

VICTORIA G. GACHON AND ALEX GUEVARA, PETITIONERS, VS. HON. NORBERTO C. DEVERA, JR., PRESIDING JUDGE, BRANCH XXIV, RTC, ILOILO CITY; HON. JOSE R. ASTORGA, PRESIDING JUDGE, BRANCH...

G.R. No. 116695. June 20, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

May the Rule on Summary Procedure be interpreted liberally to allow the admission of an answer filed out of time due to alleged “oversight”?

This is the main legal question raised in this petition for review assailing the Decision of the Regional Trial Court of Iloilo City, Branch 24,[1] which dismissed a special civil action for certiorari and injunction filed by herein petitioners. The dispositive portion of the assailed RTC Decision reads:[2]

“WHEREFORE premises considered, the prayer for the issuance of a writ of preliminary injunction is denied and, with respect to the merits, the instant case is hereby ordered dismissed.

Double costs against petitioners.”

Facts

The factual antecedents of this case as found by the Regional Trial Court are undisputed and admitted as correct by the parties. A complaint for forcible entry[3] was filed by Private Respondent Susana Guevara against Patricio Guevara and Petitioners Victoria Gachon and Alex Guevara before the Municipal Trial Court for Cities (MTCC) of Iloilo City. Summons was served on and received by petitioners on August 25, 1993, directing them to file an answer within the reglementary period of ten (10) days. Patricio Guevara was abroad at that time; hence, the MTCC did not acquire jurisdiction over him. On September 4, 1993, petitioners filed with the MTCC an urgent motion for extension of time to file an answer.[4] On September 7, 1993, the MTCC denied the motion on the ground that it was a prohibited pleading under the Rule on Summary Procedure.[5] On September 8, 1993, or more than ten days from their receipt of the summons, petitioner submitted an urgent motion praying for the admission of their answer,[6] which was attached thereto. Two days later, petitioners filed another motion pleading for the admission of an amended answer. On September 23, 1993, the MTCC denied the motions and considered the case submitted for resolution.[7] On October 27, 1993, the MTCC also denied the petitioners’ motion for reconsideration.[8] Thereafter, on November 26, 1993, the MTCC[9] issued a decision[10] resolving the complaint for forcible entry in favor of herein private respondents.

Instead of filing an appeal, petitioners filed a petition for certiorari and injunction before the Regional Trial Court (RTC) of Iloilo City,[11] Branch 24, praying mainly that the MTCC be ordered to admit the amended answer and to conduct further proceedings in the civil case for forcible entry. As prayed for, a temporary restraining order was issued by the RTC.

Thereafter, the RTC issued the assailed Decision[12] dismissing the petition. Respondent Judge Norberto E.

Devera, Jr., ratiocinated:[13]

“Section 36 of Batas Pambansa Blg. 129, otherwise known as The Judiciary Reorganization Act of 1980 provides, among others, as follows:

Sec. 36 - Summary Procedures in Special Cases x x x The Supreme Court shall adopt special rules or procedures applicable to such cases in order to achieve an expeditious (sic) and inexpensive determination thereof without regard to technical rules. Such simplified procedures may provide that affidavits and counter-affidavits may be admitted in lieu of oral testimony and that the periods for filing pleadings shall be non-extendible.

Pursuant to the aforequoted legislative mandate, the Supreme Court promulgated the Rule on Summary Procedure, the pertinent provisions of which, as related to the issues raised in this case, are hereunder set forth -

II - Civil CasesSection 3 - Pleadings

A. (P)leadings allowed - The only pleadings allowed to be filed are the complaints, compulsory counter-claims and cross-claims pleaded in the answer, and the answers thereto

x x x x x x x x

Section 5 Answer - Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff x x x

Section 6. Effect of Failure to answer - Should the defendant fail to answer the complaint within the period above provided, the Court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: x x x

x x x x x x x x

Section 19. Prohibited Pleadings and Motions - The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule:

(a) Motion for extension of time to file pleadings, affidavits or any other paper.

x x x x x x x x

The foregoing should underscore quite clearly the reality that the ten-day-period to file an answer reckoned from the date of the receipt of the summons is mandatory and no reason of any kind is acceptable to operate as an excuse. The rule is explicit. It is addressed more, being one of procedure, to counsels than to litigants. Counsels, therefore cannot assert the validity of their client's cause to evade the mandate of the law.

