

REMEDIOS F. EDRIAL, MAURO EDRIAL JR., MARYLENE EDRIAL, ILDEFONSO EDRIAL, ROSALIND EDRIAL, MARY JEAN EDRIAL, AND SUSAN EDRIAL-VALENZUELA, PETITIONERS, VS. PEDRO QUILAT-QUILAT, GA...

G.R. No. 133625. September 06, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Parties who prayed for and were granted several postponements and caused repeated delays cannot ask for the reopening of the trial for the purpose of presenting additional evidence. After squandering several opportunities given them to ventilate their claims, they can no longer complain of alleged violation of their right to due process.

The Case

Before us is a Petition for Review on Certiorari, assailing the October 17, 1997 Decision[1] and the March 19, 1998 Resolution[2] of the Court of Appeals (CA)[3] in CA-GR SP No. 42660. The CA affirmed the Order of the trial court, which had denied their Motion to Reopen the Case and to allow them to complete the presentation of their evidence. The assailed Decision disposed as follows:[4]

"WHEREFORE, the instant petition is hereby DISMISSED."

The Resolution denied reconsideration of the challenged Decision.

The Facts

Respondents Pedro, Gabriela, Isidra and Estanislao - all surnamed Quilat-Quilat -- filed an action for recovery of a parcel of land against Petitioners Remedios, Mauro Jr., Marylene, Idelfonso, Rosalind, Mary Jean -- all surnamed Edrial -- and Susan Edrial-Valenzuela. The case was docketed as Civil Case No. 6315 and raffled to Branch 39 of the Regional Trial Court (RTC) of Dumaguete City.[5] The Court of Appeals presented the facts of this case as follows:

"Atty. Gerardo Lituanas, a lawyer of the LAPIL (IBP) Negros Oriental, who was also an [e]lection [r]egistrar of the COMELEC, filed the complaint in 1975;

Atty. Lituanas was able to present evidence on the following dates:

July 10, 1981

First plaintiffs' witness Atilano Ramirez, 73 years old, was presented;

July 16, 1981

Continuation of the testimony of Atilano Ramirez;

August 24, 1982

Continuation of the testimony of Atilano Ramirez;

November 20, 1984

Continuation of the testimony of Atilano Ramirez;

February 28, 1984

Direct Examination of 2nd Plaintiffs' witness Ignacio Tomias. Cross-examination was waived.

August 21, 1985

Plaintiff Pedro Quilat-Quilat was presented on direct examination.

"On December 16, 1986, the Citizen Legal Assistance Office (CLAO) entered its appearance as new [private respondents'] counsel after Atty. Gerardo Lituanas has filed his withdrawal. The subsequent events are as follows:

February 23, 1987

The case was set for hearing on April 21, 1987.

April 21, 1987

The hearing was reset due to the projected amendment of the complainant to implead Primitiva Torrecampo.

June 19, 1987

The third amended complaint was admitted.

September 9, 1987

Hearing was postponed at the instance of the defendants [herein petitioners].

October 22, 1987

The hearing was suspended for the reason that the Court would require the [private respondents] to submit a certification from the Bureau of Forest Development that the land involved in this case [was] not a part of the public forest.

December 17, 1987

The hearing was postponed at the request of [private respondents'] counsel for the reason that she [would] be attending [a] conference in Cebu City.

March 18, 1988

The hearing was aborted due to the fact that the Bureau of Forest Development report ha[d] not yet been finished.

July 5, 1988

The hearing [was] reset upon agreement of both counsel.

September 15, 1988

The hearing [was] reset upon the Court's instance.

December 8, 1988

No hearing was held as the certification from the Bureau of Forest Development [was] being awaited.

March 16, 1989

The said certification [was] still being awaited.

May 25, 1989

The testimony of [Private Respondent] Pedro Quilat-Quilat [was] suspended after a question was [propounded] that would require him to use reading eyeglasses which he did not have at the moment.

December 14, 1989

Hearing [was] reset due to the illness of [private respondents'] counsel.

