

BENJAMIN G. NAVALTA, PETITIONER, VS. MARCELO S. MULI, RESPONDENT.

G.R. NO. 150642. October 23, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the Petition for Review on Certiorari[1] assailing the twin Resolutions[2] dated July 30, 2001 and October 18, 2001 of the Court of Appeals in CA-G.R. SP No. 65789, entitled "Benjamin G. Navalta, petitioner, versus Marcelo S. Muli, respondent."

The facts are:

On October 21, 1997, a contract entitled "Deed of Sale Under Pacto de Retro"[3] was executed by Marcelo S. Muli, respondent, and Benjamin Navalta, petitioner. The contract provides that respondent is the registered owner and occupant of a two-fourth (2/4) portion of a parcel of land consisting of 144.40 square meters located at 439-G Herbosa Street, Tondo, Manila, covered by Transfer Certificate of Title (TCT) No. 216508 of the Registry of Deeds of Manila;[4] that for a consideration of P325,000.00, respondent agrees to sell to petitioner his 2/4 portion of land together with the house and improvements thereon; that respondent reserves the right to repurchase the subject property for the same price within six (6) months from execution of the contract, or until April 21, 1998; and that should respondent fail to exercise such right, the sale shall become absolute and irrevocable.

Respondent failed to repurchase the property within the stipulated period. Thus, on June 27, 1998, petitioner sent a demand letter to respondent asking him to vacate the property within ten (10) days from notice. However, respondent ignored the demand letter.

Instead, respondent, on July 29, 1998, filed with the Regional Trial Court (RTC), Branch 14, Manila, a complaint for annulment of the contract against petitioner, docketed as Civil Case No. 98-89928. The complaint is mainly anchored on respondent's allegation that although the contract is entitled "Deed of Sale Under Pacto de Retro," what was really agreed upon by the parties was an "equitable mortgage in accordance with Articles 1602, 1603 and 1365 of the Civil Code." [5]

For his part, petitioner, on February 11, 1999, filed with the Metropolitan Trial Court (MeTC), Branch 6, Manila, a complaint[6] for unlawful detainer against respondent, docketed as Civil Case No. 162403-CV. Petitioner alleged that respondent has no more right to continue occupying the subject property since he failed to repurchase the same within the period stipulated in the contract; and that despite demand, respondent refused to vacate the premises.

In his answer,[7] respondent averred that the complaint is premature as there is an action for annulment of the contract (Civil Case No. 98-89928) pending before the RTC involving the same parties and the same property. Thus, he prayed for the dismissal of the complaint.

On May 26, 1999, the MeTC rendered a Decision[8] in favor of the petitioner, thus:

WHEREFORE, premises considered, judgment on the merits is hereby rendered for the plaintiff [Benjamin Navalta] as follows:

- Ordering the defendant [Marcelo Muli] and all persons claiming rights of possession under him to voluntarily vacate the subject premises at No. 439 - G Herbosa Street, Tondo, Manila and surrender the same to him;
- Ordering the defendant to pay plaintiff the sum of P4,000.00 a month from May 1998 as reasonable compensation for use and occupation of the subject lot until fully vacated;
- Ordering the defendant to pay plaintiff the sum of P5,000.00 as and for attorney's fees, plus costs of suit.

SO ORDERED."

The MeTC held:

"As the court notes that defendant had not controverted any of the allegations by the plaintiff, such as the termination of their contract, the receipt of the demand letter, and the referral to the Barangay [for conciliation], this court is disposed to order the ejectment of the defendant from the premises.

Since, the plaintiff is now the new owner of the subject premises as evidenced by the Deed of Sale [Under Pacto de Retro], the defendant's continued occupancy is deemed to be on the plaintiff's tolerance which is terminable upon notice, which the latter did when he sent the demand letter.

As provided in the case of *Banco de Oro Savings and Mortgage Bank v. CA* (182 SCRA 464): A person who occupies the land of another at the latter's tolerance or permission without any contract between them, is based on an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against him.

Further, an action for unlawful detainer may be filed when possession by the landlord, vendor, vendee or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied (*Dela Paz v. Paniz*, 245 SCRA 242), which in this case is the expiration of the right to repurchase the land.

Also, the defendant's contention that there is still a pending annulment case at the RTC involving the subject premises is wholly unmeritorious. As held by the Supreme Court in numerous cases, the issue of ejectment is the right to physical possession of the premises or possession de facto (*Del Rosario v. CA*, 241 SCRA 519; *De Luna v. CA*, 221 SCRA 703).

Upon appeal by respondent, the RTC, Branch 8, Manila, rendered a Decision^[9] reversing the MeTC Decision, holding that respondent could not sell his 2/4 share since the property has not yet been partitioned between him and his co-heirs. Thus, petitioner "cannot as yet exercise any possessory right over any specific part of the property covered by TCT No. 216508. The pertinent law provides that only those persons who have been deprived of possession of any land or building may institute ejectment proceedings (Sec. 1, Rule 70, Rules of Court)."

Petitioner filed a Motion for Reconsideration^[10] contending that the RTC violated his right to due process since the issue of whether the questioned property is owned in common by respondent and his co-heirs was never raised by the parties in their pleadings. However, the RTC denied the motion in its Order^[11] dated July 11, 2001, reiterating that until there is a partition of the inherited property, petitioner cannot as yet exercise any possessory right over any specific portion of it.

