

WL MANUFACTURING CORPORATION, PETITIONER, VS. SPS. ANG KOCHING AND ESTER C. ANG; SPS. ALFONSO SIY AND ANG PUE TIN; AND HON. DIONISIO C. SISON, IN HIS CAPACITY AS PRESIDING JUDGE...

Ponente: MENDOZA, J.

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MENDOZA, J.:

“The fundamental purpose of procedural rules is to afford each litigant every opportunity to present evidence on his behalf in order that substantial justice is achieved. Court litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth. The dispensation of justice and vindication of legitimate grievances should not be barred by technicalities.”[1]

This petition for certiorari filed by WL Manufacturing Corporation assails three (3) orders of the public respondent, Judge Dionisio C. Sison, while he was the Acting Presiding Judge of the Regional Trial Court, Branch 75, Valenzuela City, in Civil Case No. 215-V-03, an action for annulment of titles. These are:

- 1] the June 18, 2004 Order reconsidering its own March 3, 2004 Order dismissing said civil case for violating the rules on forum shopping;
- 2] the August 30, 2004 Order denying the motion for reconsideration thereof; and
- 3] the January 7, 2005 Order declaring the petitioner in default for failure to file its answer within the reglementary period.

For an overview and better grasp of the dispute, a study of the factual and procedural antecedents is in order.

- 1] On August 24, 1994, private respondents Sps. Ang Koc Ching and Ester C. Ang and Sps. Alfonso Siy and Ang Pue Tin filed a Complaint for Annulment of Titles with Damages against petitioner W.L. Manufacturing Corp. and several other defendants. The said complaint was docketed as Civil Case No. 4454-V-94 (First Case) and raffled to Branch 172 of the Regional Trial Court of Valenzuela City, presided over by Hon. Floro P. Alejo.
- 2] On February 3, 2003, a defendant therein, Alberto Del Rosario, filed a Motion To Dismiss reasoning out that the required Certificate of Non-Forum Shopping was not signed by any of the plaintiffs but only by their lawyer in violation of Supreme Court Circular No. 04-94.
- 3] On April 15, 2003, herein petitioner W.L. Manufacturing Corporation filed a Manifestation adopting the Motion To Dismiss of Alberto del Rosario.
- 4] On June 2, 2003, the trial court, Judge Floro P. Alejo presiding, issued an Order dismissing the complaint as well as the counterclaim in Civil Case No. 4454-V-94.
- 5] On June 21, 2003, defendant Alberto del Rosario filed a Motion for Reconsideration praying that the June 2,

2003 Order be modified by allowing him to pursue his counterclaims against plaintiffs (private respondents herein) as well as his third-party complaint against third party defendant Cita B. Garcia.

6] On July 9, 2003, the trial court denied the Motion for Reconsideration of defendant Alberto del Rosario.

7] Not satisfied, petitioner and Alberto del Rosario filed separate petitions for certiorari with this Court questioning the June 2, 2003 Order and July 9, 2003 Order, to wit: a] CA-G.R. SP No. 78610 filed by Alberto del Rosario praying that the June 2, 2003 and July 9, 2003 Orders “be declared void insofar as they preclude petitioner from prosecuting his counterclaims and his third party complaint below.”

b] CA-G.R. SP No. 79024 filed by petitioner WL Manufacturing praying for “the modification of the assailed orders dated June 2, 2003 and July 9, 2003 to the effect that the dismissal of Civil Case No. 4454-V-94 shall be with prejudice.”

8] On September 9, 2003, during the pendency of said petitions, private respondents re-filed their Complaint for Annulment of Titles with Damages before the Regional Trial Court of Valenzuela City docketed as Civil Case No. 215-V-03 (Second Case) and raffled to Branch 75, public respondent, Hon. Dionisio C. Sison, presiding.

9] On October 10, 2003, in Civil Case No. 215-V-03 (Second Case), petitioner filed a motion praying for the dismissal of the case for forum shopping and for the holding of the private respondents in contempt.

10] On October 14, 2003, in the same Civil Case No. 215-V-03 (Second Case), defendant Alberto Del Rosario filed a Motion for Summary Dismissal and To Cite Plaintiffs and Counsel for Direct Contempt.

11] On March 3, 2004, the public respondent issued an Order granting the motions to dismiss for the reason that the plaintiffs (private respondents herein) had violated the rule on forum-shopping.

