

ALIPIO N. CASILAN AND RITA GALAGNAEA, PLAINTIFFS AND APPELLANTS, VS. RAYMOND TOMASSI, ET AL., DEFENDANTS AND APPELLEES.*G.R. Nos. L-9320-21. January 31, 1956*

Ponente: REYES, A., J.

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These two cases were commenced in the Justice of the Peace Court of Guiuan, Samar, one for the recovery of possession of real property and the other for the delivery of personal property. After repeated postponements—at times for more than 5 days and in all for more than 15 days—the cases were, heard and decision was rendered in favor of plaintiffs. The defendants, appealed to the Court of First Instance but that court, after the pleadings were in, ordered the cases dismissed for want of appellate jurisdiction to try them on the merits, this on the theory that the justice of the peace was ousted of his jurisdiction by granting postponements for a longer period than authorized in section 9 of Rule A so that the decision rendered by him thereafter was a nullity. Reconsideration of this order having been denied, the plaintiffs appealed to the Court of Appeals but that court has certified the cases here on the ground that the briefs raise only questions of law. Section 9 of Rule 4 reads:

"Sec. 9. Adjournment.—Inferior courts may adjourn the hearing of an action from day to day as the interest of justice requires, but shall not have power to adjourn hearings for a longer period than five days for each adjournment, nor more than fifteen days in all."

Applying this section to the cases at bar, the Court of First Instance took the view that compliance with the limitations therein prescribed for periods of adjournment is mandatory so that non-observance of those limitations divests an inferior court of its jurisdiction to proceed with the trial of the case. To this we cannot agree. The section, it appears, deals with the authority of inferior courts "to adjourn hearings" and may, conceivably, refer only to continuances after hearing is begun, the purpose of limiting the period of such continuances being—as in the case of adjournments in Courts of First Instance under section 4 of Rule 31—"to insure the continuity of trials." (See Moran on the Rules of Court, 1952 ed., Vol. 1, p. 648.) But even supposing that the section under consideration also governs postponements before hearing is commenced, we think that the limitations therein prescribed for periods of adjournment are only directory, so that non-compliance wherewith by a justice of the peace does not divest him of jurisdiction thereafter to proceed with the trial and render a decision on the merits but only subjects him to disciplinary action. Thus, former Chief Justice Moran, in commenting on this section, says:

"Taken from section 64 of Act No. 190, but reducing to five days and fifteen days, respectively, the periods of one week and three months therein provided;

"This is to promote a more speedy administration of justice. In other words, a justice of the peace or municipal judge cannot interrupt the hearing or trial of a case for a longer period than five days for each adjournment, nor for more than fifteen days in all. A violation of this provision by a justice of the peace or municipal judge may subject him to appropriate disciplinary action, but does not invalidate the trial held nor the judgment rendered,

by analogy with the doctrine laid down in the decision cited under section 11." (Moran on the Rules of Court, 1952 ed., Vol. 1, p. 121.)

The decision referred to in the above comment as cited under section 11 of the same Rule i, is that rendered in the case of *Alejandro et al. vs. Judge of the Court of First Instance of Bulacan et al.*, 70 Phil., 749, where this court held that the requirement in said section for the judge of an inferior court to decide a case within one week after trial is not jurisdictional and that a violation thereof does not render the decision void but subjects the judge to disciplinary action. This ruling was reiterated in *Gallano vs. Rivera et al.* (72 Phil., 277) where this Court said:

"En el asunto de Alejandro et al, contra el Juzgado de Primera Instancia de Bulacan (R. G. No. 47384, decidido el 5 de diciembre de 1940), se ha declarado por este Tribunal que la disposit del articulo 66 delCodigo de Proeidhmiento Civil, del cual es copia el articulo 11, Regla 4, de los Nuevos Reglamentos, no es imperativa en cuanfco al plazo de Una semana, sino directiva. Por tanto aun cuando el asunto se f allo despues del mencionado plazo por el Juzgada,, de Paz, este no perdio su jurisdiction sobre el mismo."

More directly in point perhaps than the above two case is *Barrueeo vs. Abeto et al.* (71 Phil., 7), where this court had occasion to pass on section 4 of Eule 31, which governs adjournments of trial in Courts of First Instance. The section reads:

"Sec. 4. Adjournments and postponements.—A court may adjourn a trial from, day to day, and to any stated time, as the expeditions and convenient transaction of business may require, but shall hare no power to adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Chief Justice."

Interpreting the section in that case, this court said:

"* * *it is our opinion that section 4 of Eule 31 of the Rules of Court which provides that a court shall have no power adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Chief Justice/ is merely directory, a violation of which will not nullify a judicial proceeding. But even so, it is not amiss to emphasize here that a willful disregard or reckless violation of said provision on the part of judges would constitute a breach or neglect of duty which may subject them to corresponding administrative action."

Our attention has, however, been called to the pronouncement made by this Court in *Alvero vs. De la Rosa et al.* (76 Phil., 428) to the effect that strict compliance with the Rules of Court is mandatory and imperative and that the periods therein prescribed for the performance of certain acts are considered absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of official business. But that pronouncement does not necessarily militate against the decisions holding that observance of the periods prescribed for adjournments of trial is merely directory, considering that those decisions have not failed to take account of the need for enforcing rules against needless delays and have for that reason emphasized that a willful disregard or reckless violation thereof on the part of judges would subject them to disciplinary action. It follows, from the foregoing, that the Court of First Instance-erred in holding that the justice of the peace court had no more jurisdiction to decide these two cases oh the merits after it had postponed trial thereof for periods exceeding those prescribed in section 9 of Rule 4. The cases, instead of being dismissed, should, therefore, have been tried on the merits by the Court of First Instance.

Wherefore, the order of dismissal is revoked and the cases remanded to the lower court for further proceedings. Without special pronouncement as to costs.

Parás, C. J., Padilla, Montemayor, Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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