

MARIKINA VALLEY DEVELOPMENT CORPORATION, ISIDORO LIAMZON, JR., SPS. BERNARDO AND DELIA ROSARIO, SPS. MANUEL AND NORMA SANCHEZ, SPS. RUFINO AND MILAGROS JAVIER, SPS. RODOLFO AND ...

G.R. No. 110801. December 08, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

Jose Reyes Sytangco instituted a complaint for reconveyance of a piece of land situated along España Street, Manila, against petitioner Marikina Valley Development Corporation ("Marikina Valley") and Milagros Liamzon. In his complaint, Jose Reyes Sytangco alleged that he and his wife, Aurelia Liamzon-Sytangco, had entrusted some funds to Milagros Liamzon, sister-in-law of Aurelia, in order to purchase the España Street property from its former owners. The Sytangco spouses had years ago built their house on that parcel of land then leased from the original owners with whom they negotiated for purchase of that land. Milagros Liamzon, however, in alleged violation of the trust reposed upon her, purchased the España Street property in her own name and had title to the same registered in her name. Thereafter, she transferred title over that property to petitioner Marikina Valley, a closed corporation owned by the Liamzon family.

In their answer, petitioner denied the allegations of Jose Reyes Sytangco and claimed that Milagros Liamzon had purchased the España Street property by and for herself, with funds coming from petitioner Marikina Valley. For her part, Milagros Liamzon insisted, among other things, that the Reyes Sytangco spouses had waived in her favor their right to buy the property in question.

During the trial in the court below, Jose Reyes Sytangco died and he was substituted by his heirs, who are private respondents herein. After trial, the trial court ruled in favor of private respondent heirs in a decision dated 11 October 1991. The trial court directed petitioner Marikina Valley to execute a Deed of Conveyance covering the property involved in favor of private respondents.

On 28 October 1991, Marikina Valley and the other petitioners — heirs of Milagros Liamzon (Milagros having, in the meantime, passed away) — received a copy of the decision of the trial court. Petitioners moved for reconsideration on 7 November 1991.

The Reyes Sytangco heirs opposed petitioners' motion for reconsideration upon the ground that it was a pro forma one. The heirs contended that the allegations of insufficiency of evidence were couched in very general terms, contrary to the requirements of Section 2, Rule 37 of the Rules of Court.

On 21 November 1991, the trial court denied petitioners' motion for reconsideration for lack of merit. The trial court said:

"The defendant anchors his motion on the assertion that:

1. There is no sufficient evidence to show that the down payment for the property came from the plaintiff;
2. That the money used for the property did not come from the plaintiff, hence, no implied trust could have been created between Milagros Liamzon and Aurelia Liamson;
3. That piercing the veil of corporate entity is not applicable to this case.

After a perusal of the arguments posed in support of these grounds, the court finds that these arguments had been discussed and resolved in the decision. There being [no] other matter of consequences asserted which has not been considered in the decision, the Court resolves to deny the same.

WHEREFORE, the Motion for Reconsideration is DENIED for lack of merit."[1] (Brackets supplied)

Petitioners received a copy of the above order on 22 November 1991. On 25 November 1991, they filed a notice of appeal with the trial court.

In the meantime, private respondent heirs moved for execution of the decision of 11 October 1991. They insisted that petitioners had failed to perfect an appeal within the reglementary period.

In its order dated 25 November 1991, the trial court dismissed the notice of appeal filed by petitioners for having been filed beyond the reglementary period to perfect an appeal. The trial judge reasoned that petitioners' motion for reconsideration was pro forma and hence did not stop the running of the reglementary period. Thereupon, the trial judge granted private respondents' motions for execution.

Petitioners went to the Court of Appeals on certiorari and injunction. They denied that their motion for reconsideration was merely pro forma and claimed that they had filed their notice of appeal seasonably. They also challenged the validity of subsequent orders of the trial court directing execution.

The Court of Appeals dismissed the petition, declaring that petitioners' motion for reconsideration was indeed pro forma and, "therefore, clearly without merit." The appellate court went on to say that:

"[w]here a motion for reconsideration merely submits, reiterates, repleads, repeats, or reaffirms the same arguments that had been previously considered and resolved in the decision, it is pro forma."

The Court of Appeals concluded that petitioners' pro forma motion for reconsideration had not stopped the running of the period to perfect an appeal and that, accordingly, the judgment had become final and private respondents were entitled to execution as a matter of right. Petitioners sought reconsideration of the Court of Appeals' decision, without success.

In their present Petition for Review on Certiorari, petitioners aver once more that their motion for reconsideration filed before the trial court was sufficient in form and substance and was not pro forma. They reiterate that their motion had effectively suspended the running of the reglementary period, and that their notice of appeal filed three (3) days from receipt of the order denying their motion for reconsideration had been filed well within the remaining period to perfect an appeal.