12] On April 29, 2004, plaintiffs (private respondents herein) filed a Motion for Reconsideration praying that the Order of Dismissal, dated March 3, 2004, be reconsidered and set aside and another order issued requiring defendants to file their Answers to the Complaint.

13] On February 24, 2004, the Court of Appeals issued a Resolution consolidating CA-G.R. SP No. 79024 filed by petitioner and CA-G.R. SP No. 78610 filed by Alberto Del Rosario.

14] On April 19, 2004, the Court of Appeals rendered its Decision in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024 dismissing the consolidated petitions for the reason that a dismissal of a case on said ground is generally without prejudice and that the re-filing of the complaint rendered the cases moot and academic.[2] Both petitioners in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024 filed separate motions for reconsideration.

15] On June 18, 2004, the public respondent issued the questioned order reconsidering the March 3, 2004 order of dismissal of Civil Case No. 215-V-03 (Second Case) on the basis of the April 19, 2004 Decision of the Court of Appeals. The June 18, 2008 Order reads:

“This treats the Motion For Reconsideration filed by the plaintiffs praying for the setting aside of the Court’s Order dated March 3, 2004 dismissing the instant case and the Comment or Opposition of the defendants thereto.

After a careful re-examination of the positions of the parties in their respective pleadings and careful reading of the decision of the Court of Appeals promulgated on April 19, 2004 which denied defendants’ petition for certiorari in Civil Case No. 4454-V-94 which affirmed the decision of Branch 172 of this Court dismissing the said case without prejudice, this Court is very much inclined to give due course to the plaintiffs’ instant motion for reconsideration. In the Court of Appeals’ decision, it considered Civil Case No. 4454-V-94 as already dismissed/terminated and the re-filing of the instant case against the same defendants for the same

causes of actions, is but legal and proper. The Court of Appeals ruled that: “Over and above the foregoing considerations, the fact that private respondents have already re-filed their complaint has, finally, effectively rendered the petitions at bench moot and academic.”

WHEREFORE, the questioned Order of this Court dated March 3, 2004 is hereby RECONSIDERED and SET ASIDE.

The defendants are likewise directed to file their respective responsive pleadings to the instant Complaint within the reglementary period as provided for by the Rules of Court.

SO ORDERED.”[3]

16] On July 2, 2004, petitioner filed a Motion for Reconsideration with the public respondent praying that “the Order dated June 18, 2004 be reconsidered and set aside” and that “the Order of this court dated March 3, 2004 dismissing this case for being violative of the Rules against Forum Shopping be reinstated.” Likewise, on July 12, 2004, defendant Alberto Del Rosario filed a Motion to Set Aside Order wherein he prayed that “the Order of June 18, 2004 be SET ASIDE.”

17] On August 30, 2004, the public respondent issued the second questioned order in Civil Case No. 215-V-30 (Second Case) denying the motion for reconsideration emphasizing that the Court of Appeals has ruled that the petitions of the petitioners with the Court of Appeals regarding Civil Case No. 4454-V-94 (First Case) have become moot and academic considering the re-filing of the (second) case.[4]

18] On September 13, 2004, the Court of Appeals denied the motions for reconsideration filed by the petitioners in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024.

19] On September 21, 2004, petitioner WL Manufacturing Corporation filed the instant petition assailing the subject orders, the June 18, 2004 Order and the August 30, 2004 Order, praying that they be set aside and that Civil Case No. 215-V-03 be dismissed.

20] On November 11, 2004, petitioner filed a Petition for Certiorari with the Supreme Court which was docketed as G.R. Nos. 165401-02 questioning the decision of the Court of Appeals in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024.21] On January 7, 2005, still during the pendency of this petition, the public respondent, acting on the motion of private respondents to declare petitioner in default, granted the motion and declared it in default for not filing an answer or any responsive pleading.

22] On January 19, 2005, the Supreme Court issued a Resolution, in G.R. Nos. 165401-02, denying the petition for certiorari filed by the petitioner.

23] On February 23, 2005, petitioner filed a Motion for Reconsideration with the Supreme Court.

24] On April 25, 2005, the Supreme Court denied with finality the motion for reconsideration “for lack of sufficient showing that the Court of Appeals had committed any reversible error in the questioned judgment.”

