

HEIRS OF MAMERTO MANGUIAT, REPRESENTED BY GERARDO MANGUIAT; HEIRS OF FELIPE MARUDO, REPRESENTED BY JOSE MARUDO; HEIRS OF JULIANA MAILON, REPRESENTED BY GAVINA MAILON MENDOZA; HE...

G.R. No. 150768. August 20, 2008

Ponente: PUNO, CJ.

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PUNO, CJ.:

Before us are two petitions for review on certiorari assailing the Decisions of the Court of Appeals in CA-G.R. SP No. 60770 and CA-G.R. SP No. 61703 dated August 29, 2001 and January 22, 2003, respectively, and their Resolutions dated November 16, 2001 and September 29, 2003, respectively. In both cases, the Court of Appeals set aside the partial decision of the Regional Trial Court of Tagaytay City, dated February 18, 2000, in Civil Case No. TG-1904.

The facts show that petitioners filed a complaint against respondent J.A. Development Corporation (JDC), Bureau of Telecommunications (BUTEL), Juan dela Cruz, and Pedro dela Cruz on May 14, 1999 with the Regional Trial Court of Tagaytay City. The complaint, docketed as Civil Case No. TG-1904, was for quieting of title and cancellation of certificates of title over Lot 1993, commonly known as the "Calamba Estate." Petitioners alleged that they succeeded to the rights of their predecessors-in-interest to whom Lot 1993 was awarded on November 13, 1914 by virtue of a Sales Certificate, in accordance with the provisions of the Friar Land Act. Petitioners, thus, sought to annul the Torrens title issued to respondent, BUTEL, Juan dela Cruz, and Pedro dela Cruz.

On May 19, 1999, summons was served on respondent JDC through its employee, Jacqueline de los Santos.[1] On the same date, summons was served on BUTEL through a certain employee, Cholito Anitola.[2] The sheriff's return did not describe the position of Mr. Anitola at BUTEL.[3]

Respondent JDC moved to dismiss the complaint on the following grounds: (1) lack of jurisdiction of the court over the subject matter of the case; (2) lack of cause of action; (3) prescription; and (4) improper venue.[4] With leave of court, it supplemented its motion by raising the additional ground of res judicata citing the judgment of the same court in Civil Case No. TG-1516. It contended that Civil Case Nos. TG-1904 and TG-1516 have identical parties and causes of action, and that the order of dismissal of the latter case has long become final due to prescription, and laches has long set in.[5] The motion to dismiss was denied on January 11, 2000.[6] JDC filed a motion for reconsideration which, to date, has not been resolved.

On July 1, 1999, petitioners moved to have BUTEL declared in default for its failure to file an answer despite service of summons and to allow them to present their evidence ex parte.[7] The motion was granted on November 10, 1999.[8] A week later, the petitioners presented their evidence before the branch clerk of court acting as commissioner.

On February 18, 2000, the trial court promulgated a partial decision against BUTEL, the dispositive portion of

which states:

PREMISES CONSIDERED, this Court found and hold (sic) that the plaintiffs were able to prove satisfactorily and convincingly their allegations in the complaint as against defendant Bureau of Telecommunication[s].

WHEREFORE, partial decision is hereby rendered:

- Declaring that (sic) the plaintiffs as the equitable owner of Lot 1993-I and transfer certificate of title covering the same is hereby ordered cancelled as null and void;
- Ordering the transfer of possession of said Lot 1993-I to the plaintiffs;
- Enjoining the defendant Bureau of Telecommunication[s], its representative, agents or privies to remove any improvements they have on Lot 1993-I." [9]

On March 28, 2000, petitioners filed a motion to execute. On April 7, 2000, respondent JDC moved to set aside the partial decision, arguing in the main that the decision constitutes a prejudgment of the merits of the entire case.[10] On July 17, 2000, the trial court denied the motion.[11] On August 25, 2000, respondent filed a motion for reconsideration of the order.[12] On August 8, 2000, the trial court ordered the issuance of a writ of execution.

On September 15, 2000, respondent JDC filed a petition for certiorari and prohibition with the Court of Appeals to annul: (1) the partial decision dated February 18, 2000; (2) the order dated July 17, 2000; and (3) the writ of execution dated August 8, 2000.[13] The petition was raffled to the Fifteenth Division of the appellate court and docketed as CA-G.R. SP No. 60770.

