

ANDY QUELNAN, PETITIONER, VS. VHF PHILIPPINES, RESPONDENT.

G.R. NO. 138500. September 16, 2005

Ponente: GARCIA, J.

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GARCIA, J.

Under consideration is this petition for review on certiorari to nullify and set aside the decision[1] dated September 17, 1997 of the Court of Appeals (CA) in CA-G.R. No. SP-41942, and its resolution[2] dated April 27, 1999, denying petitioner's motion for reconsideration.

The factual backdrop:

In an ejectment suit (Civil Case No. 139649-CV) filed by respondent VHF Philippines, Inc. against petitioner Andy Quelnan, involving a condominium unit at the Legaspi Towers 300 at Roxas Boulevard, Manila which respondent claimed to have been leased by petitioner, the Metropolitan Trial Court (MeTC) of Manila, on its finding that "summons together with a copy of the complaint was served [on petitioner] thru his wife on August 25, 1992 by substituted service" and that petitioner "failed to file his answer within the reglementary period", came out with a decision dated November 23, 1992[3] rendering judgment for respondent, as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of [respondent] and against herein [petitioner] ordering the latter to vacate the premises located at Unit 20-G Legaspi Towers 300, Vito Cruz, corner Roxas Blvd., Manila and restore possession of the same to [respondent]; ordering [petitioner] to pay [respondent] the amount of P1,077,497.77 as of June 1992 and the further sum of P25,000.00 and P1,500.00 as monthly rental for the condominium unit and parking lot respectively with legal interest thereon and to pay the sum of P15,000.00 as and for attorney's fees with costs against defendant.

SO ORDERED. (Words in bracket ours).

Copy of the aforementioned decision was served on petitioner by registered mail but the same was returned unclaimed on account of petitioner's failure to claim the same despite the postmaster's three (3) successive notices on November 25, 1992, December 7, 1992 and December 11, 1992.

No appeal having been taken by the petitioner, the MeTC decision became final and executory.

On May 18, 1993, a writ of execution, a notice of levy and a notice to vacate were served on petitioner's wife who acknowledged receipt thereof.

On May 24, 1993, petitioner filed with the Regional Trial Court (RTC) at Manila a Petition for Relief from Judgment With Prayer for Preliminary Injunction and/or temporary restraining order,[4] thereunder alleging, inter alia, that he was never served with summons and was completely unaware of the proceedings in the ejectment suit, adding that he learned of the judgment rendered thereon only on May 18, 1993 when a notice of levy on execution came to his knowledge. He thus prayed the RTC to annul and set aside the MeTC decision and the writs issued in connection therewith.

In a decision dated June 3, 1996,[5] the RTC granted petitioner's petition for relief and set aside the MeTC decision. The RTC explained that petitioner had been unduly deprived of a hearing and had been prevented from taking an appeal for the reason that petitioner's wife, in a fit of anger, tore the summons and complaint in the ejectment suit in the heat of a marital squabble. To the RTC, this constituted excusable negligence as would justify the filing of the petition for relief from judgment.

Respondent sought reconsideration of the RTC decision but its motion was denied by said court in its order of July 5, 1996.[6]

Therefrom, respondent directly went to this Court on a petition for review, which petition was remanded by this Court to the Court of Appeals (CA), whereat the same was docketed as CA-G.R. SP No. 41942.

As stated at the threshold hereof, the appellate court, in a decision dated September 17, 1997,[7] upon a finding that petitioner's petition for relief was filed with the RTC beyond the 60-day mandatory period therefor under Section 3, Rule 38 of the Rules of Court, reversed and set aside the RTC decision and reinstated that of the MeTC, thus:

WHEREFORE, the petition is GRANTED. The decision dated June 3, 1996 of the Regional Trial Court of Manila, Branch 16 is SET ASIDE. The decision dated November 23, 1992 of the Metropolitan Trial Court of Manila, Branch 30 is REINSTATED. No costs.

SO ORDERED.

In time, petitioner moved for a reconsideration but his motion was denied by the appellate court in its resolution of April 27, 1999.[8]

With this turn of events, petitioner is now the one with us via the present recourse urging us to nullify and set aside the assailed decision and resolution of the Court of Appeals on the following grounds:

- THE RESPONDENT IN ITS PETITION FOR CERTIORARI BEFORE THE COURT OF APPEALS DID NOT QUESTION THE ORDERS OF THE REGIONAL TRIAL COURT OF MANILA DATED OCTOBER 26, 1995 AND JANUARY 26, 1996.
- THE METROPOLITAN TRIAL COURT OF MANILA NEVER ACQUIRED JURISDICTION OVER THE PETITIONER, HENCE ITS DECISION CANNOT BECOME FINAL AND EXECUTORY.
- THE FINDINGS OF FACT OF THE METROPOLITAN TRIAL COURT ARE NOT SUPPORTED BY THE EVIDENCE ON RECORD AND CANNOT BE CONSIDERED AS FINAL AND CONCLUSIVE.[9]

As we see it, the principal questions to be resolved are: (1) if a party fails to claim his copy of the adverse decision which was sent through registered mail, when is he deemed to have knowledge of said decision? (2) will the presumption of completeness of service of a registered mail matter under Rule 13, Section 10 of the 1997 Rules of Civil Procedure[10] apply in relation to the 60-day period for filing a petition for relief from judgment under Rule 38, Section 3 of the Rules?