As earlier stated, in this special civil action, petitioner WL Manufacturing Corporation assails the three (3) orders (the June 18, 2004 Order reconsidering the motion to dismiss; the August 30, 2004 Order denying the motion for reconsideration thereof; and the January 7, 2005 Order declaring the petitioner in default) and prays that the orders be set aside and that Civil Case No. 215-V-03 be dismissed presenting these

I S S U E S

I

WHETHER OR NOT THE PUBLIC RESPONDENT IS GUILTY OF GRAVE ABUSE OF DISCRETION

AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT JUSTIFIED THE RECONSIDERATION OF ITS MARCH 3, 2004 ORDER (DISMISSING CIVIL CASE NO. 215-V-03 DUE TO COMMISSION OF FORUM SHOPPING BY THE PLAINTFFS) ON THE BASIS OF A COURT OF APPEAL'S RESOLUTION DATED APRIL 19, 2004 WHICH HAS YET TO ATTAIN FINALITY

II

WHETHER OR NOT THE PUBLIC RESPONDENT'S JANUARY 7, 2005 ORDER DECLARING PETITIONER AND ITS CO-DEFENDANTS IN DEFAULT IN CIVIL CASE NO. 215-V-03 IS A NULL AND VOID ORDER FOR BEING ISSUED WITH GRAVE ABUSE OF DISCRETION OR LACK OF JURISDICTION"[5]

Elaborating thereon, petitioner is of the position that the two orders, the June 18, 2004 Order and the August 30, 2004 Order, were issued in utter disregard of the established Rules of Procedure. It pointed out that decisions of the Court of Appeals were still appealable to the Supreme Court through a verified petition for review on certiorari (Sec. 1, Rule 45, Revised Rules of Court), and that such petition may be filed within fifteen (15) days from notice of the judgment or resolution appealed from, or the resolution denying a motion for reconsideration. It called the attention of the Court to the fact that the public respondent even took note of the petitioner's pending motion for reconsideration from the April 19, 2004 Court of Appeals' Decision.

The disquisition of the public respondent constituted an utter impropriety on its part considering that the Court of Appeals' decision had not yet attained finality. By reconsidering and setting aside its March 3, 2004 Order on the basis of a Court of Appeals' decision which was not yet final, the public respondent committed a grave abuse of discretion which should be corrected.

After the petition was filed, the petitioner manifested that despite the fact that a new permanent judge had already been appointed, the public respondent on January 7, 2005, still declared petitioner and its co-defendants in default. This is the plaint of petitioner raised as its second issue which the Court, in the interest of justice, admits as an additional allegation of the basic petition considering that the questioned order was issued after it was filed. Specifically, the petitioner alleged:

"Secondly, as early as mid December 2004, the Supreme Court had already sworn in Judge Natividad Dabbay to take the place of Judge Dionisio Sison, as permanent Presiding Judge of Regional Trial Court of Valenzuela City, Branch 75, thus leaving Judge Sison without jurisdiction to issue his January 6, 2004 Order. In his answer to the administrative complaint against him before the office of the Court Administrator, Judge Sison admitted the designation of a new judge to Regional Trial Court of Valenzuela City, Branch 75 prior to his issuance of his January 7, 2005 Order declaring petitioner and its co-defendants in default in Civil Case No. 215-V-03. In fact, such knowledge of the Supreme Court Order was the very reason he used to justify for his not ruling on the Motion for Recusation. A pertinent portion of his answer in OCA IPI No. 05-2239-RTJ is quoted herein as follows: 'Lastly, the undersigned wants to comment on the alleged filing by the complainant of the Motion for Recusation. The undersigned did not anymore act on the said complainant's motion because of his honest belief that there was no need to resolve the same because of the appointment of the new judge.

X x x.'

But as records showed notwithstanding the above-mentioned pending incident and lack of jurisdiction of Judge Sison to act on the said Motion to Declare Defendants in Default, he still declared petitioner and its co-defendants in default."

Traversing the arguments of the petitioner, the private respondents contend that the public respondent could not have committed a grave abuse of discretion in the issuance of the assailed two orders "because in eventually

denying the Motion to Dismiss filed by the petitioner, the said public respondent merely relied on the Decision rendered by this Honorable Court on April 19, 2004 in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024. x x Under such circumstances, the action of the public respondent can neither be considered whimsical nor capricious.” Private respondent even cited the fact that “even before the filing of the instant Petition for Certiorari on or around September 21, 2004, this Honorable Court had earlier issued a Resolution dated September 23, 2004 in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024, denying petitioner’s Motion for Reconsideration.”

