

**ELEUTERIO OLAVE, LUCIANO OLAVE, THELMA C. LAPENA,
IDONNAH C. LOPEZ AND HEIDI C. DE JESUS, PETITIONERS, VS.
TEODULO MISTAS, PACITA MISTAS, ANTONINA MISTAS, LUCITA
MISTAS, MIGUELA...**

G.R. No. 155193. November 26, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

On May 23, 1996, respondents Teodulo Mistas and Pacita Mistas filed a Complaint in the Regional Trial Court (RTC) of Lipa City, Branch 12, against petitioners Eleuterio Olave, Luciano Olave, Thelma C. Lapena, Idonnah C. Lopez, Heidi de Jesus and the Register of Deeds of Lipa City, for the nullification of the “Affidavit of Adjudication By The Heirs of the Estate of Deceased Persons With Sale” dated December 15, 1995 over a parcel of land with an area of 27,509 square meters, located in San Benito, Lipa, covered by Original Certificate of Title (OCT) No. 8756 (27936). The respondents alleged, inter alia, that Basilio Mistas and his sisters Ceferina Mistas Olave, married to Ignacio, and Maria Mistas Sumadsad, married to Bonifacio, were the previous owners of the said property. When they died intestate during the Japanese occupation, Ceferina was survived by Estanislao and Luciano Olave, while Basilio was survived by Teodulo Mistas and Pacita Mistas. Maria died intestate without any issue, and was succeeded by her nephews and nieces. On December 15, 1995, Eleuterio and Luciano Olave, as vendees, sold the entire property to petitioners Thelma Lapena, Idonnah Lopez and Heidi C. de Jesus for P825,270.00 and executed an “Affidavit of Adjudication By Heirs of the Estate of Deceased Person with Sale.” The vendees then filed a petition for the issuance of a new owner’s duplicate of OCT No. 8756 (27936) in the RTC of Lipa City, docketed as LRC No. 96-004. Teodulo Mistas and Pacita Mistas, the children of Basilio Mistas, opposed the petition, alleging that they were co-owners of the property, and prayed that the resolution of the petition be held in abeyance until after the final adjudication of the ownership of the property.

Thus, in their complaint for the annulment of the affidavit of adjudication with sale, redemption and reconveyance with damages, the respondents prayed that after due proceedings, judgment be rendered in their favor, as follows:

WHEREFORE, it is respectfully prayed that after due notice and hearing an order be issued by this Honorable Court –

- Declaring the Affidavit of Adjudication by Heirs of the Estate of Deceased Person with Sale null and void and no effect as to the one-half share of herein plaintiffs to this property subject matter of this complaint;
- Declaring herein plaintiffs the owners of one-half share of this property described in paragraph 2 of the complaint as the heirs of their parents, Sps. Basilio Mistas and Agatona Arellano and their aunt Maria Mistas;
- Allowing herein plaintiffs to exercise the right of legal redemption to the remaining half as co-owners of defendants Eleuterio and Luciano Olave;
- Ordering the Register of Deeds of Lipa City to cancel Original Certificate of Title No. 8756 (27936) and new

Transfer Certificate of Title be issued in the name of the Plaintiffs;

- Ordering defendants Thelma Lapena, Idonnah Lopez and Heidi de Jesus to reconvey and surrender the possession of said land to herein plaintiffs;
- Ordering defendants, jointly and severally, to pay plaintiffs attorneys fees and expenses for litigation in the amount stated in this paragraph;

PLAINTIFFS further pray for such other relief just and equitable under the premises.[1]

On October 14, 1996, the petitioners filed a “Twin Motion” alleging that, aside from the respondents, the deceased co-owners of the property were survived by the following:

- Antonina Mistas, a sister to both Pacita and Teodulo, on the alleged share of their father Basilio and aunt Maria;
- Generoso Mistas, plaintiffs’ brother who upon his demise was survived by his children, who are plaintiffs’ nephews and nieces on the alleged share of Basilio and that of Maria, namely: Lucila, Miguela, Felix, Aurelio and Ludegario, all surnamed Mistas, and Tomasa Olave, Generoso’s spouse;
- Plaintiffs’ cousins by their deceased uncle Leon Mistas, Basilio’s brother, namely: Felisa, Alfredo, Basilia and Ireneo, all surnamed Mistas, on the alleged share of Maria.[2]

The petitioners alleged that all other heirs of the deceased co-owners were indispensable parties and, as such, should be impleaded by respondents Teodulo and Pacita Mistas in an amended complaint. The respondents agreed to do so and filed an Amended Complaint[3] on November 12, 1996, without, however, impleading the other heirs of the deceased co-owners. This prompted the trial court to issue an Order[4] on December 4, 1996, requiring the respondents to include the other heirs as parties-plaintiffs in their complaint. The respondents filed a motion for reconsideration of the said order, which was denied by the trial court on February 10, 1997.

