

INSURANCE COMPANY OF NORTH AMERICA, PLAINTIFF AND APPELLEE, VS. PHILIPPINE PORTS TERMINAL, INC., DEFENDANT AND APPELLANT.

G.R. No. 14133. April 18, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal from the order of the Court of First Instance of Manila in Civil Case No. 16658, denying defendant's petition for relief, for supposed lack of merit.

The facts in this case are not in dispute. Sometime in September 1949, the Henry W. Peabody & Co. of California shipped on the SS President Van Buren one case of machine knives consigned to the Central Sawmill, Inc. of Manila. Plaintiff Insurance Company of North America, later referred to as insurance company, insured the shipment. The merchandise was supposedly discharged into the custody of defendant Philippine Ports Terminal, Inc. then the contractor and operator of the arrastre service at the Port of Manila. It was claimed that said shipment was never delivered to the consignee, as a result of which, the insurance company was held answerable therefor, presumably paid the value thereof, and was later subrogated to the rights and interests of the consignee. So, the insurance company filed the present Civil Case No. 16658 on May 28, 1952, in the Court of First Instance of Manila, to recover from the defendant the amount paid by it, plus P1,000.00 as attorney's fees, and the costs of the suit.

On the twelfth day from service of a copy of the complaint, defendant Ports Terminal filed a motion to dismiss on the ground that the cause of action had already prescribed, pursuant to the provisions of Public Act 521 of the 7th United States Congress, known as "Carriage of Goods by Sea Act", which had been made applicable to the Philippines by Commonwealth Act No. 65. The trial court granted the motion to dismiss and on June 30, 1952, issued an order dismissing the complaint. From said order of dismissal, plaintiff insurance company appealed to us on a question of law, the appeal being docketed as G. R. No. L-6420.

On July 18, 1955, this tribunal promulgated a decision reversing the appealed order of dismissal on the ground that the Carriage of Goods by Sea Act, which provides that the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered, did not apply to and could not be invoked by defendant Ports Terminal for the reason that it was not a carrier. Our decision directed that the case be remanded to the court of origin for further proceedings. A copy of our decision was received by defendant Ports Terminal on July 21, 1955.

The case was eventually remanded to the trial court which received the case on September 14, 1955. The clerk of said court on September 16, 1955 notified counsel for plaintiff insurance company of the fact that he had received the case from the Supreme Court. However, according to counsel for defendant Ports Terminal, not denied by counsel for the plaintiff, and not shown to be otherwise by the record of the case, neither defendant Ports Terminal nor its counsel was notified by the clerk of the court of origin of the remanding of the case by the

Supreme Court to the trial court and receipt by the latter of said case.

On December 12, 1955, plaintiff insurance company through counsel, filed an ex-parte petition for default against the defendant on the ground that from the time the case was received by the trial court on September 16, 1955 from the Supreme Court, defendant had not answered plaintiff's complaint. The trial court found the ex-parte petition for default well founded and by order of December 17, 1955, declared defendant in default and set the case for hearing on December 27, 1955 for the reception of plaintiff's evidence. On March 20, 1956, on the basis of the evidence presented by the plaintiff, the trial court rendered its decision, ordering the defendant to pay plaintiff P3,796.00 with legal interest from the date of the filing of the complaint, plus the sum of P1,000 as attorney's fees, and costs. Neither the defendant nor its counsel was notified of the petition for default filed by the plaintiff, of the order of default itself which set the case for hearing for the reception of evidence of plaintiff, and of the court's decision.

According to defendant's counsel, it was only sometime in the second week of April, 1958, when Enrique M. Belo of the law firm acting as counsel for defendant, in the course of a telephone conversation with Josefino Corpus, counsel for the plaintiff, that he learned that judgment had been rendered by the trial court against the defendant. Upon verification of the records of the case, counsel for defendant found that a decision had in fact been rendered by the trial court on March 20, 1956, and that defendant had been declared in default in an order dated December 17, 1955, in pursuance of an ex-parte petition for default filed on December 12, 1955 by counsel for plaintiff. This explains why defendant filed the petition for relief from judgment only on April 18, 1958. In support of said petition for relief, defendant's counsel alleged that neither he nor his client was ever notified by the clerk of court that the case had been remanded to and received by the trial court from the Supreme Court, as a result of which he failed to file defendant's answer within the reglementary period, and that no notice was ever received of the ex-parte petition for default, the order of default and the decision rendered.

The legal question involved in this case is one of first impression. We do not recall having had a similar case brought before us. The Rules of Court are silent as to whether or not a court of origin whose case is taken to a higher court on appeal and which case is later remanded to it for further proceeding's, has the duty to notify the parties of the receipt of said case in order to resume the interrupted proceedings. Reason and justice, in our opinion, indicate if not ordain that the court of origin should notify the parties; otherwise, said parties without such notice would not know when to proceed or resume proceedings, and file other necessary pleadings, in order to continue the case until its termination. Notification of the decision of the appellate court to the parties is neither adequate nor sufficient for this purpose. It is true that by said notification, the parties are advised of the decision of the appellate court, either affirming, reversing, or modifying the appealed decision or order, and that the case would eventually be remanded to the trial court. But when? The remanding or return of a case is bound to take time because the same cannot be done until the decision of the appellate tribunal, becomes final, and before it becomes final, the appellate court may have occasion to rule upon motions for reconsideration by either party, and for which the movant or movants may ask for extension of time; and not infrequently, more than one motion for reconsideration is filed. So, the parties are not in a position to know when the case is actually returned to and received by the court of origin. It would be too much to expect the parties or their counsel to go to the trial court everyday to find out if the case has already been returned. Consequently, they have a right to be notified thereof by the Clerk of Court. It is only on that date of notification that the parties are officially informed that court proceedings are being resumed because the jurisdiction of the trial court over the case which it had lost temporarily because of the appeal, has once again been reacquired because of the remanding to it by the appellate tribunal. Only from that date of notification will the different periods for filing pleadings, such as, answer to the complaint, answer to the counterclaim, etc., would begin to run or continue to run.

In the present case, defendant Ports Terminal was not given its day in court for the purpose of answering the complaint after the dismissal of the same at its instance had been set aside by the appellate tribunal. It was not apprised of the ex-parte petition for default, of the order of default, setting the case for hearing to receive evidence for the plaintiff, and of the decision itself. The granting or denial of a petition for relief, under such circumstances, does not rest upon the discretion of the trial court. The petitioner as a matter of right is entitled to it; and the court proceedings starting from the order of default to the decision itself may be considered void and of no effect and not binding upon the petitioner. [1]

In view of the foregoing, we find and hold that the appealed order of default and the decision rendered by the lower court are null and void. The order denying the petition for relief is reversed. The case is hereby remanded to the court of origin for further proceedings, with the understanding that the defendant-appellant be allowed to file its answer within a reasonable time. Plaintiff-appellee will pay the costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

[1] Valero vs. Tan, 97 Phil., 558; 51 Off. Gaz., 4511.

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