

HEIRS OF WILFREDO C. DELOS SANTOS, NAMELY: MA. GRACIA DELOS SANTOS, RAYMOND C. DELOS SANTOS AND MINORS RICHARD C. DELOS, WILFRED C. DELOS SANTOS, ARNOLD C. DELOS SANTOS, EDWARD ...

G.R. NO. 139167. June 29, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for review[1] assails the 26 January 1999 and 21 June 1999 Resolutions[2] of the Court of Appeals in CA-G.R. SP No. 50420. The Court of Appeals upheld the Orders of the Regional Trial Court, Branch 6, Legazpi City (“trial court”) dismissing the petition for relief of Wilfredo C. Delos Santos and Ma. Gracia Delos Santos (“petitioners”) and denying their motion for reconsideration.

The Antecedents

The present controversy arose from a Complaint for replevin and damages filed with the Regional Trial Court of Legazpi City by respondent Felisa L. Del Rosario (“respondent”) against Wilfredo C. Delos Santos (“Wilfredo”), doing business under the name Rich-mon Pawnshop.[3]

The Complaint, docketed as Civil Case No. 8836,[4] alleged among others, that respondent owned several pieces of jewelry valued at approximately P250,000. Respondent claimed that she delivered these pieces of jewelry for sale on commission to one Lolita Sanio (“Sanio”), with the condition that respondent should retain the title or ownership over the jewelry until its total value have been fully paid to respondent. Respondent further claimed that Sanio did not return or pay the value of the jewelry despite demand to do so. Thereafter, respondent learned that the pieces of jewelry were pawned to Rich-mon Pawnshop. Respondent contended that Rich-mon Pawnshop was wrongfully retaining her jewelry since it had knowledge that these were pledged without her prior consent and authority.

On 10 November 1993, Ma. Gracia Delos Santos (“Grace”),[5] owner and operator of Rich-mon Pawnshop,[6] filed the Answer[7] instead of Wilfredo. Grace claimed that she was a holder for value and in good faith of the jewelry because she had no knowledge of any defect or flaw in the title of the pawner. Grace alleged that a certain Gloria Rogando was the holder of the pawn tickets entrusted by the pawner Sanio. Grace could not release the pawned jewelry to Del Rosario unless the principal obligation would be paid.

On 13 April 1994, respondent filed an Amended Complaint impleading Grace as defendant.

On 27 March 1998, the trial court rendered a Decision[8] in favor of respondent. The trial court held that respondent proved that she owned the jewelry and that the pawnshop owners unlawfully deprived her of its possession. The trial court was convinced that respondent entrusted the jewelry to Sanio for sale on commission with the ownership remaining with respondent until full payment of its value. The trial court found that the

agreement was for Sanio to sell the jewelry within 30 days. Should the pieces of jewelry be sold, respondent was to deposit or encash the checks issued by Sanio. If the jewelry were not sold, they should be returned to respondent. The trial court did not give credence to Grace's claim of good faith in possessing the jewelry.

The trial court disposed as follows:

WHEREFORE, premises considered, decision is hereby rendered in favor of the plaintiff and against the defendants ordering the defendants to deliver to the plaintiff all the jewelries described in the pawn tickets marked as Exhibits "A", "B", "C", "D", "E" and "F", and in case delivery cannot be had, to pay plaintiff the value thereof of P250,000.00 plus P25,000.00 for attorney's fees, P5,000.00 as litigation expenses and to pay costs.

SO ORDERED.[9]

Thereafter, the trial court furnished Atty. Oliver Olaybal ("Atty. Olaybal"), then counsel for petitioners Wilfredo and Grace, a copy of the decision by registered mail at his then office address at Pecson Building, Rizal Street, Legazpi City.

From 29 March 1998 until 20 April 1998, the lone office clerk of Atty. Olaybal, Julie Espinosa ("Espinosa"), took a leave of absence from work.

From 2 to 16 April 1998, Atty. Olaybal was sick with influenza and was unable to go to his office. Since there was no one to man the law office of Atty. Olaybal, it was closed from 2 to 16 April 1998.

Meanwhile, on 2 April 1998, since the office of Atty. Olaybal was closed, the postman delivered the copy of the trial court's decision to Bernadeth Faye Alamares ("Alamares"). Alamares was a clerk of Asaphil Corporation whose office is adjacent to Atty. Olaybal's. Alamares received the Decision and signed the corresponding registry return card.

On 17 April 1998, a Friday, Atty. Olaybal reported for work. Alamares subsequently turned over the mails she received, including the decision, to Atty. Olaybal.

Atty. Olaybal asked from Alamares the exact date when she received the Decision. Alamares replied that to her recollection it was before the holidays, referring to 9 April 1998 (Bataan Day). Atty. Olaybal concluded from Alamares' recollection that she received the decision on 8 April 1998 and mistakenly thought that the end of the reglementary period to perfect an appeal fell on 23 April 1998.

On 20 April 1998, the next business day, Atty. Olaybal filed with the trial court a Notice of Appeal of the decision.