On October 31, 2000, the Republic of the Philippines, through the Office of the Solicitor General, filed a petition for Annulment of Judgment with the Court of Appeals docketed as CA-G.R. SP No. 61703, and raffled to its Ninth Division.[14] It sought the nullification of the partial decision dated February 18, 2000 on the ground of lack of jurisdiction. It alleged that the service of summons made on BUTEL was not valid as it was not made upon the Solicitor General who is its statutory counsel and representative.

On August 29, 2001, the Fifteenth Division of the Court of Appeals promulgated its decision granting the petition of respondent JDC. The dispositive portion states:

WHEREFORE, it is hereby resolved that the (sic): (a) the Partial Decision dated 18 February 2000; (b) the Order dated 17 July 2000; and (c) Writ of Execution dated 10 August 2000 in Civil Case No. TG-1904 entitled "Heirs of Mamerto Manguiat, [e]t [a]l., Plaintiffs, versus J.A. Development Corporation, Bureau of Telecommunication[s], Juan Dela Cruz, and Pedro Dela Cruz, Defendants[,"] are hereby ordered SET ASIDE, for having been issued with grave abuse of discretion.

The public respondent is hereby ordered to follow strictly Sec. 3(c), Rule 9 of the 1997 Rules of Civil Procedure.

SO ORDERED.[15]

Petitioners moved for reconsideration of the decision but the motion was denied on November 16, 2001.[16] Hence, petitioners filed the instant petition for review on certiorari with this Court, docketed as G.R. No. 150768.

On January 22, 2003, the Ninth Division of the Court of Appeals promulgated its decision granting the petition of the Republic of the Philippines and setting aside the judgment of the trial court in Civil Case No. TG-1904 for lack of jurisdiction.[17] Petitioners filed a motion for reconsideration but the motion was denied on September 29, 2003. They then filed a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure with this Court which was docketed as G.R. No. 160176.

On May 25, 2005, this Court resolved to consolidate G.R. Nos. 150768 and 160176.

In G.R. No. 150768, petitioners contend that the Court of Appeals erred in setting aside the partial decision. They claim that the trial court was correct in rendering the partial judgment as the causes of action against the respondent, BUTEL, Juan dela Cruz, and Pedro dela Cruz were distinct and severable, involving distinct lots or interests owned separately by each of the defendants but joined in one complaint to avoid multiplicity of suits.[18]

On the other hand, respondent JDC contends that the partial decision was a pre-judgment of the entire case because its interests were inseparable from the respondent, BUTEL, Juan dela Cruz, and Pedro dela Cruz. JDC claims that its set of titles find their origin in the same title whose validity is assailed by the petitioners in their complaint. It argues that the Court of Appeals correctly relied on Section 3(c), Rule 9 of the 1997 Rules of Civil Procedure when BUTEL was declared in default,[19] viz.:

SECTION 3. Default, declaration of. -- If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as the pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

x x x

(c) Effect of partial default. -- When a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented.

In G.R. No. 160176, petitioners assert that summons was validly served on the Republic of the Philippines considering that the sheriff's return states that it was "duly served." They further aver that Section 13, Rule 14 of the 1997 Rules of Civil Procedure does not limit service of summons to the Solicitor General but allows service on other officers as the court may direct. They point out that the failure to inform the Solicitor General of Civil Case No. TG-1904 can only be attributed to the gross negligence of the BUTEL.[20]

For its part, respondent Republic of the Philippines contends that summons must be served upon it through the Solicitor General and that service of summons on an employee of the BUTEL is insufficient compliance with Section 13, Rule 14 of the Rules of Court.[21]

In both cases before us, the decisive issue is whether jurisdiction over the BUTEL was validly acquired by the Regional Trial Court through service of summons upon its employee whose authority to do so does not appear from the sheriff's return.

We rule in favor of respondent, BUTEL, Juan dela Cruz, and Pedro dela Cruz.

Summons must be served upon a party for valid judgment to be rendered against him. This not only comports with basic procedural law but the constitutional postulate of due process. The disputable presumption that an official duty has been regularly performed will not apply where it is patent from the sheriff's or server's return that it is defective.[22]

Rule 14, Section 13 of the 1997 Rules of Procedure provides:

SECTION 13. Service upon public corporations. -- When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct.[23]

It is clear under the Rules that where the defendant is the Republic of the Philippines, service of summons must be made on the Solicitor General. The BUTEL is an agency attached to the Department of Transportation and Communications created under E.O. No. 546 on July 23, 1979, and is in charge of providing telecommunication facilities, including telephone systems to government offices. It also provides its services to augment limited or inadequate existing similar private communication facilities. It extends its services to areas where no communication facilities exist yet; and assists the private sector engaged in telecommunication services by providing and maintaining backbone telecommunication network.[24] It is indisputably part of the Republic, and summons should have been served on the Solicitor General.

