

PUBLIC ESTATES AUTHORITY, PETITIONER, VS. HON. JOSE F. CAOIBES, JR., IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 253, LAS PINAS CITY AND MARTA D. MADRIAGA, ...

G.R. No. 132426. August 19, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

In this Petition for Certiorari and Mandamus under Rule 65 of the Revised Rules of Court, the Public Estates Authority (PEA) assails and seeks to set aside the two Orders[1] of Branch 253, of the Regional Trial Court, Las Pinas City, in Civil Case No. LP-97-0034.

On October 2, 1997, the respondent court issued the first challenged Order which considered as not filed the Motion to Dismiss[2] interposed by the herein petitioner in Civil Case No. LP-97-0034 on the ground of non-compliance with Section 11, Rule 13 of the 1997 Revised Rules of Civil Procedure.

Meanwhile, the Complaint in subject civil case was amended in view of the death of one of the defendants. Petitioner then sent in a Manifestation and Motion,[3] praying that its Answer previously filed be treated as its Answer to the Amended Complaint. But the same was denied by the respondent court in its second Order of December 5, 1997 under attack, for failure to comply with Section 13, Rule 13 of the 1997 Revised Rules of Civil Procedure.

Hence, the present petition, theorizing that:

"I

RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN CONSIDERING AS NOT HAVING BEEN FILED, THE PLEADINGS ENTITLED 'MOTION TO DISMISS' AND 'MANIFESTATION AND MOTION' FILED BY PETITIONER THROUGH REGISTERED MAIL, ALLEGEDLY FOR FAILURE TO COMPLY WITH RULE 13, SECTIONS 11 AND 13 OF THE 1997 RULES OF CIVIL PROCEDURE.

II

RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN UNJUSTIFIABLY FAILING TO RESOLVE WITH DISPATCH PETITIONER'S MOTION FOR RECONSIDERATION OF RESPONDENT JUDGE'S ORDER DATED OCTOBER 2, 1997."[4]

The petition is impressed with merit.

Section 6, Rule 1 of the Revised Rules of Court reads:

"Sec. 6. Construction. These Rules shall be liberally construed in order to promote their objective of securing just speedy and inexpensive disposition of every action and proceeding."

Mindful of the aforecited rule relevant to the case under consideration, the court finds the explanation[5] in subject Motion to Dismiss of petitioner, although not strictly in compliance with Section 11, Rule 13 of the Revised Rules of Civil Procedure,[6] to nonetheless be acceptable considering that petitioner apparently did not ignore the rule. Rules of procedure being designed to facilitate the attainment of justice, their rigid application resulting in technicalities that tend to delay or frustrate rather than promote substantial justice, must always be avoided.[7]

As regards the failure of petitioner to comply with the required proof of service under Section 13, Rule 13 of the Revised Rules of Civil Procedure,[8] it is worthy to note that petitioner's Manifestation and Motion dated November 28, 1997 is not a contentious motion and therefore, no right of the adverse party would be affected by the admission thereof. The filing of said pleading was not even necessary since the Answer previously filed by petitioner could serve as the Answer to private respondent's Amended Complaint even if no motion to admit such Answer was filed with the trial court, as provided in Section 3, Rule 11 of the Revised Rules of Court.

WHEREFORE, the Petition is GRANTED, the questioned Orders of the respondent court dated October 2, and December 5, 1997, respectively, in Civil Case No. LP-97-0034 are SET ASIDE. Accordingly, let the case be remanded to the respondent court for further proceedings, in accordance with the rules and with this disposition. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Dated October 2, 1997 (Annex "A", Rollo, p. 24) and December 5, 1997 (Annex "B", Rollo, p.26).

[2] A reconsideration thereof filed on October 23, 1997, was denied by the respondent judge on February 13, 1998, ratiocinating further that the Motion to Dismiss failed to Comply with Section 13, Rule 13 of the Revised Rules of Court. (Annex "4", Rollo, p. 89)

[3] Rollo, pp. 57-59.

[4] Petition, Rollo, p. 10.

[5] "The foregoing Motion to Dismiss is being served by mail, there being no pressing need to resort to personal service." Annex "G", Rollo, p. 55.

[6] Sec. 11. Priorities in the modes of service and filing.- Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

[7] Casa Filipina Realty Corporation vs. Office of the President, 241 SCRA 165 [1995].

[8] Sec. 13. Proof of service.- x x x If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

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