DR. EMMANUEL VERA, PETITIONER, VS. ERNESTO F. RIGOR AND THE COURT OF APPEALS, RESPONDENTS.

G.R. NO. 147377. August 10, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

It is mandatory for the trial court to conduct pre-trial in civil cases in order to realize the paramount objective of simplifying, abbreviating, and expediting trial. In light of these objectives, the parties are mandatorily required to submit their respective pre-trial briefs. Failure of the parties to do so is a ground for dismissal of the action with prejudice, unless otherwise ordered by the court.

On November 19, 1996, Ernesto Rigor, respondent, filed with the Regional Trial Court (RTC), Branch 22, Malolos, Bulacan a complaint for sum of money with damages against Dr. Emmanuel Vera, petitioner, docketed as Civil Case No. 852-M-96. Respondent alleged in his complaint that petitioner purchased from him a brand new Ultrasound Scanner, Model HS 120, for P410,000.00. Petitioner paid P120,000.00 as downpayment, leaving a balance of P290,000.00. Despite respondent's demand, petitioner failed to pay the same.

In his answer, petitioner claimed that he received the machine on a trial basis. However, when tested, its "performance" was unsatisfactory. Moreover, the hospital where the machine was to be installed has no funds. Respondent offered a new brand of Ultrasound Scanner but it turned out to be an old model.

The trial court[1] then set the pre-trial on January 21, 1997. During the pre-trial conference, the parties failed to reach an amicable settlement, hence, the trial court terminated the pre-trial and set the case for initial hearing on March 6, 1997 at nine o'clock in the morning. However, upon motion of respondent's counsel, the trial was reset to May 20, 1997, then to July 17, 1997. During the hearing on this date, the trial court, upon manifestation of petitioner's counsel, realized that respondent failed to file a pre-trial brief.

On July 28, 1997, petitioner filed a motion to dismiss the complaint raising as ground respondent's failure to file a pre-trial brief.

On September 30, 1997, the trial court issued a Resolution granting the motion and dismissing the complaint.

Respondent filed a motion for reconsideration but it was denied by the trial court in a Resolution dated February 4, 1998.

Upon appeal by respondent, the Court of Appeals, on July 25, 2000, rendered a Decision[2] in his favor, holding that:

> There is no dispute about plaintiff-appellant's failure to file his pre-trial brief. In this case, however, pre-trial proceeded and took place on January 21, 1997 without the required pre-trial brief having been submitted by the plaintiff-appellant. It is therefore safe to assume that this was allowed by the trial court. For how else could the pre-trial have taken place even without the requisite pre-trial brief of plaintiff-appellant if not upon permission of the trial court?

> Likewise, there is no showing that defendant-appellee at that time manifested any opposition to the plaintiff-appellant's failure to file pre-trial brief. In fact, pre-trial was thereafter terminated. x x x. Only on the next hearing did the defendant-appellee pointed out the non-filing of plaintiff-appellant's pre-trial brief. In other words, several events after the pre-trial had taken place before the trial court decided to dismiss the case due to non-filing of pre-trial brief. Considering all the above circumstances, we find that the trial court indeed erred in its order of dismissal.
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> x x x
>
> WHEREFORE, premises considered, the appeal is GRANTED. The Order dated September 30, 1997 dismissing Civil Case No. 852-M-96 is SET ASIDE and the trial court is directed to REINSTATE the Complaint and to proceed with the hearing of the case until its termination with utmost dispatch.

Petitioner filed a motion for reconsideration but it was denied in a Resolution dated August 14, 2000.

Hence, this petition for certiorari filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

Petitioner alleged that the Court of Appeals acted with grave abuse of discretion tantamount to lack of jurisdiction in giving due course to respondent's appeal considering that it raises a pure question of law cognizable only by this Court. The legal issue is whether the complaint in Civil Case No. 852-M-96 is dismissible for respondent's failure to file a pre-trial brief.

We hold that the issue raised before the Court of Appeals is both legal and factual as shown by the following discussion.

Section 6, Rule 18 of the 1997 Rules of Civil Procedure, as amended, provides:

> SEC. 6. Pre-trial Brief. - The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:
> (a) A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;
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> (b) A summary of admitted facts and proposed stipulation of facts;
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> (c) The issues to be tried or resolved;
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> (d) The documents or exhibits to be presented, stating the purpose thereof;
>
> (e) A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners; and
>
> (f) The number and names of the witnesses, and the substance of their respective testimonies.
>
> Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

Corollarily, Section 5 of the same Rule states:

> SEC. 5. Effect of Failure to Appear. - The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. x x x

Section 7 likewise provides:

> SEC. 7. Record of pre-trial. - The proceedings in the pre-trial shall be recorded. Upon the termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference, the action taken

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> thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice.

Clearly, the above Rule mandatorily requires the parties to seasonably file their briefs and failure to do so shall be cause for the dismissal of the action.

As mentioned earlier, respondent did not file a pre-trial brief in violation of the above Rule. But what surprised us is the fact that the trial court conducted the pre-trial conference on January 21, 1997 despite the lack of respondent's pre-trial brief and thereafter terminated the same. It was only on July 17, 1997 during the initial hearing (after two postponements) that the trial judge came to know, after being apprised by petitioner's counsel, that respondent did not file a pre-trial brief.

While the trial judge erroneously proceeded with the trial conference, the fact remains that respondent did not file a pre-trial brief. Pursuant to Section 6, Rule 18 quoted above, such failure is a cause for dismissal of the action. We have to emphasize that pre-trial and its governing rules are not technicalities which the parties may ignore or trifle with.

Obviously, since respondent did not file a pre-trial brief, it follows that the trial judge failed to conduct the pre-trial conference in accordance with Rule 18. In fact, he did not issue the required pre-trial order stating the various matters which should have been included therein. Indeed, the trial judge showed his ignorance of the Rules, specifically Rule 18. And by failing to take appropriate steps to enable the parties reach an amicable settlement, the trial judge showed his gross inefficiency.

In conclusion, we rule that the Court of Appeals did not commit grave abuse of discretion in taking cognizance of respondent's appeal. However, it erred in reversing the RTC judgment dismissing respondent's complaint for his failure to file a pre-trial brief.

WHEREFORE, we DISMISS the instant petition as well as respondent's complaint in Civil Case No. 852-M-96.

Judge Candido R. Belmonte of the RTC, Branch 22, Malolos, Bulacan is directed to explain in writing within ten (10) days from notice why he should not be charged administratively for ignorance of Rule 18, 1997 Rules of Civil Procedure, as amended, and gross inefficiency.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Presided by Judge Candido R. Belmonte.

[2] Rollo, pp. 18-20, penned by Associate Justice Eugenio S. Labitoria (retired) and concurred in by Associate Justice Bernardo P. Abesamis (retired) and Elvi John S. Asuncion (dismissed from the service).

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