On March 7, 1997, respondents Teodulo and Pacita Mistas filed their second amended complaint, impleading the other heirs[5] as parties-plaintiffs. However, the respondents failed to comply with SC Circular No. 04-94,[6] impelling the petitioners to file a motion praying for the court to direct the respondents and their counsel to comply therewith.

The respondents filed their Compliance on May 8, 1997. Respondent Pacita Mistas executed the certificate on non-forum shopping for and in behalf of her sister, Antonina Mistas, but failed to submit a Special Power of Attorney for such purpose. The petitioners then filed an “Urgent Ex-Parte Motion” to require respondent Antonina Mistas to submit the “proper documentary authority with the formalities required by law” authorizing her to execute the said certificate for and in behalf of her sister Pacita. The respondents complied and filed the required Special Power of Attorney on June 25, 1997.

On July 16, 1997, the petitioners thereafter filed their Answer with Counterclaim alleging, inter alia, that Nicasia Saludo was a vendee-owner of the property subject matter of the case, and that she caused the property to be registered under the names of her children Basilio, Ceferina and Maria; that Nicasia partitioned all of her properties in the presence of all her children in February 1945; and that the property subject of the complaint was adjudicated to the Spouses Ignacio and Ceferina Olave, who forthwith took possession thereof to the exclusion of the petitioners. The petitioners interposed counterclaims for damages and prayed that judgment be rendered in their favor.

The respondents received a copy of the said Answer on July 21, 1997 and opted not to file any reply. However, they failed to file any motion to set the case for pre-trial as mandated by Section 1, Rule 18 of the Rules of Court.

Unable to wait any longer, the petitioners filed, on September 12, 1997, a motion to require the respondents to show cause, in writing, why their amended complaint should not be dismissed with prejudice for their failure to move that the court set the case for pre-trial as mandated by Section 1, Rule 18 of the Rules of Court, as amended. The petitioners prayed that the court dismiss the said complaint with prejudice in case the respondents failed to justify such failure. Upon receipt of the said motion, the respondents filed, on September 16, 1997, a motion to set the case for pre-trial at 9:00 a.m. of October 22, 1997. They, likewise, opposed the petitioners' motion for the dismissal of the complaint, alleging that the delay in filing their motion to set the case for pre-trial was only for a short period of time, and that such delay was not a ground for the dismissal of their complaint.

On September 18, 1997, the trial court issued an Order requiring the respondents to show cause, in writing, why their amended complaint should not be dismissed with prejudice for their non-compliance with Section 1, Rule 18 of the Rules of Court, as amended.

In their compliance, the respondents averred that Section 1, Rule 18 of the Rules of Court does not provide that the failure to comply with the said provision would result in the dismissal of the amended complaint with prejudice. They asserted that the Supreme Court has not ruled on the precise period of time envisaged in paragraph 1, Rule 18 of the Rules of Court. It was further alleged that:

- That it maybe (sic) added that due to the pressure of work of this counsel aggravated by almost daily appearance in court and his function as a public official[,] this may mitigate the phrase "promptly move" mentioned under Section 1 of Rule 18 of the Rules of Court.[7]

On October 20, 1997, the trial court issued an Order[8] dismissing the amended complaint with prejudice, and ordering the respondents to pay costs to the petitioners. The court considered the respondents' failure to move for pre-trial for more than three (3) months as unreasonable and inexcusable.