We now turn to the question of whether summons was properly served according to the Rules of Court. Petitioners rely solely on the sheriff's return to prove that summons was properly served. We quote its contents, viz.:

THIS IS TO CERTIFY that on the 19[th] day of May 1999, the undersigned caused the service of Summons and Complaint upon defendant J.A. Development Corporation at the address indicated in the summons, the same having been received by a certain Jacqueline delos Santos, a person employed thereat, of sufficient age and discretion to receive such process, who signed on the lower portion of the Summons to acknowledge receipt thereof.

Likewise, copy of the Summons and Complaint was served upon defendant Bureau of Telecommunications at the address indicated in the Summons, a copy of the same was received by a certain Cholito Anitola, a person employed thereat, who signed on the lower portion of the Summons to acknowledge receipt thereof.[25] (Emphasis supplied)

It is incumbent upon the party alleging that summons was validly served to prove that all requirements were met in the service thereof. We find that this burden was not discharged by the petitioners. The records show that the sheriff served summons on an ordinary employee and not on the Solicitor General. Consequently, the trial court acquired no jurisdiction over BUTEL, and all proceedings therein are null and void.

Further, we likewise affirm the decision of the Court of Appeals in CA-G.R. SP No. 60770, setting aside the partial decision of the trial court for having been issued with grave abuse of discretion. It ruled that when the trial court declared the BUTEL in default, allowed petitioners to present their evidence ex parte and rendered a partial decision holding that petitioners are the owners of the subject property, such was tantamount to prejudging the case against respondent JDC. The trial court ruled that petitioners validly acquired the subject parcel of land without any consideration of the evidence that respondent JDC may present to substantiate its claim of ownership over its aliquot part of the subject property. The trial court should have followed the Rules of Court in this situation. Sec. 3(c) of Rule 9 states that "when a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented." Therefore, the answer filed by a defendant inure to the benefit of all the defendants, defaulted or not, and all of them share a common fate in the action. It is not within the authority of the trial court to divide the case before it by first hearing it ex parte as against the defaulted defendant and rendering a default judgment (in the instant case, partial decision) against it, then proceeding to hear the case, as to the non-defaulted defendant. This deprives the defaulted defendant of due process as it is denied the benefit of the answer and the evidence which could have been presented by its non-defaulted co-defendant.[26]

IN VIEW WHEREOF, the petitions are DENIED for lack of merit. The Decision and Resolution of the Fifteenth Division of the Court of Appeals in CA-G.R. SP No. 60770, dated August 29, 2001 and November 16, 2001, respectively, are AFFIRMED. Likewise, the Decision and Resolution of the Ninth Division of the Court of

Appeals in CA-G.R. SP No. 61703, dated January 22, 2003 and September 29, 2003, respectively, are AFFIRMED. The partial decision of the Regional Trial Court dated February 18, 2000, its order dated July 17, 2000, and the writ of execution dated August 8, 2000 are ANNULLED and SET ASIDE.

SO ORDERED.

Carpio, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, G.R. No. 160176, p. 61.

[2] Id. at 60-61.

[3] Ibid.

[4] RTC Records, Civil Case No. TG-1904, p. 19.

[5] Id. at 92-98.

[6] Rollo, G.R. No. 160176, p. 213.

[7] Rollo, G.R. No. 150768, p. 62.

[8] Id. at 64.

[9] Id. at 59, 277.

[10] Rollo, G.R. No. 160176, p. 231.

[11] Id. at 240.

[12] Id. at 242.

[13] Rollo, G.R. No. 150768, p. 249.

[14] Supra note 7.

[15] Rollo, G.R. No. 150768, p. 39.

[16] Id. at 47.

[17] Rollo, G.R. No. 160176, p. 44.

[18] Rollo, G.R. No. 150768, pp. 9-19.

[19] Id. at 93-137.

[20] Rollo, G.R. No. 160176, pp. 3-30.

[21] Id. at 99-111.

[22] *Laus v. Court of Appeals*, G.R. No. 101256, March 8, 1993, 219 SCRA 688, 705; citing *Venturanza v. Court of Appeals*, No. L-77760, December 11, 1987, 156 SCRA 305, 313 (1987).

[23] 1997 Rules of Civil Procedure, Rule 14, Section 13.

[24] Sec. 13, E.O. No. 546.

[25] Rollo, G.R. No. 160176, p. 61.

[26] Regalado, Remedial Law Compendium, vol. 1, 7[th] revised ed., 1999, p. 177.

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