The rule in our jurisdiction is that a party aggrieved by a decision of a trial court may move to set aside the decision and reconsideration thereof may be granted when (a) the judgment had awarded "excessive damages;" (b) there was "insufficiency of the evidence to justify the decision;" or (c) "the decision was against the law." [2]

A motion for reconsideration based on ground (b) or (c) above must

"point out specifically the findings and conclusions of the judgment which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings and conclusions." [3]

A motion for reconsideration, when sufficient in form and substance — that is, when it satisfies the requirements of Rule 37 of the Rules of Court — interrupts the running of the period to perfect an appeal.[4] A motion for reconsideration that does not comply with those requirements will, upon the other hand, be treated as pro forma intended merely to delay the proceedings and as such, the motion will not stay or suspend the reglementary period.[5] The net result will be dismissal of the appeal for having been unseasonably filed.

The question in every case is, therefore, whether a motion for reconsideration is properly regarded as having satisfied the requirements, noted above, of Rule 37 of the Rules of Court. As already pointed out, the Court of Appeals took the position that where a motion for reconsideration merely "reiterates" or "repleads" the same arguments which had been previously considered and resolved in the decision sought to be reconsidered, the motion is a pro forma one. In taking this position, the appellate court quoted at some length from a prior decision of this Court:

"x x x. Said the Supreme Court in *Dacanay v. Alvendia, et al.*,' 30 SCRA 31, to wit:

`In *Estrada v. Sto. Domingo*, recently decided by this Court, we once again called the attention of the bar and litigants to the "principle already forged by this Court x x x that a motion for reconsideration which has no other purpose than to gain time is pro forma and does not stop the period of appeal from slipping away." Mr. Justice Dizon pointed out in his concurring opinion that "The motion aforesaid is pro forma on yet another ground, in substance it was but a reiteration of reasons and arguments previously set forth in respondent *Sto. Domingo's* memorandum submitted to the trial court and which the latter had already considered, weighed and resolved adversely to him when it rendered its decision on the merits." And earlier in *Lonaria v. De Guzman*, we held that "[T]he filing of the second motion on January 22, 1963 did not suspend the running of the period, first, because it was `pro forma based on grounds already existing at the time of the first motion.'" [6] (Underscoring partly in the original and partly supplied)

It should, however, be noted that the circumstance that a motion for reconsideration deals with the same issues and arguments posed and resolved by the trial court in its decision does not necessarily mean that the motion must be characterized as merely pro forma. More than two (2) decades ago, Mr. Justice J.B.L. Reyes had occasion, in *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur*, [7] to point out that a pleader preparing a motion for reconsideration must of necessity address the arguments made or accepted by the trial court in its decision:

"x x x. Among the ends to which a motion for reconsideration is addressed, one is precisely to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence (Rule 37, Section 1, subsection [c]); and in doing so, the movant has to dwell of necessity upon the issues passed upon by the court. If a motion for reconsideration may not discuss these issues, the consequence would be that after a decision is rendered, the losing party would be confined to filing only motions for reopening and new trial. We find in the Rules of Court no warrant for ruling to that effect, a ruling that would, in effect eliminate subsection (c) of Section 1 of Rule 37." [8] (Italics supplied)

The movant is very often confined to the amplification or further discussion of the same issues already passed upon by the trial court. Otherwise, his remedy would not be a reconsideration of the decision, but a new trial or some other remedy. [9]

The kinds of motions for reconsideration which have been regarded as merely pro forma are illustrated by *Crisostomo v. Court of Appeals*, [10] where a one sentence motion for reconsideration, which read thus:

"COMES NOW the petitioners-appellants in the above-entitled case and to this Honorable Court respectfully move for reconsideration of the decision promulgated on November 8, 1966, copy of which was received by the undersigned on November 9, 1966, on the ground that the same is contrary to law and evidence," (Italics

supplied)

was considered a pro forma motion for total failure to specify the findings or conclusions in the trial court's decision which were supposedly not supported by evidence or were contrary to law. Similarly, in *Villarica v. Court of Appeals*,^[11] a motion for reconsideration which no more than alleged the following:

- "1. that the order is contrary to law; and
2. that the order is contrary to the facts of the case,"

did not suspend the running of the period for appeal, being a pro forma motion merely. These kinds of motion present no difficulty at all.