Private respondents further manifested that petitioner filed a Petition for Certiorari with the Supreme Court, docketed as G.R. No. 165401-02, questioning the decision of the Court of Appeals. On January 19, 2005, however, the Supreme Court issued a Resolution denying the petition for certiorari filed by the petitioner. Not satisfied, petitioner filed a Motion for Reconsideration which on April 25, 2005, the Supreme Court denied with finality “for lack of sufficient showing that the Court of Appeals had committed any reversible error in the questioned judgment.”

For said reasons, the private respondents branded as “completely untenable” petitioner’s reliance on the alleged pendency of its Motion for Reconsideration in CA-G.R. SP No. 79024 as said motion has already been denied earlier. Accordingly, they assert that the ground relied upon by the petitioner in accusing the public respondent of having committed a grave abuse of discretion has been rendered moot and academic by the decisions of this Court and the Supreme Court.

The main thrust of a petition for certiorari under Rule 65 of the Rules of Court is only the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction, not merely errors of judgment.[6] Although it defies exact definition, grave abuse of discretion generally refers to whimsical and capricious exercise of power.[7]

As a preliminary, “the essential requisites for a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure are: (1) the writ is directed against a tribunal, a board, or an officer exercising judicial or quasi-judicial functions; (2) such tribunal, board, or officer has acted without or in excess of jurisdiction; or with grave abuse of discretion amounting to lack or excess of jurisdiction; or with grave abuse of discretion amounting to lack or excess of jurisdiction; (3) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.”[8] In the case of *Toyotaparts v. Director of Bureau of Labor Relations*, G.R. No. 131047, March 2, 1999, it was stated: “

“In a plethora of cases, we have held that to justify the issuance of the writ of certiorari, the abuse of discretion on the part of the tribunal or officer must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and grave as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.”[9]

Guided by the foregoing, We find no merit in this petition as far as the two orders, June 18, 2004 Order and August 30, 2004 Order, are concerned. The public respondent was merely justifying his turn-around when he cited the Court of Appeals April 19, 2004 Decision in CA-G.R. SP No. 78610 and CA-G.R. SP No. 79024. When he based his decision thereon, he was deemed to have been guided by, and to have adopted, the rationalization of the Court of Appeals in said decision. In said decision, the Court of Appeals stated: “That it was well within public respondent’s discretion to dismiss private respondent’s complaint without prejudice is manifest from the second paragraph of Section 5, Rule 7 of the 1997 Rules of Civil procedure which provides as follows:

‘Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of

the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.’[10]

It bears stressing that this decision of the Court of Appeals was sustained by the Supreme Court in G.R. Nos. 165401-02.

Clearly, no grave abuse of discretion was committed by the public respondent court as such dismissals are without prejudice. The Supreme Court has finally In the case of Southern Cross Cement v. Cement Manufacturers Association, G.R. No. 158540, August 3, 2005, it was held: “Failure to comply with the non-forum shopping requirements in Section 5 of Rule 7 does not, however, automatically warrant the dismissal of the case with prejudice. The Rule states that the dismissal is without prejudice; with prejudice, only upon motion and after hearing. And there must be evidence that the erring party and counsel committed willful and deliberate acts amounting to forum shopping as to warrant the summary dismissal of the case and the imposition of direct contempt and the appropriate administrative sanctions.”

Thus, the case at bar discloses no evident indication that the public respondent capriciously exercised his judgment or that he exercised his power in an arbitrary and despotic manner by reason of sentiment or prejudice. As defined, discretion is a faculty of a court or an official by which he may decide a question either way, and still be right.”[11]

In view of the foregoing, the public respondent or the permanent presiding judge can now proceed to continue acting on Civil Case No. 215-V-03. However, in the interest of justice and fair play, We grant petitioner’s prayer that the January 7, 2005 Order declaring the petitioner in default be reversed and set aside so that all litigants may not be deprived of their day in court. Accordingly, the petitioner should be given a period of fifteen (15) days for the filing of its answer. After all, it already filed its Answer in Civil Case No. 4454-V-94 (First Case).