Petitioner then filed with the Court of Appeals a Petition for Review, under Rule 42 of the 1997 Rules of Civil Procedure, as amended, docketed as CA-G.R. SP No. 65789. On July 30, 2001, the appellate court issued a

Resolution, now being assailed, dismissing the petition on the ground that the only documents attached thereto are the certified true copies of the Decisions of the MeTC and RTC, petitioner's motion for reconsideration of the RTC Decision, and the RTC Order denying the said motion. The Court of Appeals ruled that since Section 2, Rule 42 of the 1997 Rules of Civil Procedure, as amended, requires inter alia that the petition shall be accompanied by other papers that would support the allegations thereof, petitioner should have also attached to his petition "the complaint, answer, position papers and appeal memoranda of the parties."

Petitioner moved for a reconsideration^[12] contending that the documents and papers he attached to his petition are sufficient to support the allegations therein. Nonetheless, he attached to his motion the complaint, answer, reply to the answer, the position papers and memoranda of the parties, and prayed that in the interest of justice, his petition be reinstated. But the Court of Appeals, in a Resolution dated October 18, 2001, still denied his motion.

Hence, the instant Petition for Review on Certiorari.

Petitioner contends in the main that the Court of Appeals erred in not considering his submission of the additional copies of pleadings and papers as substantial compliance with the requirements under Rule 42.

Respondent, in his Comment, prays for the dismissal of the petition for being unmeritorious.

The sole issue here is whether the Court of Appeals erred in dismissing the petition in CA-G.R. SP No. 65789.

Section 2 of Rule 42 requires that the petition for review shall be accompanied by copies of the pleadings and other material portions of the record as would support the allegations of the petition. Section 2 provides:

Section 2. Form and contents. - The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petition, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

Section 3 of the same Rule further provides that non-compliance by petitioner of any of the requirements stated in Section 2 is a ground for the dismissal of the petition, thus:

Section 3. Effect of failure to comply with requirements. - The failure of the petitioner to comply with any of the foregoing requirements [in Sections 1 and 2] regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition, shall be sufficient ground for the dismissal thereof. (Underscoring supplied)

However, Sections 4 and 6 of the same Rule authorize the Court of Appeals to exercise discretion whether to dismiss outright the petition or give due course to it, thus:

Section 4. Action on the petition. - The Court of Appeals may require the respondent to file a comment on the petition, not a motion to dismiss, within ten (10) days from notice, or dismiss the petition, if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (Underscoring supplied)

Section 6. Due course. - If upon the filing of the comment or such other pleadings as the court may allow or require, or after the expiration of the period for the filing thereof without such comment or pleading having

been submitted, the Court of Appeals finds prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may accordingly give due course to the petition.

In the present case, the Court of Appeals found that the documents and papers attached to petitioner's petition for review are insufficient to support the allegations therein. However, an examination of the certified true copies of the Decisions of the MeTC and RTC, petitioner's motion for reconsideration of the RTC Decision, and the RTC Order denying the said motion attached to the petition reveals that they sustain the averments in this petition for review.

At any rate, petitioner promptly filed with the Court of Appeals a motion for reconsideration and attached thereto copies of the complaint, answer, position papers and appeal memoranda of the parties - the very papers the Court of Appeals observed to be lacking. Indeed, such submission by petitioner of those additional pleadings and papers in support of his petition constitutes substantial compliance with the requirements of Section 2, Rule 42.

Clearly, in refusing to reconsider its assailed Resolution dismissing the petition despite petitioner's substantial compliance with the requirements of Section 2, Rule 42, the Court of Appeals placed a premium on technicalities at the expense of a just resolution of the case.[13] This is a reversible error.

It bears stressing that generally, cases should be determined on the merits rather than on technicality or some procedural imperfections.[14] In that way, the ends of justice would be served better.[15] Thus, dismissal of appeals purely on technical grounds is frowned upon. The rules of procedure should not be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims.[16] Rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote substantial justice must be avoided.[17]

Lastly, we note that petitioner has raised significant issues which should be resolved by the Court of Appeals.

WHEREFORE, we GRANT the instant petition. The assailed Resolutions dated July 30, 2001 and October 18, 2001 of the Court of Appeals in CA-G.R. SP No. 65789 are REVERSED. The Petition for Review is REINSTATED. Let the records of this case be REMANDED to the Court of Appeals for further proceedings with dispatch.

SO ORDERED.

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

[1] Filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2] Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justice Martin S. Villarama, Jr. and Associate Justice Sergio L. Pestano (deceased), Rollo, pp. 110, 116-117.

[3] Annex "A," Petition, Rollo, pp. 25-26.

[4] Annex "M," *id.*, p. 83.

[5] See Annex "J," *id.*, pp. 59-61.

[6] Annex "F," *id.*, pp. 33-35.

[7] Annex "H," *id.*, pp. 45-48.

[8] Annex "I," id., pp. 56-58.

[9] Annex "L," id., pp. 81-82.

[10] Annex "N," id., pp. 84-92.

[11] Annex "O," id., pp. 93-94.

[12] Annex "R," id., pp. 111-115.

[13] Cusi-Hernandez v. Diaz, G.R. No. 140436, July 18, 2000, 336 SCRA 113.

[14] Padilla, Jr. v. Alipio, G.R. No. 156800, November 25, 2004, 444 SCRA 322; Cusi-Hernandez v. Diaz, id.

[15] Id., citing Republic v. Court of Appeals, 292 SCRA 243, 251-252 (1998).

[16] Id., citing Pacific Life Assurance Corporation v. Sison, 299 SCRA 16, 22 (1998).

[17] Id., citing Buscaino v. Commission on Audit, 310 SCRA 635 (1999).

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