

DANIEL C. VALENZUELA, ROLANDO DE LEON, VICDON J. VALENZUELA AND NOLAN J. VALENZUELA, PETITIONERS VS. COURT OF APPEALS, THE HEIRS OF FEDERICO SALAZAR, REPRESENTED BY EDUARDO SALA...

G.R. NO. 149449. February 20, 2006

Ponente: AZCUNA, J.

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AZCUNA, J.:

Petitioners, Daniel C. Valenzuela, Rolando de Leon, Vicdon J. Valenzuela and Nolan J. Valenzuela, are appealing the decision of the Court of Appeals in CA-G.R. No. 149449 on pure questions of law, thus:

I

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE ORDER OF THE TRIAL COURT DATED 9 DECEMBER 1999 DIRECTING A RESURVEY OF THE PROPERTY SUBJECT OF TRANSFER CERTIFICATE OF TITLE NO. 111366 (16930).

II

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE ORDER OF THE TRIAL COURT DATED 11 DECEMBER 2000 DENYING PETITIONERS' MOTION FOR RECONSIDERATION DATED 22 SEPTEMBER 2000 AND DENYING PETITIONERS' MOTION FOR LEAVE TO FILE AMENDED ANSWER WITH COUNTERCLAIM DATED 2 OCTOBER 2000 WHEN THE PRESENT CASE IS ONLY IN ITS PRE-TRIAL STAGE.

The antecedent facts are not disputed.

The original action instituted before the Regional Trial Court of Parañaque City[1] on June 14, 1999 is one of Accion Reinvidicatoria filed against petitioners by private respondents, the Heirs of Federico Salazar.[2] Subject of the case is an 853-square meter parcel of land covered by Transfer Certificate of Title (TCT) No. 111366(16930) of which petitioners are alleged to be occupying 300 square meters. An Answer was filed by petitioners on September 8, 1999 and in it they claimed by way of affirmative defense "that the portion wherein defendants' house stands [i]s outside the area covered by TCT 111366(16930) x x x." In view of this allegation, both parties, through their counsels, agreed at the pre-trial conference to a re-survey of the property by a court-appointed surveyor to determine if the house is actually within the boundaries of the title. Said agreement was confirmed in the order of the trial court dated December 9, 1999 which directed the Bureau of Lands to conduct a survey of the property and to submit a report to the court. This is the first assailed ruling.[3]

In compliance with the order, the Department of Environment and Natural Resources, Land Management Bureau, sent a survey team to the disputed property on April 14, 2000. Unfortunately, they were refused entry by petitioner Daniel Valenzuela. In response, private respondents filed a Motion to Issue Show Cause Order against

Daniel Valenzuela on May 20, 2000. Commenting on the motion, petitioners' counsel, then the Francisco B. Jose Law Office, stated that "upon serious scrutiny of the records it appears that said title should not be the subject of the resurvey but the whole subject property or mother title, which is OCT No. 4097 to reflect all portions of the respective heirs of the deceased owner x x x." [4] This was answered with private respondents' reply stating that OCT No. 4097 is immaterial as it had long been cancelled and the property partitioned.

While the motion was pending, the Francisco B. Jose Law Office withdrew as counsel for petitioners on June 23, 2000 by the reason of the "backlog of cases" being handled. [5] On July 7, 2000, Atty. Fernando B. Zuniga entered his appearance as new counsel for petitioners. Immediately, he filed a rejoinder to the show cause motion stating that conducting a re-survey on either TCT No. 111366(16930) or even OCT No. 4097 will not lay to rest any issue in the case so that the previous counsel not only erred in agreeing to the re-survey of TCT No. 111366(16930) but also committed a palpable mistake in proposing a re-survey on the mother title. He then accused previous counsel of failing to "exercise his utmost learning and ability in maintaining his client's cause [sic] and his reckless and gross negligence should not be allowed to bind" petitioners. The rejoinder consequently asked that the December 9, 1999 order to conduct a survey be entirely set aside. [6]

Following the rejoinder, petitioners filed a Manifestation and Motion for Extension on August 18, 2000 alleging that the original Answer was insufficient and prayed that petitioners be given 20 days to file a Motion for Leave to File Amended Answer. The motion was followed by a second motion for extension of 15 days on September 8, 2000. The trial court, in an order dated September 11, 2000, denied the motion for extension and gave petitioners one last opportunity to comply with the December 9, 1999 order. A Motion for Reconsideration was filed praying that the September 11, 2000 Order be reconsidered. In the same motion, petitioners changed their minds again and stated that a survey of the mother title, while not determinative of the controversy, "will present a comprehensive picture" of petitioners' rights to the property. Consequently, they again asked for a re-survey of OCT No. 4097, as well as for the denial of the show cause motion. On October 4, 2000, petitioners filed their Motion for Leave to File Amended Answer, attaching said Answer. [7] In their Amended Answer, the allegation that petitioners' house stands outside TCT No. 111366(16930) was removed in favor of the defenses of acquisition in good faith of the 300-square meter property, prescription, laches and estoppel. On December 11, 2000, the trial court issued an order denying the Motion for Reconsideration and the Motion for Leave to File Amended Answer. This is the second assailed ruling.