The Court is not unaware that said prayer was not included in the petition, the initiatory pleading. This is, however, understandable because the order of default was handed down after the instant petition had been filed and during its pendency. Petitioner could not have possibly included a motion to set it aside in the basic petition. Thus, We consider, and hereby grant, petitioner’s Motion To Admit as a motion to include the additional issue and prayer presented in its memorandum. To deny it admission would be unfair and unjust to petitioner. “It is best that both parties be given every chance to fight their case fairly and in the open, without resort to technicality.”[12] “It should be born in mind that the policy of the law is to have every litigated case tried on the merits as much as possible.”[13]

Likewise, not to grant the prayer for the setting aside of the order of default would be unfair and unjust. Besides, it is to be considered that when the public respondent issued the order of the default, a new presiding judge of said branch had already been appointed. While public respondent might have reason to still act on the case, it would have been more prudent of him not to have issued the order considering not only the appointment of the new presiding judge but also the pendency of this petition.

In the case of Diaz v. Diaz, G.R. No 135885, April 28, 2000, the Supreme Court, in the interest of justice, set aside the order of the default and the judgment of default, which was rendered while the petition was pending. In said case, it was stated:

“Suits should as much as possible be decided on the merits and not on technicalities. In this regard, we have often admonished courts to be liberal in setting aside orders of default as default judgments are frowned upon and not looked upon with favor for they may amount to a positive and considerable injustice to the defendant

and the possibility of such serious consequences necessitates a careful examination of the grounds upon which the defendant asks that it be set aside. Since rules of procedure are mere tools designed to facilitate the attainment of justice, it is well recognized that this Court is empowered to suspend its operation, or except a particular case from its operation, when the rigid application thereof tends to frustrate rather than promote the ends of justice. We are not unmindful of the fact that during the pendency of the instant petition, the trial court has rendered judgment against petitioners. However, being the court of last resort, we deem it in the best interest that liberality and relaxation of the Rules be extended to petitioners by setting aside the order of default issued by the trial court and the consequent default judgment; otherwise, great injustice would result if petitioners are not afforded an opportunity to prove their claims.”

Consistently, in the case of *Go v. Tan*, G.R. No. 130330, September 26, 2003, it was ruled that “issuance of orders of default should be the exception, rather than the rule, to be allowed only in clear cases of obstinate refusal by the defendant to comply with the orders of the trial court.” In this case, the record is bereft of any evidence showing that petitioner’s failure to answer was due to an apparent scheme to delay the proceedings or to flagrantly transgress the rules. Thus, We reiterate:

“The fundamental purpose of procedural rules is to afford each litigant every opportunity to present evidence on his behalf in order that substantial justice is achieved. Court litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth. The dispensation of justice and vindication of legitimate grievances should not be barred by technicalities.”[14]

WHEREFORE, the petition, as far as the June 18, 2004 Order and the August 30, 2004 order are concerned, is DENIED. With respect to the January 7, 2005 Order declaring the petitioner in default, it is hereby ordered REVERSED and SET ASIDE and petitioner is given fifteen (15) days from receipt hereof to file its answer.

SO ORDERED.

Asuncion, (Chairman) and Tayag, JJ., concur.

[1] *Go v. Tan*, G.R. No. 130330, September 26, 2003

[2] Rollo, p. 119

[3] Rollo, pp. 18-19.

[4] Rollo, p. 20.

[5] Petition, Rollo, p. 8; and Memorandum for Petitioner, Rollo, pp. 283-291

[6] *Telefunken Semiconductors Employees Union–FFW v. Court of Appeals*, 348 SCRA 565 (2000)

[7] *LMG Chemicals Corporation v. Secretary of the Department of Labor and Employment*, 356 SCRA 577 (2001)

[8] *Rivera vs. Espiritu*, 374 SCRA 351.

[9] *Pure Foods Corp. vs. NLRC, et al.*, G.R. No. 78591, March 21, 1989, 171 SCRA 415.

[10] Rollo, pp. 119-126

[11] *Go Uan. v. Galang*, G.R. No. L-20413, December 23, 1964, 12 SCRA 580.

[12] *Tanchan v. Court of Appeals*, G.R.No. 113150, March 29, 1999

[13] Cosiquien v. Court of Appeals, G.R. No. 56073, August 20, 1990

[14] Go v. Tan, *supra*

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