The respondents appealed the said Order to the Court of Appeals (CA), contending that:

- The trial court erred and/or abused its discretion in dismissing the complaint for failure on the part of the appellants to set the case for pre-trial for a period of less than two months;
- The trial court erred or abused its discretion in not considering appellants' explanation as justifiable (sic) causes for not dismissing the complaint pursuant to Sec. 3, Rule 17, Rules of Court;
- The Honorable Court erred in agreeing and adopting in toto the arguments of defendants-appellees;
- The trial court failed to consider some of the Decisions of the Supreme Court interpreting what are (sic) unreasonable length of time which are (sic) sufficient to dismiss the case under Sec. 3, Rule 17 of the Rules of Court.[9]

The petitioners filed a motion to dismiss the appeal on the ground that the issues raised by the respondents were legal and not factual; hence, the remedy of the latter was to file a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure. The petitioners also alleged that there was no statement in the notice of appeal of the respondents to which court the appeal was directed, and that there was no explanation why service by registered mail of a copy of such notice on the appellees was resorted to.[10]

The CA denied the motion and rendered a Decision on July 31, 2001, setting aside the assailed Orders and reinstating the case in its docket. The appellate court ruled that there was no evidence on record that the respondents deliberately failed to prosecute their complaint for an unreasonable period of time. It also held that the Rules of Court should be liberally applied.

Upon the denial of the petitioners' motion for reconsideration, they filed the instant petition for review on

certiorari. They maintain that the remedy of the respondents from the assailed Order of the trial court was to file a petition for review on certiorari under Rule 45 of the Rules of Court, considering that the issues raised by them in the CA were legal in nature. The petitioners also assert that even if appeal was the proper remedy of the respondents, the trial court nevertheless did not err in dismissing the amended complaint with prejudice, considering the respondents' failure to comply with Section 1, Rule 18 of the Rules of Court, as amended.

The focal issues for resolution are the following: (a) whether appeal to the CA under Rule 41 of the Rules of Court, as amended, is the proper remedy of the respondents from the assailed Orders of the trial court; (b) whether the respondents failed to comply with Section 1, Rule 18 of the Rules of Court; and (c) if in the affirmative, whether the dismissal of the amended complaint with prejudice is justified.

The petition is denied for lack of merit.

On the first issue, the petitioners aver that the issue raised by the respondents in their appeal in the appellate court is legal in nature, that is, whether the respondents promptly moved for the trial court to set the case for pre-trial, considering that they did so fifty-seven (57) days from receipt of the petitioners' answer to their amended complaint. The petitioners assert that the remedy of the respondents from the dismissal order of the trial court was to appeal via a petition for review on certiorari under Rule 45 of the Rules of Court, instead of appealing the said order by writ of error. The petitioners posit that it behooved the CA to dismiss the respondents' appeal, conformably to Section 2, Rule 50 of the Rules of Court, which reads:

Sec. 2 Dismissal of improper appeal to the Court of Appeals. –An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

In their comment, the respondents contend that they raised both legal and factual issues in the CA, namely:

- Is the trial court correct in its finding that respondents moved to set the case for pre-trial for more than three (3) months after the issues were joined?
- Were the respondents failed (sic) to exercise due diligence and reasonable promptitude in filing the motion to set the case for pre-trial?
- Was there unwillingness on the part of the respondents to prosecute this case?
- Was the dismissal of this case by the trial court warranted considering the circumstances surrounding this case?
- Was there a manifest intention on the part of the respondents to delay the proceeding of this case?
- Was the substantial rights of the respondents violated when the trial court dismissed this case with prejudice?[11]

The respondents maintain that their appeal by writ of error was proper.

In their reply, the petitioners insist that the issues catalogued by the respondents and their counsel are not factual but legal issues, thus:

1-

The date when the motion to set pre-trial was filed and pre-trial date requested therein pose no factual issue.

They are fixed and stated with specificity in the motion itself;

2-

Whether respondents acted with promptitude in moving to set the pre-trial calls for a conclusion drawn from the dates of filing of the last pleading and the filing of the motion to set said pre-trial, which is a legal issue;

3-

By the same token, the willingness or unwillingness of respondents to prosecute the case calls for another conclusion based on the unquestioned dates of the actions they took in the premises towards that end;

4-

Again whether the dismissal was warranted in light of the admitted circumstances on record calls for a conclusion, hence, legal and not factual;

5-

Whether there was manifest intention to delay the proceedings, which is a state of the mind not susceptible of direct evidence, calls for a mere opinion to be derived from the admitted circumstances of the case and involves no factual finding, but a legal conclusion; and

6-

Similarly, whether the substantial rights of respondents were violated is also a matter of legal conclusion.

...

In fine, all the so-called question[s] posed by the same should be applied with due care.[12]

We agree with the respondents that the proper remedy is appeal by writ of error under Rule 41 of the Rules of Court, as amended.