It is petitioner's posture that the 60-day period for filing a petition for relief from judgment must be reckoned from the time a party acquired knowledge of the judgment. Hence, prescinding from his premise that he became aware of the MeTC decision only on May 18, 1993 when a notice to pay and vacate was served on him by the sheriff, petitioner submits that his petition for relief from judgment was timely filed on May 24, 1993.

We are not persuaded.

Relief from judgment under Rule 38 is a legal remedy whereby a party seeks to set aside a judgment rendered

against him by a court whenever he was unjustly deprived of a hearing or was prevented from taking an appeal, in either case, because of fraud, accident, mistake or excusable neglect.[11]

Section 3 of Rule 38 reads:

SEC. 3. Time for filing petition; contents and verification. — A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits, showing the fraud, accident, mistake or excusable negligence relied upon and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be. (Emphasis supplied)

Clear it is from the above that a petition for relief from judgment must be filed within: (a) 60 days from knowledge of judgment, order or other proceedings to be set aside; and (b) six (6) months from entry of such judgment, order or other proceeding. These two periods must concur. Both periods are also not extendible and never interrupted.[12] Strict compliance with these periods stems from the equitable character and nature of the petition for relief. Indeed, relief is allowed only in exceptional cases as when there is no other available or adequate remedy. As it were, a petition for relief is actually the "last chance" given by law to litigants to question a final judgment or order. And failure to avail of such "last chance" within the grace period fixed by the Rules is fatal.[13]

We do not take issue with petitioner that the 60-day period under Section 3, Rule 38, *supra* should be reckoned from the time the aggrieved party has knowledge of the judgment. The Rule expressly says so. We cannot, however, go along with his contention that it was only on May 18, 1993 when he became aware of the judgment subject of his petition for relief.

The records clearly reveal that a copy of the MeTC decision was sent to petitioner through registered mail at his given address on November 25, 1992. It should be noted that petitioner was not represented by counsel during the proceedings before the MeTC. The first notice to him by the postmaster to check his mail was on November 25, 1992. Thereafter, subsequent notices were sent by the postmaster on December 7, 1992 and December 11, 1992. For sure, a certification that the registered mail was unclaimed by the petitioner and thus returned to the sender after three successive notices was issued by the postmaster. Hence, service of said MeTC decision became effective five (5) days after November 25, 1992, or on November 30, 1992, conformably with Rule 13, Section 10 of the 1997 Rules of Civil Procedure, which reads:

SEC. 10. Completeness of Service.— "Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever date is earlier. (Emphasis supplied)

There is no doubt that under the Rules, service by registered mail is complete upon actual receipt by the addressee. However, if the addressee fails to claim his mail from the post office within five (5) days from the date of the first notice, service becomes effective upon the expiration of five (5) days therefrom.[14] In such a case, there arises a presumption that the service was complete at the end of the said five-day period. This means that the period to appeal or to file the necessary pleading begins to run after five days from the first notice given by the postmaster. This is because a party is deemed to have received and to have been notified of the judgment at that point.

With the reality that petitioner was first notified by the postmaster on November 25, 1992, it follows that service of a copy of the MeTC decision was deemed complete and effective five (5) days therefrom or on November 30,

1992. Necessarily, the 60-day period for filing a petition for relief must be reckoned from such date (November 30, 1992) as this was the day when actual receipt by petitioner is presumed. In short, petitioner was deemed to have knowledge of the MeTC decision on November 30, 1992. The 60-day period for filing a petition for relief thus expired on January 29, 1993. Unfortunately, it was only on May 24, 1993, or 175 days after petitioner was deemed to have learned of the judgment that he filed his petition for relief with the RTC. Indubitably, the petition was filed way beyond the 60-day period provided by law.

Moreover, the records are bereft of any showing why petitioner failed to claim his copy of the MeTC decision. For sure, petitioner has not offered any explanation as to why he was not able to obtain a copy of said decision despite the three notices sent to him by the postmaster. The failure to claim a registered mail matter of which notice had been duly given by the postmaster is not an excusable neglect that would warrant the reopening of a decided case.[15]

The RTC, in giving due to petitioner's petition for relief, ruled that the presumption of completeness of service does not find application in this case for purposes of reckoning the 60-day period because the said 60-day period starts only after the aggrieved party learns of the judgment. It opined that herein petitioner never acquired knowledge of the MeTC judgment due to the excusable neglect of his wife who destroyed and threw away the summons and complaint in the ejectment suit.