September 20, 1990

Atty. Eleccion, [petitioners'] counsel did not appear despite due notice. At this time, the [private respondents] rested their case.

October 15, 1990

Atty. Eleccion [private respondents'] counsel did not appear. Hearing [was] reset to October 16, 1990.

October 16, 1990

Atty. Eleccion did not appear. Hearing [was] reset to December 10, 11 and 12.

December 10, 1990

Atty. Eleccion asked for postponement. Hearing [was] reset to December 11, 1990.

December 11, 1990

Atty. Eleccion did not appear. The case [was] submitted for decision as of th[at] day.

August 21, 1992

The transcript of stenographic notes which was taken down by stenographer Alexander Yberley, was missing. He was ordered to produce the transcript.

October 30, 1992

Witness Atilano Ramirez was recalled for cross-examination since stenographer Yberley manifested that the record was burned. Despite due notice, nobody appeared for the [petitioners]. So as of this day, the cross-examination of Atilano Ramirez was considered waived and the case was finally submitted for decision.

December 11, 1992

Court granted the prayer of Atty. Sedillo and the case [was] set for hearing on March 22, 29 and April 5 1993.

March 22, 1993

Atty. Sedillo did not present evidence but instead moved for a resetting of the hearing to April 12, 1993. He [was] advised by the Court to be prepared on the next scheduled hearing.

June 4, 1993

Judge [was] on leave. Hearing [was] reset to July 2, 1993.

July 2, 1993

Flaviano Umbac was presented as first [petitioners'] witness. Hearing [was] scheduled [for] August 27, 1993.

August 27, 1993

[Petitioners] moved for a resetting to October 7, 1993.

October 7, 1993

Atty. Bongaciso was presented as second witness for the [petitioners]. His testimony [was] terminated and hearing [was] reset to December 13, 1993.

December 13, 1993

Judge [was] on leave. Hearing [was] reset to February 14, 1994.

February 14, 1994

Hearing [was] reset at the instance of Atty. Sedillo who want[ed] to recall his witness Atty. Bonganciso. Hearing [was] reset to March 23, 1994.

March 24, 1994

Hearing [was] postponed to May 6, 1994 to find avenue for settlement.

May 6, 1994

Due to the conflict of schedule by Atty. Sedillo and due to the absence of recalled 2nd [petitioners'] witness Bongaciso, hearing [was] reset to June 17, 1994.

June 17, 1994

Atty. Sedillo asked for postponement. He [would] attend a Kiwanis Training Conference. Hearing [was] reset to July 4, 1994.

July 4, 1994

Atty. Sedillo was present but Atty. Rosalinda Ybanez [was] available at 10:00 a.m. so the case [was] reset to August 15, 1994.

August 15, 1994

Judge [was] on leave. Hearing [was] reset to October 3, 1994.

October 3, 1994

The hearing [was] reset to November 17, 1994 due to non-availability of [petitioners'] witness Atty. Roque Bonganciso who [was] on recall.

November 17, 1994

There [was] talk about [a] proposed settlement, hearing [was] held in abeyance.

January 6, 1995

Since no settlement [was] realized a [private respondents'] motion to set [the] case for hearing was filed and the case was reset to [February] 27, 1995.

February 27, 1995

Earlier, [petitioners'] counsel, Atty. Sedillo filed a motion for postponement as he [would be] appearing in a case in Manila. Atty. Ybanez manifested that on February 26, 1995 Atty. Sedillo was in Dumaguete and further that this case ha[d] been delayed by the failure of the [petitioners] to complete the presentation of their evidence. The Court then ordered the case submitted for decision for the THIRD TIME.

March 16, 1995

The Court issued an order reconsidering the February 27, 1995 order upon motion of Atty. Sedillo and set the case for the [petitioners] for June 16, 1995 with a STERN WARNING TO THE [PETITIONERS].

June 16, 1995

The hearing set for [this day] was cancelled as the Judge [was] on leave and reset to September 8, 1995.

September 8, 1995

The [petitioners'] counsel did not appear. Hearing [was] reset to November 16, 1995.