Accordingly, the Court cannot fault the respondent judge [referring to Judge Jose R. Astorga] in acting the way he did in Civil Case No. 130 (93) taking into account the admitted facts and circumstances.”

Hence, this petition directly filed before this Court.

The Issues

Petitioners submit for resolution the following questions of law:[14]

“I. Are the provisions of the Rules on Summary Procedure on the period of pleadings to be applied STRICTLY or LIBERALLY.

II. What is the legal effect of a belated answer under the Rules on Summary Procedure.”

Petitioners argue that the “technical rules of procedure must yield to the higher interest of justice.” Petitioners

explain that they filed the motion for extension of time to file an answer, a prohibited pleading under the Rule on Summary Procedure, because of “oversight. That was why immediately upon receipt of the denial of that motion, petitioners filed their motion to admit answer which was later verified and had to be amended. All these (actions) were done in a period of five (5) days from the lapse of the reglementary period to file an answer.”[15] Furthermore, petitioners contend that “no prejudice to private respondent has been claimed or alleged by reason of the delay” in filing an answer.[16] Petitioners also argue that their defense in the action for forcible entry is based on substantial grounds, because they “were in prior physical possession of the premises subject of the action and that their houses have long been standing on the land in question because the land on which said houses are standing are (sic) the common properties of the parties.”

Citing Section 2, Rule 1[17] of the Rules of Court, petitioners pray that the provisions in the Rule on Summary Procedure regarding prohibited pleadings and the period for filing an answer be given liberal interpretation. Petitioners concede that said provisions appear to be couched in mandatory language. They contend, however, that other similarly worded provisions in the Rules of Court have nonetheless been liberally applied by this Court to promote substantial justice.[18]

Private respondent, on the other hand, submits that the provisions in question have to be strictly construed in order to avoid delay, considering that the Rule on Summary Procedure is aimed at inexpensive, expeditious and summary determination of cases.[19] Private respondent adds that the petition can also be dismissed on the ground of violation of Revised Circular 28-91 on forum shopping, because three (3) months after the rendition of the assailed Decision, a “petition for quieting of title and partition, and damages, involving the same parcel of residential land (Cadastral Lot No. 709 x x x), was filed xxx docketed as Civil Case No. 21618, by (Petitioner) Victoria Guevara-Gachon (x x x), Patricio Guevara (father of Petitioner Alex Guevara), Lilia Guevara-Doreza and Fe Guevara-Burgos against herein private respondent.” Private respondent contends that the subsequent case is the appropriate forum where ownership of the property in question may be threshed out.[20]

As observed at the outset, the issue to be resolved is whether, under the undisputed facts of this case, the Rule on Summary Procedure may be liberally construed in order to allow the admission of petitioners’ answer which unquestionably was filed beyond the reglementary period.

Preliminary Matter

It bears noting that petitioners filed directly before this Court a petition for review assailing the RTC Decision. This remedy is allowed under paragraph 2 of Circular 2-90[21] which provides:

Section 2. Appeals from Regional Trial Courts to the Supreme Court. -- Except in criminal cases where the penalty imposed is life imprisonment or reclusion perpetua, judgments of regional trial courts may be appealed to the Supreme Court only by petition for review on certiorari in accordance with Rule 45 of the Rules of Court in relation to Section 17 of the Judiciary Act of 1948, as amended,[22] this being the clear intendment of the provision of the Interim Rules that “(a)pppeals to the Supreme Court shall be taken by petition for certiorari which shall be governed by Rule 45 of the Rules of Court.”

Petitioners ask the Court to interpret a provision of the Rule on Summary Procedure. This is a pure question of law that may be properly raised in this petition for review.

The Court’s Ruling

The petition has no merit.

First Issue: Interpretation of the Period

The pertinent provisions of the Rule on Summary Procedure are as follows:

“Section 5. Answer. - Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff x x x

Section 6. Effect of failure to answer. - Should the defendant fail to answer the complaint within the period above provided, the Court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: x x x

x x x x x x x x

Section 19. Prohibited pleadings and motions. - The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule:

(a) Motion for extension of time to file pleadings, affidavits or any other paper.

x x x x x x x x” (Underscoring supplied.)