Petitioner went to the Court of Appeals to challenge the orders of the trial court through a petition for certiorari. The Court of Appeals dismissed the petition finding an absence of grave abuse of discretion on the part of the trial court. Moreover, the appellate court declared that it is all too obvious that petitioners are resorting to dilatory tactics to prevent the case from being decided against them. Hence, this petition for review on certiorari.

The petition lacks merit.

Petitioners first complain that the September 11, 2000 order and December 11, 2000 order of the trial court were in violation of Section 1 of Rule 36 of the Rules of Court. [8] Section 1 of Rule 36 applies only to final judgments/orders and not to interlocutory orders. [9] A final order is one that disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing else to be done but to enforce by execution what has been determined by the court, while an interlocutory order is one which does not dispose of the case completely but leaves something to be decided upon. [10] The September 11, 2000 order was a denial of the motion for extension and directed petitioners to comply for the last time with the order to conduct a survey, while the December 11, 2000 order was a denial of the Motion for Reconsideration and the Motion for Leave to File Amended Answer. These are plainly interlocutory orders which do not call for the application of Section 1, Rule 36. In any event, the Court is satisfied that, after reading the two orders, [11] the trial court sufficiently

informed the parties of the factual and legal reasons that led to its rulings. The Court therefore, finds no basis for petitioners' denunciation of the trial court's action as having summarily disposed of the motions in a "cavalier, whimsical and capricious manner."

Petitioners next attribute to the trial court grave abuse in not setting aside the December 9, 1999 order to conduct a survey on TCT No. 111366(16930) and in denying the Motion for Leave to File Amended Answer. Before disposing of this contention, it must be stressed that these orders are interlocutory and it has been a well-established principle that interlocutory orders are not appealable until after the rendition of the judgments on the merits. This rule is intended to avoid multiplicity of suits and is embodied in Section 1 of Rule 41.[12] The remedy of a party aggrieved would be a petition for certiorari.[13] But for certiorari to lie it must be convincingly shown that the lower court committed grave abuse of discretion, or an act so patent and gross as to amount to an evasion of a duty, or a virtual refusal to perform the duty enjoined or act in contemplation of law, or that the trial court exercised its powers in an arbitrary and despotic manner by reason of passion and personal hostility.[14] Ordinary error would not be enough.

On the motion to set aside the December 9, 1999 order to conduct a survey, the lower court's exercise of discretion cannot be faulted as there are procedural and substantive reasons supporting it.

Procedurally, the right to question an interlocutory order through a petition for certiorari is not unlimited. Under Section 4 of Rule 65, the petition for certiorari should be filed not later than 60 days from notice of the assailed judgment, order or resolution. The assailed order was issued on December 9, 1999, but petitioners never questioned the order until May 21, 2000 when the Comment to the Motion to Issue Show Cause Order was filed. Clearly, the right to question the order had been time barred.

From a substantive viewpoint, petitioners claim that their express consent to the re-survey was not obtained and, therefore, they cannot be bound by their previous counsel's actions. Petitioners' argument fails. It should be pointed out that the agreement to conduct a re-survey was made during the pre-trial conference. Under the rules of civil procedure, the parties are required to appear with their counsel to facilitate the prompt disposition of cases. If the parties are unable to attend personally, their non-appearance will only be excused by the appearance of a representative who is fully authorized in writing to act in their behalf. Petitioners evidently did not attend the pre-trial conference and chose instead to be represented by their counsel of record. Hence, it was petitioners' decision to have their counsel make the choices for them and so they cannot afterwards complain of the results. Allowing a party to disavow his counsel's actions would defeat the very purpose of pre-trial, which is to expedite the resolution of disputes.

