

CLEOFÉ NORRIS, REPRESENTED BY HER ATTORNEY-IN-FACT, LUIS T. FERNANDEZ, PETITIONER, VS. HON. JOSE J. PARENTELA, JR., IN HIS CAPACITY AS EXECUTIVE JUDGE, RTC OF TRECE MARTINEZ CIT...

G.R. No. 143216. February 27, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review assails the resolution[2] dated December 6, 1999 of the Court of Appeals in CA-G.R. SP No. 55692 dismissing petitioner's appeal under Rule 65 of the Rules of Court, as well as the resolution[3] dated May 11, 2000, denying petitioner's motion for reconsideration.

The facts are as follows:

On April 4, 1977, private respondents, heirs of Alejandro Cubol, purchased from the government Lot No. 2678, FLS. 325, S.C. de Malabon Estate, Cavite and registered it in their name on September 5, 1977 under Transfer Certificate of Title (TCT) No. 92049. However, through fraud, spouses Adelaida and Conrado Kalugdan had the said TCT cancelled and on October 4, 1977, TCT No. T-93113 was issued in their name. Thereafter, said spouses sold the property to petitioner Cleofé Norris who was issued TCT No. T-171266 on July 23, 1984.

On August 27, 1997, private respondents filed a complaint for annulment/cancellation of titles and damages docketed as Civil Case No. TM-768 with the Regional Trial Court, Fourth Judicial Region, Branch 23 of Trece Martine City. Summons was served upon petitioner through substituted service by Sheriff Joaquin R. Espinelli. Petitioner failed to answer. The trial court declared her in default on June 11, 1998. Ex-parte proceedings were then held before legal researcher Josephine S. Abuzo-Ilogon, then acting as Clerk of Court. Before she submitted her report on November 20, 1998, the trial court decided the case on November 13, 1998 declaring null and void Kalugdan and petitioner's title. The judgment reads:

WHEREFORE, in view of the foregoing consideration, judgment by default is hereby rendered in favor of the plaintiff and against the defendants, viz:

- a) Declaring T.C.T. # 93113 issued in the name of Spouses Adelaida and Conrado Kalugdan null and void;
- b) Declaring T.C.T. # 171266 in the name of Spouses Cleofé and Stanley Norris null and void;
- c) Directing the defendant Register of Deeds for the Province of Cavite to cancel T.C.T. # 171266 in the name of Spouses Cleofé and Stanley Norris;
- d) Directing the Register of Deeds for the Province of Cavite to RESTORE and REINSTATE T.C.T. No. T-92049 in the names of the plaintiffs as heirs of the late Alejandro Cubol;
- e) Ordering the defendants to pay plaintiffs the sum of P30,000.00 as and for attorney's fees plus the costs of suit.

SO ORDERED.[4]

The Register of Deeds did not reinstate the old title but issued a new one in the name of private respondents.

On April 30, 1999, petitioner filed a petition for relief from judgment. Private respondents moved to dismiss it on the ground of absence of certification against forum shopping. The motion was granted on July 14, 1999. Petitioner filed a motion for reconsideration but this was denied because of the absence of notice of hearing addressed to the parties.

On November 8, 1999, petitioner elevated the matter to the Court of Appeals through a petition for certiorari under Rule 65 of the Rules of Court. The petition was dismissed, in this wise:

An examination of the petition reveals that (1) petitioner failed to indicate in the petition the date when her Attorney-in-Fact Luis T. Fernandez received copy of the July 14, 1999 Order sought to be vacated, thus preventing this Court from ascertaining if the petition was filed on time, as required under Rule 65 of the 1997 Rules of Civil Procedure, as amended; (2) said assailed Order of July 14, 1999 is a mere photocopy; and (3) except for the registry receipts attached to the petition, no Affidavit of Service was executed to show why service upon respondents was done by registered mail.

WHEREFORE, for being insufficient in form and substance, the petition for review (on certiorari) should be, as it is hereby, DENIED DUE COURSE and accordingly DISMISSED.

SO ORDERED.[5]

The motion for reconsideration was likewise denied, hence this petition where it is averred that the Court of Appeals gravely abused its discretion and committed reversible error in:

- ... APPLYING IN A VERY RIGID AND TECHNICAL SENSE THE RULES OF PROCEDURE, UNDER RULE 65 OF THE RULES OF COURT, THEREBY DEPRIVING PETITIONER OF HER RIGHT TO BE AFFORDED THE AMPLEST OPPORTUNITY FOR THE PROPER AND JUST DISPOSITION OF HER CASE, CONTRARY TO THE RULINGS OF THIS HONORABLE COURT IN CARMEN SI[G]JUENZA VS. COURT OF APPEALS, G.R. NO. L-44050, JULY 16, 1985 AND IN DOLORES BAGALANON, ET AL VS. COURT OF APPEALS, ET AL., G.R. NO. L-43043, MARCH 31, 1977.