November 16, 1995

The [petitioners'] counsel did not appear. Neither did his client. The hearing [was] reset to February 13, 1996.

February 9, 1996

The [petitioners'] counsel filed a motion to withdraw as counsel.

February 12, 1996

The Court issued an order granting the withdrawal of the [petitioners'] counsel. The [petitioners were] directed to immediately engage the services of a new counsel. This notice was received personally by the wife of [Petitioner] Mauro Edrial, Jr.

February 13, 1996

The Court issued an order setting the case [for] April 26, 1996. This order was received by the wife of the [Petitioner] Mauro Edrial, Jr.

April 26, 1996

There was no appearance from the [petitioners]. Hence, the case was submitted for decision for the FOURTH TIME.

July 8, 1996

Atty. Sedillo filed a motion to reopen the case and in effect reentered his appearance.

August 20, 1996

Private respondents thru counsel filed opposition to the motion of the [petitioners].

September 6, 1996

The Hon. Judge issued an order denying the motion to reopen hereby affirming the April 26, 1996 order submitting the case for decision.

September 11, 1996

[Petitioners] filed a motion for reconsideration.

October 2, 1996

Court denied the motion for reconsideration.

October 23, 1996

Private respondents received a copy of the Petition for Certiorari."^[6]

Ruling of the Court of Appeals

The CA dismissed petitioners' appeal because, in issuing the questioned Orders, the trial judge committed no grave abuse of discretion amounting to lack of jurisdiction. In giving petitioners more than ample time to complete their presentation of evidence and in granting their Motions for Postponement, the judge was accommodating them more than they actually deserved.

Hence, this Petition.^[7]

Issues

Petitioners submit that the CA erred in affirming the twin Orders of the Dumaguete City RTC, Branch 39. They contend that a reversal thereof would have allowed them to complete their presentation of evidence. Hence, by affirming those Orders, the CA allegedly violated their right to due process.^[8]

This Court's Ruling

The Petition is without merit.

Main Issue

Due Process and Reopening of Trial

Counsel for petitioners alleges that the addresses of his clients on file in his law firm were incorrect; hence, the notices and other forms of communication he had sent to them were not received. He allegedly discovered this fact only after he had filed his withdrawal as their counsel. He also argues that the denial of the Motion to Reopen Trial was "plainly capricious and oppressive" because private respondents were equally guilty of delay and procrastination. Finally, he maintains that allowing petitioners to present their remaining evidence would be "in the interest of substantial due process and humane justice."

Respondents disagree, reasoning that the trial court thrice reconsidered its Order to submit the case for decision; that is, petitioners were given several opportunities to present their evidence, but they squandered them. Petitioners, they further point out, were intentionally seeking to delay the resolution of the case because they were in physical possession of the land in dispute.

Counsel's excuses are unsatisfactory and unacceptable. The CA ruled that petitioners were given "more than enough time" to complete their presentation of evidence. Respondents rested their case as early as September 1992. Petitioners' lawyer, at his own request, was allowed to start presenting evidence only on April 12, 1993. From that day until April 26, 1996 or for a period of three years, counsel presented only two witnesses. The trial judge was in fact liberal in granting petitioners' Motions for Postponement. But enough was enough; when they attempted to delay the trial some more, the trial judge finally and correctly refused to go along.

True, respondents also asked for continuances, but petitioners were ultimately to blame for the inexcusable delay. The case was submitted for decision three times -- on December 11, 1990, October 30, 1992, and February 27, 1995 - but petitioners and/or their counsel did not appear in court each time. After having failed to take advantage of opportunities to ventilate their claims below, parties may no longer be accorded the same chances, in the absence of grave abuse of discretion on the part of the trial court, as in this case.^[9]

The Court frowns on lawyers' practice of repeatedly seeking extensions of time to file pleadings and thereafter simply letting the period lapse without submitting any pleading or even any explanation or manifestation of their failure.[10] The same principle applies more forcefully to motions for continuance. Postponement is not a matter of right, but of sound judicial discretion. Actions thereon will not be disturbed by appellate courts in the absence of a clear or manifest abuse of discretion, resulting in a denial of substantial justice.[11] We concur with the CA that there is no such denial in this case.