On 30 April 1998, Atty. Olaybal received an Order dated 23 April 1998 dismissing the appeal for being filed out of time.

On 8 May 1998, Atty. Olaybal filed a Petition for Relief^[10] pleading mistake and excusable negligence for failure to perfect an appeal within the reglementary period and praying that the appeal be given due course.

On 25 September 1998, the trial court issued two Orders dismissing the Petition for Relief^[11] and issuing a Writ of Execution.^[12]

On 1 October 1998, petitioners filed a motion for reconsideration of the Orders, which the trial court denied in an Order dated 18 November 1998.^[13]

Petitioners filed with the Court of Appeals a petition for certiorari^[14] assailing the Orders of the trial court

dismissing the petition for relief and denying the motion for reconsideration.

In its Resolution dated 26 January 1999,[15] the Court of Appeals dismissed the petition for certiorari and affirmed the Orders of the trial court. Petitioners filed a motion for reconsideration, which the Court of Appeals denied in its Resolution dated 21 June 1999.[16]

Hence, this petition.

Meanwhile, Wilfredo died on 1 May 1999.[17] Thus, his heirs substituted him in this petition.[18]

The Ruling of the Court of Appeals

The Court of Appeals upheld the trial court's findings and ruled that the assailed orders of the trial court are in accord with jurisprudence. The Court of Appeals held that the trial court issued the orders in the exercise of its sound discretion. Moreover, the petitioners failed to establish the existence of the requirements under Rule 38 of the Rules of Court for the granting of relief.

The Issues

In their Memorandum, petitioners raise the following issues for resolution:

I

WHETHER THERE WAS VALID SERVICE OF THE LOWER COURT'S DECISION DATED 27 MARCH 1998 ON PETITIONERS OR THEIR COUNSEL, WHICH WAS COURSED THROUGH M[S]. ALAMARES, AN EMPLOYEE OF ASAPHIL CORPORATION WITH OFFICE ADJACENT TO, HENCE A NEIGHBOR OF PETITIONERS' COUNSEL.

II

WHETHER THE MISTAKE OR NEGLIGENCE BY NEIGHBOR MS. ALAMARES VIS-À-VIS HER RECOLLECTION OF HER RECEIPT OF THE LOWER COURT'S DECISION IS BINDING ON PETITIONERS AND THEIR COUNSEL.

III

ASSUMING ARGUENDO THAT IT WAS BINDING, WHETHER MS. ALAMARES' FAILED RECOLLECTION OF ACTUAL RECEIPT OF THE DECISION CONSTITUTES MISTAKE OR EXCUSABLE NEGLIGENCE.

IV

WHETHER UNDER THESE CIRCUMSTANCES, PETITIONERS' COUNSEL'S ERRONEOUS OBTENTION OF INFORMATION FROM MS. ALAMARES CONSTITUTES MISTAKE OR EXCUSABLE NEGLIGENCE WARRANTING RELIEF FROM JUDGMENT.

V

WHETHER BASED ON THE FOREGOING CIRCUMSTANCES AND THE STRONG MERIT OF PETITIONERS' APPEAL, THE HARSH APPLICATION OF THE RULE ON APPEAL PERIOD BE SET ASIDE BY THIS COURT IN THE EXERCISE OF ITS POWER TO INTERPRET LIBERALLY THE RULES.[19]

The fundamental issue in this case is whether the service of the trial court's decision was valid and binding on petitioners.

The Court's Ruling

We grant the petition.

We agree with petitioners' contention in their Memorandum[20] that there was no valid service of the trial court's 27 March 1998 decision. The pertinent provisions of the Rules of Court governing service of decisions are clear.

Section 2 of Rule 13 provides:

SEC. 2. Filing and service, defined. – xxx

Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court. xxx (Emphasis supplied)

Section 7 of Rule 13 provides:

SEC. 7. Service by mail. – Service by registered mail shall be made by depositing the copy in the office, in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered. If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail. (Emphasis supplied)

Section 9 of Rule 13 provides:

SEC. 9. Service of judgments, final orders, or resolutions. – Judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party. (emphasis supplied)

Therefore, service of decisions must be made to the counsel on record if a party appears by counsel. Service of decisions by registered mail should be made by depositing the copy of the decision in the office, in a sealed envelope, addressed to the party's counsel at his office.

In *Tuazon v. Molina*,^[21] the Court held that the decision of the trial court did not become final and executory where service of copy of the decision was not made on counsel's associates or at the party's or counsel's residence with a person of sufficient discretion to receive it.^[22] In *Tuazon*, the Deputy Sheriff attempted to serve a copy of the decision on Josephine A. Serrano who was not an employee of counsel but an Assistant Manager of a business firm, the Prompt Service.