- ... NOT RULING THAT THE ORDERS DATED JULY 14, 1999 AND SEPTEMBER 3, 1999 OF THE TRIAL COURT WERE ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND THEREFORE ARE NULL AND VOID.

- ... NOT RULING THAT TRANSFER CERTIFICATE OF TITLE NO. 171266 REGISTERED IN THE NAME OF PETITIONER, AN INNOCENT PURCHASER FOR VALUE, IS INDEFEASIBLE FOR HAVING GONE THROUGH A CHAIN OF REGISTRATION UNDER THE TORRENS SYSTEM.

In sum, the issue for our consideration is whether the appellate court committed reversible errors in the application of Rule 65 of the Rules of Court, with the result that allegedly (a) it erred in not finding that the trial court gravely abused its discretion in its orders dated July 14 and September 3, 1999; and (b) it erred in not holding that the TCT No. 171266 in petitioner's name is indefeasible.

Petitioner argues that the Court of Appeals erred in applying strictly the rules of procedure, contrary to our rulings in Siguenza vs. Court of Appeals, 137 SCRA 570 (1985) and Bagalanon vs. Court of Appeals, 76 SCRA 233 (1977).

In Siguenza, petitioner's motion for reconsideration was declared pro forma by the trial court because it was not accompanied by an affidavit of merit and verification. Also, the record on appeal was filed thirteen (13) days late. Accordingly, the Court of Appeals disapproved the appeal. The case was elevated to us. We allowed the filing of

petitioner's appeal and held that rules of procedure should not be applied in a very rigid and technical sense to serve the demands of substantial justice, especially in this case where the appeal appeared to be impressed with merit.

In *Bagalanon*, the Court of Appeals denied the petition for review because it was filed two (2) days late. However, we ordered the appellate court to reinstate the petition applying the same doctrine of liberal application of procedural rules to avoid a possible denial of substantial justice.

Petitioner invokes the above rulings in her petition, claiming that although her petition before the Court of Appeals was filed late and was not accompanied by an affidavit of service, her petition was meritorious. She said that due to a void judgment in default by the trial court, she was unjustly deprived of property duly registered in her name.

In their comment, private respondents counter that rules of procedure should not be taken lightly. Citing *Santos vs. Court of Appeals*, 198 SCRA 806 (1991), private respondents stress the importance of adjective law for it is a tool for the effective enforcement of substantial rights through orderly and speedy administration of justice. Procedural rules are not intended to hamper litigants but to provide a system under which a suitor may be heard in the correct form and manner at the prescribed time. Private respondents maintain that lawyers should keep abreast of Supreme Court decisions, circulars and other issuances relating to procedure. Ignorance of procedural requirements, allegedly because the party's lawyer is a neophyte, is not a compelling reason for the Supreme Court to reconsider the dismissal or denial of the petition. According to private respondents, circulars are adopted and approved by this Court to compel strict observance of the Rules of Court so as to avoid needless delay in the proceedings before it.

We find for private respondents. Procedural rules should not be ignored, particularly in this case where petitioner had all the opportunity to have her case determined on the merits but lost it several times due to procedural incompetence. First, petitioner failed to accompany her petition for relief from judgment before the trial court with certification against forum shopping in violation of this court's Administrative Circular No. 04-94, which requires that complaints and other initiatory pleadings filed in all courts and agencies other than the Supreme Court and the Court of Appeals be accompanied by such certification.[6] Second paragraph of Section 1 of the said circular clearly includes in its enumeration of initiatory pleadings a petition where the party asserts his claim for relief. Petitioner's petition for relief from judgment filed before the trial court is included in said enumeration because it is a new petition where a party seeks relief based on grounds different from those in the original case, namely, fraud, accident, mistake or excusable negligence.[7] Undoubtedly, said petition was covered by the circular. Secondly, petitioner failed to put a notice of hearing addressed to the parties in her motion for reconsideration of the order denying her petition for relief. This is again procedurally flawed because Section 5 of Rule 15 of the Rules of Court clearly provides that notice of hearing shall be addressed to all parties concerned.[8] Notice addressed to the clerk of court and not to the parties does not suffice as notice to all. A motion that does not contain a notice of hearing to the adverse party is nothing but a mere scrap of paper and the clerk of court does not have the duty to accept it, much less to bring it to the attention of the presiding judge.[9] Lastly, the petition for certiorari before the Court of Appeals, as stated earlier, was defective. Aside from the fact that petitioner did not attach a certified true copy of the orders subject of the appeal, she also did not show the material dates when her attorney-in-fact received the copy of the order, thus preventing the Court of Appeals from determining whether the petition was filed on time. Upon motion, it was revealed that the petition was filed late. Obviously, the reason why petitioner did not state the material dates was to confuse or even mislead the appellate court into accepting her appeal despite the fatal delay in its filing. This could result in a mockery of our judicial system, which cannot be ignored.