Granting for the sake of argument that there was an error of judgment on the part of the previous counsel to agree to a re-survey, such error can hardly be considered as gross negligence amounting to a denial of due process. The actions of previous counsel were in marked conformity with the allegation in the Answer, namely, that the house stands outside TCT No. 111366(16930). This very same allegation was read and verified by petitioner Daniel Valenzuela. Accordingly, if there was a mistake in their theory of defense, petitioners ought not to blame their previous counsel but should own up to their own inattention. Moreover, it is apt to reiterate the Court's pronouncement in *Rivera v. Court of Appeals*: [15]

x x x [A]s a general rule, the client is bound by the actions of his counsel in the conduct of his case and he cannot therefore complain that the result of the litigation might have been otherwise had his counsel proceeded differently. It has been held time and again that blunders and mistakes made in the conduct of the proceedings in the trial court as a result of ignorance, inexperience or incompetence of counsel do not qualify as a ground for new trial. If such were to be admitted as valid reasons for reopening cases, there would never be an end to litigation so long as new counsel could be employed to allege and show that the prior counsel had not been

sufficiently diligent, experienced and learned. This will put a premium on the willfull and intentional commission of errors by counsel, with a view to secure new trial in the event of conviction.

Anent the denial of the Motion for Leave to File Amended Answer, again the Court finds nothing that could be interpreted to show grave abuse of discretion or a whimsical exercise of judgment on the part of the trial court. Having filed an Answer way back on September 18, 1999, with pre-trial on-going, amendments to the Answer were no longer a matter of right but at the discretion of the trial court. The pertinent provision would be Section 3 of Rule 10, which reads:

SEC. 3. Amendments by leave of court. – Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard.

The Court is aware that amendments to pleadings are allowed at any stage before the rendition of final judgment.[16] This is most especially permitted during pre-trial as one of its goals is to consider the “necessity or desirability of amendments to the pleadings.”[17] Nevertheless, whether an amendment will be allowed is still discretionary upon the trial court, taking into account the circumstances of each case with particular attention to the possibility that the motion was made with intent to delay.

A reading of the Answer sought to be admitted reveals that it seeks to include matters that are beyond the ambit of an action for reconveyance. It aims to expand the issue of ownership over 300 square meters of land alleged to be found within TCT No. 111366(16930) to its mother title, OCT No. 4097, which has already been cancelled. Moreover, petitioners attempt a collateral attack on TCT No. 111366 (16930), which is now indefeasible, on the strength of a “Deed of Extrajudicial Partition with Sale.” A closer perusal of the said deed discloses that it is nothing but a mere sworn statement executed in 1998 and referring to a Deed of Sale in 1966 in which the affiants did not even take any part.[18] Added to these circumstances is the fact that petitioners have been in continuous defiance of the December 9, 1999 order and have the temerity to state that re-surveying will only delay the instant proceeding and entail unnecessary costs and expenses.[19] On the contrary, it is the petitioners who have caused the delay by belatedly asking that the order be set aside only to change their minds to insist that a larger survey be conducted on the mother title and then bringing the issue all the way to this Court. Had petitioners been sincere with speeding up the proceedings, they could have simply allowed the re-survey and moved for an additional survey to cover OCT No. 4097. This course of action would have greatly obviated the controversy at hand.

The Court is therefore in agreement with the assessment of the Court of Appeals that it is all too obvious that petitioners are resorting to dilatory tactics to prevent the case from being decided. Consequently, grave abuse of discretion will not be ascribed to the denial of the Motion for Leave to File Amended Answer.

WHEREFORE, petition is DENIED and the decision of the Court of Appeals in CA-G.R. No. 149449 is AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez and Garcia, JJ., concur.
Corona, J., on leave.

[1]Branch 258.

[2]Civil Case No. 99-6208.

[3] Rollo, p. 159.

[4] Id. at 168.

[5] Id. at 174.

[6] Rollo, p. 179.

[7] Id. at 267.

[8] Section 1. Rendition of judgments and final order. – A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court.

[9] Amargo v. Court of Appeals, G.R. No. L-31762, September 19, 1973, 53 SCRA 64.

[10] RCBC v. Magwin Marketing Corp., G.R. No. 152878, May 5, 2003, 402 SCRA 592.

[11] Rollo, pp. 226 and 320.

[12] Marcelo v. De Guzman, G.R. No. L-29077, June 29, 1982, 114 SCRA 657.

[13] Arabesque Industrial Philippines, Inc. v. Court of Appeals, G.R. No. 101431, December 14, 1992, 216 SCRA 602.

[14] Vda. de Daffon v. Court of Appeals, G.R. No. 129017, August 20, 2002, 387 SCRA 427.

[15] G.R. No. 141863, June 26, 2003, 405 SCRA 61.

[16] Espiritu v. Crossfield, 14 Phil. 588 (1909).

[17] Section 2(c), Rule 18.

[18] Rollo, p. 288.

[19] Id. at 191.

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