We disagree. As correctly pointed out by the appellate court, to which we are in full accord:

xxx. The view espoused by the RTC is not only subject to abuse by any party by deliberately delaying the reckoning of the 60-day period but is also contrary to jurisprudence. xxx.

xxx xxx xxx

Nonetheless, the RTC granted Quelnan's relief from judgment without sufficient basis. What it considered as perhaps excusable negligence is the act of Quelnan's wife in tearing the summons/complaint because of marital disharmony. This is extending a plethora of leniency of the rules to the point of defeating justice to the other party. xxx.

To stress, Rule 13 is intended to embrace and govern the filing of all pleadings, judgments, orders, notices and other papers, as well as the service thereof.[16] Whenever necessary and expedient, the presumption of completeness of service ought to be applied, as in this case. While it is true that the rule on completeness of service by registered mail only provides for a disputable presumption, the burden is on petitioner to show that the postmaster's notice never reached him and that he did not acquire knowledge of the judgment. Sadly, petitioner failed to discharge his burden. In fact, petitioner's denial of receipt of the notice is belied by the postmaster's certification that the mail was not claimed by petitioner despite the three notices to him. In the situation obtaining in this case, the postmaster's certification is the best evidence to prove that the first notice was sent and delivered to the addressee.[17]

Similarly, the Court cannot accept petitioner's argument that the MeTC decision could not become final and executory because that court never acquired jurisdiction over his person by reason of his wife's act of tearing the summons and complaint for ejectment. The records show that the service of summons upon petitioner's wife was effected in accordance with Section 7 of Rule 14 of the 1997 Rules of Civil Procedure,[18] the law that provides for substituted service of summons.

Given the above, it is safe to conclude that the MeTC decision became final on December 15, 1992, or fifteen (15) days from November 30, 1992 when the postmaster's first notice of November 25, 1992 was deemed served. Obviously, petitioner cannot question by his belated petition for relief the effects of the final and executory

judgment in the ejectment suit. He cannot, by that petition, render the final judgment abortive and impossible of execution. The Court has invariably held that the doctrine of finality of judgments is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional error, judgments of courts must become final at some definite date fixed by law.[19] The Court views with disfavor the unjustified delay in the enforcement of the final orders and decision in this case. Once a judgment becomes final and executory, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party.[20]

Verily, relief will not be granted to a party who seeks to be relieved from the effects of a judgment when the loss of the remedy at law was due to his own negligence or a mistaken mode of procedure; otherwise, petitions for relief will be tantamount to reviving the right of appeal which has already been lost.[21] It is a well-known maxim that "equity aids the vigilant, not those who slumber on their rights." [22]

WHEREFORE, the present petition is DENIED and the challenged decision and resolution of the Court of Appeals AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban (Chairman), Sandoval-Gutierrez, Corona, and Carpio Morales, JJ., concur.

[1] Penned by Associate Justice Corona Ibay-Somera (now ret.), with Associate Justices Antonio M. Martinez (now ret.) and Romeo A. Brawner, concurring.

[2] Rollo, p. 11.

[3] Rollo, pp. 132-133.

[4] Rollo, pp. 65-76.

[5] Rollo, pp. 124-129.

[6] Rollo, pp. 97-98.

[7] Rollo, pp. 32-41.

[8] Rollo, p. 211.

[9] Rollo, p. 21.

[10] Formerly Section 8, Rule 13 of the Rules of Court.

[11] Sections 1 and 2, Rule 38 of the 1997 Rules of Civil Procedure.

[12] First Integrated Bonding and Insurance Co., Inc. vs. Hernando, 199 SCRA 796 [1991].

[13] Turqueza vs. Hernando, 97 SCRA 488 [1980].

[14] Philippine National Bank vs. Court of First Instance of Rizal, Pasig, Br. XXI, 209 SCRA 294 [1992].

[15] Ferraren vs. Santos, 113 SCRA 707 [1982].

[16] Section 1.

[17] Barrameda vs. Castillo, 78 SCRA 1 [1977].

[18] SEC. 7. Substituted Service. — If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in the preceding section, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof.

[19] Turqueza vs. Hernando, *supra*.

[20] Nasser vs. Court of Appeals, 245 SCRA 20 [1995].

[21] Ibabao vs. Intermediate Appellate Court, 150 SCRA 76 [1987].

[22] Philippine Rabbit Bus Lines, Inc. vs. Arciaga, 148 SCRA 433 [1987].

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