The word “shall” ordinarily connotes an imperative and indicates the mandatory character of a statute.[23] This, however, is not an absolute rule in statutory construction. The import of the word ultimately depends upon a consideration of the entire provision, its nature, object and the consequences that would follow from construing it one way or the other.[24]

As a general principle, rules prescribing the time within which certain acts must be done, or certain proceedings taken, are considered absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of judicial business. By their very nature, these rules are regarded as mandatory.[25]

The Rule on Summary Procedure, in particular, was promulgated for the purpose of achieving “an expeditious and inexpensive determination of cases.”[26] For this reason, the Rule frowns upon delays and prohibits altogether the filing of motions for extension of time. Consistent with this reasoning is Section 6 of the Rule which allows the trial court to render judgment, even *motu proprio*, upon the failure of a defendant to file an answer within the reglementary period.

Indeed, the Judiciary Reorganization Act of 1980, mandating the promulgation of the Rule on Summary Procedure, authorizes the Court to stipulate that the period for filing pleadings in cases covered by the Rule on Summary Procedure shall be “non-extendible.”[27]

Furthermore, speedy resolution of unlawful detainer cases is a matter of public policy,[28] and this rule should equally apply with full force in forcible entry cases where the possession of the premises at the start is already illegal.

From the foregoing, it is clear that the use of the word “shall” in the Rule on Summary Procedure underscores the mandatory character of the challenged provisions. Giving the provisions a directory application would subvert the nature of the Rule on Summary Procedure and defeat its objective of expediting the adjudication of suits. Indeed, to admit a late answer, as petitioners suggest, is to put premium on dilatory maneuvers -- the very mischief that the Rule seeks to redress. In this light, petitioners’ invocation of the general principle in Rule 1, Section 2 of the Rules of Court is misplaced.

Other than a plea for the liberal interpretation of the Rule on Summary Procedure, petitioners do not provide an adequate justification for the admission of their late answer. “Oversight,” which they candidly cite as the reason for their filing a motion for extension of time to file an answer, is not a justification. Oversight, at best, implies negligence; at worst, ignorance. The negligence displayed by petitioners is clearly inexcusable; ignorance of so

basic a rule, on the other hand, can never be condoned. In either case, the directory application of the questioned provision is not warranted.

Petitioners also cite *Rosales vs. Court of Appeals*[29] and *Co Keng Kian vs. Intermediate Appellate Court*,[30] but these cases do not support their position.

In *Rosales vs. Court of Appeals*,[31] this Court applied the Rule on Summary Procedure liberally when the defendant, instead of filing an answer, filed within the reglementary period a pleading labeled as a motion to dismiss. In treating the motion to dismiss as an answer, the Court ruled:[32]

“Parenthetically, petitioner argues in the present petition that, notwithstanding its being labeled as a motion to dismiss, said pleading should have been considered as his answer pursuant to the liberal interpretation accorded the rules and inasmuch as the grounds involved therein also qualify as defenses proper in an answer. In this instance the Court agrees. Indeed, the rule on summary procedure was conceptualized to facilitate the immediate resolution of cases such as the present one. Well-settled is the rule that forcible entry and detainer cases being summary in nature and involving disturbance of social order, procedural technicalities should be carefully avoided and should not be allowed to override substantial justice. With this premise in mind and having insisted, however erroneously, on its jurisdiction over the case, it certainly would have been more prudent for the lower court to have treated the motion to dismiss as the answer of petitioner and examined the case on its merits. As will be shown shortly, the long drawn out proceedings that took place would have been avoided.”

Furthermore, the said case did not involve the question of extension in the period for filing pleadings under the Rule on Summary Procedure.

In *Co Keng Kian vs. Intermediate Appellate Court*,[33] this Court allowed the notice to vacate, served upon the tenant, by registered mail instead of personal service as required by the Rules of Court. We thus ruled:[34]

“At this juncture it bears repeating that actions for forcible entry and unlawful detainer are summary in nature because they involve a disturbance a social order which must be abated as promptly as possible without any undue reliance on technical and procedural rules which only cause delays. In the ultimate analysis, it matters not how the notice to vacate was conveyed, so long as the lessee or his agent has personally received the written demand, whether handed to him by the lessor, his attorney, a messenger or even a postman. The undisputed facts in the instant case show that the Manila Times Publishing Company, through its manager, had informed petitioner that Plaza Arcade Inc. was the new owner of the subject building; that on October 18, 1979, a demand letter was sent to petitioner advising him to leave the premises but petitioner refused to receive the letter; that a second demand on January 12, 1981 elicited the same reaction; that a final demand dated November 16, 1981 was sent to petitioner by registered mail which he again refused. And even on the supposition that there was no personal service as claimed by petitioner, this could only be due to petitioner’s blatant attempts at evasion which compelled the new landlord to resort to registered mail. The Court cannot countenance an unfair situation where the plaintiff in an eviction case suffers further injustice by the unwarranted delay resulting from the obstinate refusal of the defendant to acknowledge the existence of a valid demand.”