It is highly suspicious how the counsel for petitioners continued to represent his clients effectively for several years despite allegedly having lost their correct addresses. It was definitely his duty to know the correct ones. Indeed, it was too late for him to do so after he had withdrawn as their counsel. According to him, after April 16, 1996, he sent an office employee to verify the whereabouts of Mauro Edrial Jr. The inquiry yielded the information that Mauro actually resided in San Jose, Negros Oriental, and that Susan Edrial Valenzuela resided in Gomez St., Dumaguete City.[12] He should have undertaken the search before withdrawing as counsel. Further, notice might not have been received by petitioners themselves, but that did not excuse counsel's failure to appear during trials.

Counsel for petitioners further avers that he had difficulty in presenting Atty. Roque Bonganciso because of the latter's prior commitments which conflicted with the scheduled trial dates. The last witness was Mauro Edrial Jr., but counsel had the wrong address on file. He should just have adjusted the order of presentation of witnesses and called Edrial Jr. later. Such move could have prevented the postponement. Besides, finding an available date in his calendar would not have taken Atty. Bonganciso three years.

The Code of Professional Responsibility requires that lawyers, after obtaining extensions of time to file pleadings, memoranda or briefs, shall not let the period lapse without submitting the same or offering an explanation for their failure to do so (Rule 12.03).[13] Moreover, they should avoid any action that would unduly delay a case, impede the execution of a judgment or misuse court processes (Rule 12.04).

For the benefit of the bench and bar, worth repeating is the CA's reminder to petitioners' counsel of his duty to his client and to the court:

"Being an officer of the court a lawyer is part of the machinery in the administration of justice. Like the court itself, he is an instrument to advance its ends-the speedy, efficient, impartial, correct and inexpensive adjudication of cases and the prompt satisfaction of final judgments. A lawyer should not only help attain these objectives but should likewise avoid any unethical or improper practices that impede, obstruct or prevent their realization, charged as he is with the primary task of assisting in the speedy and efficient administration of justice." [14]

WHEREFORE, the Petition is DENIED and the assailed Decision and Resolution AFFIRMED. Costs against the petitioners.

SO ORDERED.

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

[1] Rollo, pp. 30-40.

[2] Rollo, p. 45.

[3] Former Special Ninth Division; penned by Justice Buenaventura J. Guerrero, chairman; with the concurrence of Justices Conrado M. Vasquez Jr. and Oswaldo D. Agcaoili, members.

[4] CA Decision, p. 11; rollo, p. 40.

[5] Presided by Judge Teopisto L. Calumpang.

[6] Rollo, pp. 79-84.

[7] The case was deemed submitted for decision upon the Court's receipt of the Memorandum for the Respondents on February 22, 2000. Said Memorandum was signed by Atty. Marcelo B. Suerte Felipe of the Public Attorney's Office.

[8] Petition, p. 19; rollo, p. 22. Petitioners' Memorandum was filed by Sedillo Icao Hernando and Associates, represented by Atty. Eduardo T. Sedillo who failed/neglected to sign it.

[9] Inciong Jr. v. Court of Appeals, 257 SCRA 578, 585, June 26, 1996.

[10] Achacoso v. Court of Appeals, 51 SCRA 424, 424-425, June 28, 1973; Casals v. Cusi Jr., 52 SCRA 58, 63-64, July 12, 1973.

[11] Pepsi Cola Products Phils., Inc. v. Court of Appeals, 299 SCRA 518, 525, December 2, 1998; Reyes v. Court of Appeals, 267 SCRA 543, 550, February 6, 1997.

[12] Petition, p. 18; rollo, p. 21.

[13] People v. Compendio Jr., 258 SCRA 254, 270, July 5, 1996.

[14] CA Decision, p. 11; citing Agpalo, Legal Ethics, 1989 ed., p. 123; rollo, p. 40.

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