Clearly from the abovesited circumstances, the Court of Appeals could not be faulted for dismissing the petition for certiorari. At this point, it should be stressed that procedural rules are designed to facilitate the adjudication of cases. Courts and litigants alike are enjoined to abide strictly by the rules. While in certain instances, we allow a relaxation in the application of the rules, we never intend to forge a weapon for erring litigants to violate the rules with impunity. The liberal interpretation and application of rules apply only in proper cases of demonstrable merit and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[10] Party litigants and their counsels are well advised to abide by, rather than flaunt, procedural rules for these rules illumine the path of the law and rationalize the pursuit of justice.

WHEREFORE, the instant petition is DENIED for lack of merit. The assailed resolutions dated December 6, 1999 and May 11, 2000 of the Court of Appeals in CA-G.R. SP No. 55692 are AFFIRMED.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Also spelled as “Eutequio” in the records.

[2] Rollo, pp. 8-9.

[3] Id. at 12-14.

[4] Rollo, pp. 102-103.

[5] Id. at 48-49.

[6] ADMINISTRATIVE CIRCULAR NO. 04-94

TO: COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, THE SOLICITOR GENERAL, THE GOVERNMENT CORPORATE COUNSEL, ALL MEMBERS OF THE GOVERNMENT PROSECUTION SERVICE, AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES.

SUBJECT: ADDITIONAL REQUISITES FOR CIVIL COMPLAINTS, PETITIONS AND OTHER INITIATORY PLEADINGS FILED IN ALL COURTS AND AGENCIES, OTHER THAN THE SUPREME COURT AND THE COURT OF APPEALS, TO PREVENT FORUM SHOPPING OR MULTIPLE FILING OF SUCH PLEADINGS.

Revised Circular No. 28-91, dated February 28, 1994, applies to and governs the filing of petitions in the Supreme Court and the Court of Appeals and is intended to prevent the multiple filing of petitions or complaints involving the same issues in other tribunals or agencies as a form of forum shopping.

Complementary thereto and for the same purpose, the following requirements, in addition to those in pertinent provisions of the Rules of Court and existing circulars, shall be strictly complied with in the filing of complaints, petitions, applications or other initiatory pleadings in all courts and agencies other than the Supreme Court and the Court of Appeals, and shall be subject to the sanctions provided hereunder:

(1) The plaintiff, petitioner, applicant or principal party seeking relief in the complaint, petition, application or other initiatory pleading shall certify under oath in such original pleading, or in a sworn certification annexed

thereto and simultaneously filed therewith, to the truth of the following facts and undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (b) to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (c) if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, he undertakes to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed.

The complaint and other initiatory pleadings referred to and subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) party complaint, or complaint-in-intervention, petition, or application wherein a party asserts his claim for relief.

(2) Any violation of this Circular shall be a cause for the dismissal of the complaint, petition, application or other initiatory pleading, upon motion and after hearing. However, any clearly willful and deliberate forum shopping by any party and his counsel through the filing of multiple complaints or other initiatory pleadings to obtain favorable action shall be a ground for summary dismissal thereof and shall constitute direct contempt of court. Furthermore, the submission of a false certification or non-compliance with the undertakings therein, as provided in Paragraph 1 hereof, shall constitute indirect contempt of court, without prejudice to disciplinary proceedings against the counsel and the filing of a criminal action against the guilty party.

This Circular shall take effect on April 1, 1994.

February 8, 1994.

[7] Section 1, Rule 38, Rules of Court: Petition for relief from judgment, order, or other proceedings. – When a judgment or final order is entered, or any other proceedings is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside.

[8] Section 5, Rule 15, Revised Rules of Court: Notice of hearing - The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

[9] *Provident International Resources Corp. v. Court of Appeals*, 259 SCRA 510, 526 (1996).

[10] *Garbo v. Court of Appeals*, 258 SCRA 159, 163 (1996).

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