In both cases, there was substantial compliance with the law, something that cannot be said of herein petitioners.

Second Issue: Forum-Shopping

Private respondent assails petitioners for engaging in forum-shopping by pursuing the present ejectment suit, notwithstanding the pendency of an action for quieting of title involving the same property and parties. We are unable to find basis for this charge.

For forum-shopping to exist, both actions must involve the same transactions, essential facts and circumstances;

and the actions must raise identical causes of action, subject matter, and issues.[35] Suffice it to say that an action for quieting of title and partition has a different cause of action than that in an ejectment suit. As private respondent herself contended, ownership of a certain portion of the property which is determined in a case of partition does not necessarily mean that the successful litigant has the right to possess the property adjudged in his favor. In ejectment cases, the only issue for resolution is physical or material possession of the property involved, independent of any claim of ownership set forth by any of the party litigants. Anyone of them who can prove prior possession de facto may recover such possession even from the owner himself. This rule holds true regardless of the character of a party's possession, provided that he has in his favor priority of time which entitles him to stay on the property until he is lawfully ejected by a person having a better right by either accion publiciana or accion reivindicatoria.[36] It has even been ruled that the institution of a separate action for quieting of title is not a valid reason for defeating the execution of the summary remedy of ejectment.[37]

WHEREFORE, in view of the foregoing, the petition is DENIED and the assailed Decision is AFFIRMED in toto. Double costs against petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., and Melo, JJ., concur.

Francisco, J., on leave.

[1] Presided by Respondent Judge Norberto E. Devera, Jr.

[2] Rollo, p. 36.

[3] Ibid., pp. 68-73; docketed as Civil Case 130-93.

[4] Ibid., pp. 77-78.

[5] Ibid., p. 88.

[6] Ibid., pp. 79-80.

[7] Ibid., pp. 91-92.

[8] Ibid., pp. 100-102.

[9] Presided by Jose P. Astorga.

[10] Rollo, pp. 103-108.

[11] Ibid., pp. 48-67.

[12] Ibid., pp. 34-36.

[13] Ibid.

[14] Ibid., p. 15.

[15] Ibid., p. 18.

[16] Ibid., p. 19.

[17] Section 2. Construction. -- These rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding.

[18] Rollo, pp. 20 and 26.

[19] Ibid., pp. 123-124.

[20] Ibid., pp. 125-126.

[21] Approved March 9, 1990.

[22] Limiting the issues thus appealable to errors or questions of law, or questions involving the constitutionality or validity of any treaty, executive agreement, law or ordinance, or executive order or regulation; or the legality of any tax, impost, assessment or toll or penalty imposed in relation thereto; or the jurisdiction of an inferior court. (Footnote found in the original.)

[23] Bersabal vs. Salvador, 84 SCRA 176, 179-180, July 21, 1978, citing Dizon vs. Encarnacion, 9 SCRA 714, 716-717, December 24, 1963.

[24] De Mesa vs. Mencias, 18 SCRA 533, October 29, 1966.

[25] Cf. Valdez vs. Ocumen, et al., 106 Phil. 929, 933, January 29, 1960; Alvero vs. De la Rosa, 76 Phil. 428, 434, March 29, 1946. See also, Agpalo, Statutory Construction, p. 243.

[26] Section 36, B.P. 129; Rule on Summary Procedure.

[27] Section 36, B.P. 129.

[28] Bank of the Philippine Islands vs. Generoso, 249 SCRA 477, 480, October 25, 1995.

[29] 200 SCRA 300, August 5, 1991.

[30] 189 SCRA 112, August 29, 1990.

[31] Supra.

[32] Ibid., p. 306.

[33] Supra.

[34] Ibid., p. 116.

[35] International Container Terminal Services, Inc. vs. Court of Appeals, 249 SCRA 389-395, October 18, 1995.

[36] Somodio vs. Court of Appeals, 235 SCRA 307, 311-312, August 15, 1994.

[37] Oblea vs. Court of Appeals, 244 SCRA 101, 105, May 11, 1995.

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