A motion for reconsideration which is not as starkly bare as in *Crisostomo* and in *Villarica*, but which, as it were, has some flesh on its bones, may nevertheless be rendered pro forma where the movant fails to make reference to the testimonial and documentary evidence on record or the provisions of law said to be contrary to the trial court's conclusions. In other words, the movant is also required to point-out succinctly why reconsideration is warranted. In *Luzon Stevedoring Company v. Court of Industrial Relations*,^[12] the Supreme Court declared that:

"it is not enough that a motion for reconsideration should state what part of the decision is contrary to law or the evidence; it should also point out why it is so. Failure to explain why will render the motion for reconsideration pro forma." (Underscoring supplied)

Where a substantial bonafide effort is made to explain where and why the trial court should be regarded as having erred in its main decision, the fact that the trial court thereafter found such argument unmeritorious or as inadequate to warrant modification or reversal of the main decision, does not, of course, mean that the motion for reconsideration should have been regarded, or was properly regarded, as merely pro forma.

It is important to note that the above case law rests upon the principle that a motion for reconsideration which fails to comply with the requirements of Sections 1 (c) and 2 of Rule 37 of the Rules of Court, and is therefore pro forma merely, has no other purpose than to gain time. It is intended to delay or impede the progress of proceedings and the rule that such motion for reconsideration does not stop the period of appeal from "slipping away" reflects both poetic and substantial justice. In *Estrada, et al. v. Sto. Domingo, et al.*,^[13] the Court underlined

"[T]he principle [previously] forged by this Court — that a motion for reconsideration which has no other purpose than to gain time is pro forma and does not stop the period of appeal from slipping away. It is in recognition of this doctrine that we hold that where a motion for reconsideration in an election case is taken advantage of for purposes of delay to the prejudice of the adverse party or where such motion forms part of a matrix of delay, that motion does not stop running of the five-day period for appeal."^[14] (Italics supplied)

Where the circumstances of a case do not show an intent on the part of the movant merely to delay the proceedings, our Court has refused to characterize the motion as simply pro forma. Thus, in the *Guerra Enterprises* case, the Court took note of the fact that the motion for reconsideration had been filed within barely twelve (12) days (the reglementary period was then thirty [30] days) after receipt by the counsel for the movant party, which fact negated the suggestion that the motion had been used as "a mere delaying tactic."^[15] *Dacanay v. Alvendia*,^[16] on which the Court of Appeals had relied, is not in fact in conflict with the cases we have above referred to. In *Dacanay*, the motion for reconsideration was in effect a fourth motion for reconsideration: the "reasons and arguments" set out in the motion for reconsideration had on three previous occasions been presented to the trial court and each time considered and rejected by the trial court. In *Lonario v. De Guzman*,^[17] the motion for reconsideration which the Court characterized as pro forma was in fact a second motion for

reconsideration based on grounds already existing at the time the first motion for reconsideration was filed. Further, at the time of the filing of the second motion, the period to appeal had already lapsed. This Court dismissed the case for having been appealed beyond the reglementary period. In *Samudio v. Municipality of Gainza, Camarines Sur*,^[18] the Court had before it a "so-called motion for new trial based exactly on the very ground alleged in [defendant's] first motion for reconsideration dated October 17, 1952" and accordingly, held that the motion for new trial did not suspend the period for perfecting an appeal "because it [was] mere repetition of the [first] motion for reconsideration of October 17, 1952."^[19] (Brackets supplied)

We turn then to the application of the above standards to the motion for reconsideration in the case at bar. The text of petitioners' motion for reconsideration dated 7 November 1991 is quoted below:

"(a) There [was] no sufficient evidence introduced to prove the alleged fact that the down-payment for the property in question came from Jose Sytangco. Private transactions are presumed to be fair and regular (citations omitted). The regularity of defendant Liamzon's transaction with the Prietos for the sale of the property implies that the consideration came from her and not from plaintiff. This presumption cannot be rebutted by the bare testimony of a biased witness;

(b) The money used to pay for the property not belonging to the plaintiff, there could never be a trust between him and defendant Liamzon. Even then, plaintiff merely claimed that what belong to him was only the down-payment, not the total amount used to purchase the property, that the defendant Liamzon was the one paying the installments can be gleaned from the fact that while plaintiff allegedly authorized defendant Liamzon to purchase the property sometime in 1968, it was only in 1981 that he came to know that the property was titled in the name of defendant corporation. Plaintiff's (Jose Reyes Sytangco) total lack of knowledge about the transactions regarding the property for 13 long years, meant that he had no contract with the Prietos, the seller during this period. Assuming without admitting that the down-payment belonged to plaintiff, he is only entitled to reimbursement but not title to the property;

(c) Piercing the veil of corporate fiction applies only to cases where the corporation was created for purposes of fraud, usually in tax cases; fraud, however, being the exception rather than the rule should be proven by convincing evidences. That defendant Liamzon is a director of defendant Corporation is not indicative of fraud. The money used to buy the property being advances from defendant corporation, there is nothing wrong to have said property be titled in the name of the corporation to offset said advances;

(d) It may be mentioned that the ejectment counterpart of this case had already been decided with finality in favor of defendant corporation."^[20]

