Marcelo leguisan, Antonio Leguisan, Rufino Leguisan, Jr., Amalia L. Salapi and Mariam L. Akaz, represented by Spouses Benjamin and Mariam L. Akaz-USman, alleged that they instituted a Complaint[2] for Declaration of Nullity and Inexistence of Contract of Sale, Extrajudicial Partition, Recovery of Possession and Damages with prayer for Provisional Remedies against Alejandro Yee, Estrella Dayo- Uy, Julian P. Rodriguez, Luis P. Rodriguez, Sergio P. Rodriguez and Monica P. Rodriguez.

Petitioners' Complaint was filed through their counsel on record Datu Baguindali Karim (Karim) and Lanang S. Ali (Ali) of Lawyers' League for Better Phils., Inc, Cotabato City Chapter.[3]

After the private respondents[4] filed their respective Answers to the Complaint, the trial court set the Pre-trial Conference of the case on July 31, 2000.[5] Consequently, Julian P. Rodriguez, Luis P. Rodriguez, Sergio P. Rodriguez and Monica P. Rodriguez (the Rodriguez), Alejandro Yee (Yee) and Estrella Dayo-Uy (Dayo-Uy) filed their pretrial briefs[6] on July 27, 2000 and July 28, 2000.

On the other hand, petitioners' counsels on record, Karim and Ali, failed to submit Pre-trial Brief. Instead, Karim filed an Urgent Motion for Postponement of the Pre-trial.[7]

Nonetheless, despite Karim's motion for postponement, the setting on July 31, 2000 pushed through. As petitioners' counsel made no appearance in the Pre-trial, the trial court ordered its resetting to October 11, 2000.[8]

It appears from the records that the trial court granted a series of postponement of the Pre-trial upon motion of the petitioners.[9]

On February 12, 2001, another Motion for Postponement[10] was filed for the petitioners by a certain Atty. Ortiliano D. Tan (Atty. Tan).[11] The Motion specifically sought the cancellation of the Pre-trial set on February 13, 2001. Atty. Tan averred that his services had just been retained by petitioners, and for that reason he needed ample time to study the case.[12]

On February 13, 2001, the trial court denied Atty. Tan's Motion he not being one of petitioners' counsels of record and no formal entry of Atty. Tan's appearance had been made much less as substitute for the original

counsels for petitioners (therein plaintiffs). Finally, the trial court declared petitioners (qua defendants-in-counterclaim) as in default for their failure to appear during the pre-trial.[13]

Consequently, the trial court allowed the presentation of evidence of the Rodriguez' counterclaim. Yee and Dayo-Uy were also allowed to present their evidence.[14]

On July 9, 2002, the trial court rendered the assailed Decision[15] which fallo states:

WHEREFORE, premises considered judgment is hereby rendered in favor of the defendants and against the plaintiff as follows:

1. Ordering the plaintiffs to pay jointly and severally defendant Julian P. Rodriguez, Luiz P. Rodriguez, Sergio P. Rodriguez and Monica P. Rodriguez in the amount of P10,000.00 as moral damages and P10,000.00 as attorney's fees;
2. Ordering the plaintiffs to pay jointly and severally defendants Alejandro D. Yee and Estrella Dayo-Uy in the amount of P10,000.00 as moral damages and P10,000.00 as attorney's fees.[16]

The records of the case reveal no appeal having been made by petitioners from the Decision.

On March 5, 2014,[17] after almost twelve (12) years, petitioners filed this Petition for Annulment of Judgment grounded on the following, to wit:

- There was extrinsic fraud as petitioners were prevented from presenting their claim;[18]
- They were denied due process as they were not properly represented in the trial court, their retained counsel had no authority to practice law;[19]
- They have meritorious causes of action as the Deed of Sale and Deed of Partition are simulated and fictitious contracts.[20]

We find no substantial merit in the instant Petition. The ground relied upon by petitioners – extrinsic fraud - is baseless and frivolous.

A final judgment may be annulled on the grounds of extrinsic fraud and lack of jurisdiction.[21]

Extrinsic fraud[22] refers to any fraudulent act of the prevailing party in litigation committed outside of the trial of the case, whereby the defeated party is prevented from fully exhibiting his side of the case by fraud or deception practiced on him by his opponent, such as by keeping him away from court, by giving him a false promise of a compromise, or where the defendant never had the knowledge of the suit, being kept in ignorance by the acts of the plaintiff, or where an attorney fraudulently or without authority connives at his defeat.

By its very nature,

[E]xtrinsic fraud necessarily requires that its cause be traceable to some fraudulent act of the prevailing party committed outside the trial of the case. There is extrinsic fraud when a party was prevented from having presented all of his case to the court as when the lawyer connives at his defeat or corruptly sells out his client's interest.[23] (Emphasis Ours)

In their petition for annulment of judgment, petitioners alleged that there exists extrinsic fraud when they were prevented from presenting their claim as the trial court denied the motion for postponement filed by their newly retained counsel – Atty. Tan, thus; they were denied their day in court. Further, they alleged that private respondents' counsel knew of the fact that Karim was not a member of the Philippine Bar as they conducted a background check on the latter. According to them, that is extrinsic fraud.

We do not agree.

A cursory reading of the petition would clearly show that the petitioners were not at all prevented by private respondents, the opposing parties, from fully presenting their claim in the trial court. In fact, it was they themselves who hired and retained Karim as one of their counsels to file their complaint in the trial court. Nothing in the petition would remotely suggest that private respondents connived with Karim.

Besides, it was clearly stated in the petition that they knew that Karim was not a member of the Philippine Bar as he confided to Benjamin Usman, petitioners' attorney-in-fact, before they were declared as in default. Yet, they did nothing to have it reconsidered. They did not inform the trial court at all of what they came to know about Karim's lack of professional competence. Petitioners were remiss in exercising vigilance to protect their rights in their case. They cannot blame private respondents or even the trial court for this fiasco and then claim that they were denied due process through extrinsic fraud. Notably, they retained a new lawyer, Atty. Tan who, unfortunately, failed to properly enter his appearance. In any event, based on the records of the case, petitioners were also represented by another counsel, Lanang Ali, whose authority to practice law has never been put in issue.

Petitioners' failure to appear - personally or by counsel - during the Pre-trial, compounded by their inaction to inform the trial court of their predicament, cannot be jointly equated with extrinsic fraud.

Finding no substantial merit, We are constrained to apply Section 5, Rule 47 of the Rules of Court, which states in part:

“Section 5. Action by the court. — Should the court find no substantial merit in the petition, the same may be dismissed outright with specific reasons for such dismissal.

xxx”

FOR THIS REASON, the present Petition for Annulment of Judgment is ORDERED DISMISSED.

SO ORDERED.

Inting and Perez, JJ., concur.

[1] Rollo, pp. 2-42.

[2] Id., pp. 65-71.

[3] Id., p. 70.

[4] Id., pp. 95-100; 101-111.

[5] Id., p. 117.

[6] Id., pp. 118-121, 125-127.

[7] Id., pp. 122-123.

[8] Id., p. 128.

[9] Id., pp. 129-130.

[10] Id., p. 131.

[11] Id., p. 132.

[12] Supra at No. 9.

[13] Id., pp. 132-133.

[14] Id., p. 132.

[15] Id., pp. 48-52.

[16] Id., p. 52.

[17] Id. p. 2.

[18] Id., p. 23.

[19] Id., p. 26.

[20] Id., p. 29.

[21] Rules of Court, Rule 47, Section 2.

[22] People v. Court of Appeals G.R. No. 187409, November 16, 2011.

[23] Supra at Note No. 20.

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