

DANIEL CABUNILAS, PETITIONER, VS. COURT OF APPEALS, ANTONIO MANABAT, AND HON. C. G. LARROBIS, RESPONDENTS.

G.R. No. L-46476. December 29, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review on certiorari of the decision of the Honorable Court of Appeals, promulgated on June 1, 1977, in CA-G.R. No. SP-06104-R, affirming the decision of the Court of First Instance of Cebu, dated July 14, 1976, dismissing the petition for certiorari filed by petitioner against Naga Municipal Judge C. G. Larrobis and private respondent Antonio Manabat.

As found by the Court of Appeals, the facts of this case are as follows:

"Record shows that on January 8, 1976 herein petitioner filed a complaint for forcible entry against private respondent Antonio Manabat before the Municipal Court of Naga and the same was docketed as Civil Case No. R-118. The case was set for hearing on January 30, 1976 but petitioner requested for a postponement of the hearing by sending a telegraphic message on January 29, 1976 to the Municipal Court, as well as to the respondent's counsel, on the ground that petitioner's counsel, Atty. Enrique C. Llenes, died on January 26, 1976, or four (4) days before the scheduled hearing. The telegram was received by the Municipal Judge on January 29, 1976, at 3:00 in the afternoon but, despite the said telegraphic motion for postpone-ment, the Municipal Judge, on February 25, 1976, dismissed the complaint on the ground of non-suit. A motion for reconsideration was filed on March 3, 1976 but again the Municipal Judge, in an order dated March 20, 1976, denied the motion. Hence, the filing of the petition for certiorari before the Court of First Instance of Cebu on the ground that respondent Judge acted with grave abuse of discretion amounting to lack of jurisdiction when he dismissed the complaint on the ground of non-suit.

"On July 14, 1976, the Court of First Instance of Cebu, for lack of merit, dismissed the petition for certiorari" (pp. 18-19, rec.).

The record further shows that on August 8, 1976, petitioner filed a motion for reconsideration of the decision of the Court of First Instance of Cebu. Said motion, was however, denied in an order dated August 25, 1976.

On September 15, 1976, petitioner perfected his appeal to the Court of Appeals and thereafter filed his "Brief and/or Memorandum" to which neither respondent Manabat nor respondent Municipal Judge filed a reply brief or memorandum (p. 4, rec.).

The dismissal of petitioner's complaint for forcible entry against respondent Manabat by respondent Naga Municipal Judge was, according to the municipal judge, on the ground of non-suit, or lack of interest on the part of petitioner in prosecuting his complaint in view of his failure to appear on the scheduled first hearing of the case on January 30, 1976.

It is not denied by respondents that petitioner dispatched two telegrams -- one to the court presided by respondent judge and another to respondent Manabat, through his counsel. Petitioner, therefore, never lost interest in the

prosecution of his complaint. The respondent municipal judge acted hastily when he dismissed the complaint and certainly committed grave abuse of discretion when in an order dated March 20, 1976 he denied petitioner's motion for reconsideration filed on March 3, 1976. When a person dies, the first impulse of anyone who learns of his death is to express words of sympathy and compassion to the persons affected by his death. A client of a lawyer who dies while the case of his client is still pending trial is one such person who deserves compassion and sympathy upon the untimely death of his lawyer. Such is the normal feeling and reaction of a civilized man. It is most unkind to take advantage of a person's death. A trial judge, whose duty is to administer justice as law and common sense command him to do, should exhibit such exemplary understanding. After all, a resetting of the case to another date to enable plaintiff to secure the services of another counsel would not in any way prejudice the substantial rights of private respondent Manabat, the defendant in a forcible entry case. On the contrary, one such postponement would doubtless be to his benefit, since it would have the effect of prolonging, through no fault of his, his possession of the property subject of the proceedings.

Of course, WE do not overlook the fact that the failure of petitioner to appear on the very hour and date of the first scheduled hearing may authorize the respondent Judge to dismiss the complaint for non-suit, pursuant to the provision of Sec. 11, Rule 5 of the Revised Rules of Court, which provides:

"Section 11. Dismissal upon plaintiff's failure to appear. - If the plaintiff does not appear at the time and place designated in the summons or in a subsequent order, the justice of the peace or municipal judge may dismiss the action for failure to prosecute, and render judgment for the defendant to recover his costs. But such dismissal without hearing shall not be a bar to a subsequent action for the same cause."

But, then, after the dismissal, when a motion for reconsideration was filed on well-founded ground, respondent municipal judge should not have resorted to legal technicalities in maintaining his order of dismissal.

To compel a party to refile the case under Section 11 of Rule 5 aforecited, would be to subject him to more expenses and to further delay in the prosecution of his case.

Time and time again WE have emphasized that the Rules of Court should not be interpreted to sacrifice substantial rights of a litigant at the altar of technicalities to the consequent impairment of the sacred principles of justice (*Alonzo vs. Villamor*, 16 Phil. 315; *Case & Nantz vs. Jugo*, 77 Phil. 517, 522). WE ruled that the Rules of Court frown upon hair-splitting technicalities that do not square with their liberal tendency and with the ends of justice (*Case & Nantz vs. Jugo*, *supra*).

Thus, WE find both respondents Municipal Judge and Court of Appeals seriously abused their discretion by refusing to liberally construe and interpret the Rules of Court, which require our courts of justice, in the exercise of their functions, to act reasonably and not capriciously, and enjoin them to apply the said rules in order to promote their object and to assist the parties in obtaining a just, speedy, and inexpensive determination of their cases (Sec. 2, Rule 1, Revised Rules of Court).

WHEREFORE, THE PETITION IS HEREBY GRANTED AND THE ORDERS OF RESPONDENT MUNICIPAL JUDGE C. G. LARROBIS OF FEBRUARY 25, 1976 AND MARCH 13, 1976, AS WELL AS THE DECISION OF THE COURT OF APPEALS PROMULGATED ON JUNE 1, 1977, ARE HEREBY SET ASIDE AND THE RESPONDENT MUNICIPAL JUDGE IS HEREBY DIRECTED TO REINSTATE PETITIONER'S COMPLAINT IN CIVIL CASE NO. R-118, AND THEREAFTER TO HEAR AND DECIDE THE SAME IN ACCORDANCE WITH LAW AND THE EVIDENCE. WITHOUT COSTS.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Fernandez, and Guerrero, JJ., concur.
Martin, J., no part.

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