In *PLDT v. NLRC, et al.*,^[23] the Court held that service made by the bailiff at the ground floor of the PLDT building instead of at the 9th floor, which was the recorded address of petitioner's counsel, is not a valid service of the decision. "It was only when the [PLDT] Legal Services Division actually received a copy of the decision xxx that a proper and valid service may be deemed to have been made."^[24]

In this case, the postman, Ricardo Berango ("Berango"), served a copy of the trial court's decision on Alamares who was neither an associate nor employee of Atty. Olaybal. The records show that Alamares was then an employee of Asaphil Corporation whose office is adjacent to Atty. Olaybal's. There is nothing in the records showing that Atty. Olaybal authorized either Alamares or Asaphil Corporation to receive mails addressed to him or his law office.

Atty. Olaybal disputed Berango's testimony that he had an arrangement with Atty. Olaybal to deliver to Alamares

mails addressed to Atty. Olaybal in case of his absence. Atty. Olaybal testified that he did not even know the postman Berango personally and saw him for the first time during the trial.

Moreover, Alamares herself executed a sworn statement^[25] that Berango requested her to receive the trial court's decision on behalf of Espinosa, the clerk of Atty. Olaybal.

If Alamares had the authority to receive mails on behalf of Atty. Olaybal, she could have easily noted down and given special attention to the exact date when she actually received the copy of the trial court's decision. However, the records are bereft of any showing that Alamares was aware of the significance of such a date to Atty. Olaybal. Alamares conveniently stated that she could not recall anymore the particular date when she received the decision. Alamares merely told Atty. Olaybal that she received the trial court's decision before the holidays, or before Bataan Day (9 April 1998).

Furthermore, Atty. Olaybal clearly did not intend to delay the proceedings in the present case. After receiving the copy of the decision on 17 April 1998, Atty. Olaybal filed the notice of appeal on the next working day which was 20 April 1998. If Atty. Olaybal intended to delay the proceedings, he could have waited until 23 April 1998 which would have been the last day for filing the notice of appeal reckoned from 8 April 1998 based on Alamares' mistaken recollection.

That Atty. Olaybal had the whole day of 17 April 1998 to verify when Alamares received the decision and to file the notice of appeal does not validate the void service of the decision.

Since there was no valid service of the trial court's decision on Alamares on 2 April 1998, we shall reckon the fifteen-day period within which to perfect the appeal from 17 April 1998, when Atty. Olaybal actually received a copy of the trial court's decision. Consequently, Atty. Olaybal filed the notice of appeal within the reglementary period when he filed it on 20 April 1998. The trial court's decision dated 27 March 1998 did not become final and executory. Accordingly, the payment made by petitioners to respondent in satisfaction of the judgment of the trial court is void.

WHEREFORE, we GRANT the instant petition. We REVERSE the Resolutions of the Court of Appeals dated 26 January 1999 and 21 June 1999 in CA-G.R. SP No. 50420. We ANNUL the Order dated 23 April 1998 of the Regional Trial court, Branch 6, Legaspi City, in Civil Case No. 8836 dismissing petitioners' appeal. We REINSTATE the Notice of Appeal filed on 20 April 1998 by Atty. Oliver Olaybal as filed within the reglementary period. We ORDER respondent Felisa Del Rosario to return immediately to petitioners the payment made in satisfaction of the trial court's judgment.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice (now Associate Justice of this Court) Romeo J. Callejo, Sr., with Associate Justices Fermin A. Martin, Jr. and Mariano M. Umali, concurring.

[3] It turned out later that Rich-mon Pawnshop was licensed under the name of Ma. Gracia or Grace C. Delos Santos.

[4] Rollo, pp. 43-46.

[5] Also referred to in the records as "Grace."

[6] Rollo, p. 97.

[7] Ibid., pp. 47-49.

[8] Ibid., pp. 50-59.

[9] Ibid., p. 138.

[10] Under Rule 38 of the Rules of Court. Rollo, pp. 63-82.

[11] Rollo, pp. 163-165.

[12] Ibid., p. 166.

[13] Ibid., p. 173.

[14] Under Rule 65 of the Rules of Court. Rollo, pp. 95-121.

[15] Rollo, pp. 181-183.

[16] Rollo, p. 235.

[17] See Annex "V," *ibid.*, p. 243.

[18] Ibid., pp. 298-299.

[19] Ibid., pp. 314-315.

[20] Ibid., pp. 308-335.

[21] No. L-55697, 26 February 1981, 103 SCRA 365.

[22] See also *Adamson Ozanam Educational Institution, Inc. v. Adamson University Faculty and Employees Association*, G.R. No. 86819, 9 November 1989, 179 SCRA 279. The Court reiterated in *Adamson* the rule that service of papers, orders or decision should be made personally to the party or attorney or by leaving it at his office with his clerk or with a person having charge thereof.

[23] 213 Phil. 362 (1984). See also *BPI-Family Savings Bank, Inc. v. Court of Appeals*, G.R. No. 94925, 22 April 1991, 196 SCRA 242.

[24] Ibid.

[25] Annex "A" to petitioners' Motion for Reconsideration in the Court of Appeals. CA Rollo, pp. 117-118.

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