In paragraph (a) of their motion, petitioners claimed that the evidence submitted was insufficient to show that the downpayment for the purchase of the España Street property had in fact come from private respondents' predecessor-in-interest Jose Reyes Sytangco. In effect, petitioners here aver that the presumption of regularity of private transactions carried out in the ordinary course of business had not been overturned by the testimony of Jose Reyes Sytangco himself. This reflected petitioners' appraisal of the trial court's conclusion that Jose and Aurelia Reyes Sytangco had handed over to Milagros Liamzon the amount of P41,000.00 to complete the downpayment of the Reyes Sytangco spouses on the España lot. The trial court had not discussed the presumption of regularity of private transactions invoked by petitioners.

In paragraph (b) of their motion, petitioners, building upon their paragraph (a), argued that since the money used to pay the property did not belong to the plaintiff, no constructive trust arose between Jose Reyes Sytangco and Milagros Liamzon. Petitioners further argue that assuming that the money for the downpayment had really come from the Reyes Sytangco spouses, the rest of the payments on the España property had been made by Milagros Liamzon. Accordingly, they argue that the Reyes Sytangco spouses would be entitled only to reimbursement of the downpayment and not to reconveyance of the property itself. The trial court had not addressed this argument

in its decision; the trial judge had found Milagros Liamzon's testimony concerning whose money had been used in the purchase of the lot as "filled with contradictions" which seriously impaired her credibility.[21]

The third argument of petitioners in their motion assailed the reliance of the trial court upon the doctrine of piercing the corporate veil by asserting that that doctrine was available only in cases where the corporation itself had been created for purposes of fraud. Implicitly, petitioners argue that no evidence had been submitted to show that Marikina Valley had been created precisely "for purposes of fraud." The trial court had not touched on this argument. In paragraph (d) of their motion, petitioners aver that the ejectment suit instituted by them had been decided in their favor. The trial court's decision had not mentioned such an ejectment suit.

We are, therefore, unable to characterize the motion for reconsideration filed by petitioners as simply pro forma. That motion for reconsideration, it may be noted, had been filed no more than ten (10) days after receipt of the trial court's decision by petitioner Marikina Valley.

It is scarcely necessary to add that our conclusion that petitioners' motion was not pro forma, should not be regarded as implying however indirectly that that motion was meritorious.

We note finally that because the doctrine relating to pro forma motions for reconsideration impacts upon the reality and substance of the statutory right of appeal, that doctrine should be applied reasonably, rather than literally. The right to appeal, where it exists, is an important and valuable right. Public policy would be better served by according the appellate court an effective opportunity to review the decision of the trial court on the merits, rather than by aborting the right to appeal by a literal application of the procedural rule relating to pro forma motions for reconsideration.

WHEREFORE, for all the foregoing, (a) the Orders of the trial court dated 27 November 1991, 12 December 1991 and 22 January 1992 and (b) the Decision of the Court of Appeals dated 8 December 1992, are hereby REVERSED and SET ASIDE. The case is REMANDED to the trial court which is hereby DIRECTED to GIVE DUE COURSE to petitioners' notice of appeal. No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, and Panganiban, JJ., concur.

[1] Rollo, p. 53.

[2] Section 1 (c), Rule 37, Rules of Court.

[3] Section 2, third paragraph, Rule 37, Rules of Court.

[4] Section 3, Rule 41, Rules of Court.

[5] E.g., Nieto v. De los Angeles, 109 SCRA 229 (1981); City of Cebu v. Mendoza, 62 SCRA 440 (1975); Alvero v. De la Rosa, 76 Phil. 428 (1946); Reyes v. Court of Appeals, 74 Phil. 235 (1943).

[6] Court of Appeals Decision, p. 10; Rollo, p. 126.

[7] 32 SCRA 314 (1970).

[8] 32 SCRA at 317.

[9] Siy v. Court of Appeals, 138 SCRA 536 (1985). See also People v. Rodriguez, 213 SCRA 171 (1992).

[10] 32 SCRA 54 (1970).

[11] 57 SCRA 24 (1974).

[12] 8 SCRA 447 (1963). See also *Viña v. Court of Appeals*, 126 SCRA 371 (1983); *Philippine Advertising Counsellors, Inc. v. Revilla*, 52 SCRA 246 (1973); *Ylanan v. Mercado*, 94 Phil. 769 (1954).

[13] 28 SCRA 890 (1969).

[14] 28 SCRA at 914.

[15] 32 SCRA at 317.

[16] 30 SCRA 31 (1969).

[17] 21 SCRA 349 (1967).

[18] 100 Phil. 1013 (1957).

[19] 100 Phil. at 1018.

[20] Rollo, pp. 47-48.

[21] Trial Court Decision, Rollo, p. 41.

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