It is axiomatic that there is a question of fact when the doubt or difference arises as to the truth or falsehood of the alleged facts. On the other hand, a question of law exists when there is a doubt or controversy as to what the law is on a certain state of facts.[13] As pointed out by the respondents, they raised factual issues in the CA, such as (a) whether there was a delay on their part to move that the case be set for pre-trial, whether three (3) months as declared by the trial court, or only fifty-seven (57) days as claimed by them; (b) whether there was factual basis for the dismissal of the amended complaint, or, more specifically, whether there was a manifest intention on their part to delay the proceedings and not to prosecute their action, considering that they moved that the case be set for pre-trial only on September 16, 1997; and (c) whether there were special and compelling reasons for the dismissal of the amended complaint, with or without prejudice.

In resolving the issue of whether the respondents complied with Section 1, Rule 18 of the Rules of Court, the appellate court had to ascertain the lapse of time between the respondents' receipt of a copy of the petitioners' answer to their amended complaint up to the time they (the respondents) filed their motion to set the case for pre-trial. This is because while the trial court declared that there was a delay of three months, the respondents claimed that the delay was only fifty-seven (57) days. Also, the appellate court had to ascertain, based on the records, whether the failure of the respondents to comply with the Rules of Court was because of the ineptitude or negligence of their counsel, or because of a deliberate intention not to comply with the Rules of Court; and, in any case, whether the substantial rights of the petitioners would be prejudiced by the reinstatement of the case in the docket of the trial court. The parties frontally had opposite views on these issues.

The respondents, through counsel, asserted that their failure to move for pre-trial immediately or soon after service of a copy of petitioners' answer was due to their counsel's busy schedule, due to heavy pressure of work, coupled with daily court appearances, and his functions as a public official. The trial court disbelieved such reason. In contrast, the petitioners averred that the respondents' non-compliance with Section 1, Rule 18 of the Rules of Court was deliberate and was not the first, but the last of a series of failures to comply with the Rules: a) the respondents' failure to implead all the indispensable parties in the original complaint, which impelled the petitioners to move that they (the respondents) be ordered to amend their complaint, and b) while the respondents amended their complaint, they still failed to submit the required special power of attorney evidencing the authority of the respondent Antonina Mistas to execute the required certificate against forum shopping in behalf of her sister, respondent Pacita Mistas. The petitioners averred that since the respondents had to submit the requisite special power of attorney, the disposition of the case was delayed anew. As against the plea of the respondents for a liberal application of the Rules of Court, in light of the fact that no substantial right of the petitioners would be prejudiced thereby in the event that the case would be reinstated in the court dockets, the petitioners asserted that due to the delay of fifty-seven (57) days, coupled with their deliberate and repeated non-compliance with the Rules of Court, they (the petitioners) had and will continue to suffer gross prejudice.[14]

In fine then, the respondents' mode of appeal to the Court of Appeals, via Rule 41 of the Rules of Court, is the proper remedy.

On the second issue, the petitioners aver that the respondents failed to comply with Section 1, Rule 18 of the Rules of Court, as amended, because they filed their motion to set the case for pre-trial only on September 16, 1997, despite the fact that the respondents received their copy of the petitioners' Answer to the amended complaint much earlier, or on July 21, 1997. The petitioners contend that the delay of almost three (3) months is not the time-frame envisaged in Section 1, Rule 18 of the Rules of Court. They posit that the CA misconstrued their motion to dismiss as one based on the respondents' failure to prosecute the case for an unreasonable lapse of time, which is a ground for dismissal under Section 3, Rule 17 of the Rules of Court. They contend that this is distinct and separate from the dismissal of a complaint grounded on the failure of the respondents, as plaintiffs, to promptly move for the setting of the case, as mandated by Section 1, Rule 18 of the Rules of Court, which was precisely the ground invoked by them in their motion to dismiss. The petitioners assert that the copious disquisition of the CA on the requisites for a justifiable dismissal based on failure to prosecute for an unreasonable period of time is utterly misplaced.

We agree with the petitioners that their motion to dismiss the amended complaint of the respondent was not based on the respondents' failure to prosecute the case before the RTC for an unreasonable period of time, but was anchored on the alleged failure of the respondents to comply with Section 1, Rule 18 of the Rules which reads:

SECTION 1. When conducted. – After the last pleading has been served and filed, it shall be the duty of the plaintiff to promptly move ex parte that the case be set for pre-trial.

We also agree with the petitioners' submission that they prayed that the trial court dismiss the respondents' amended complaint for the latter's failure to comply with the said rule, conformably to Section 3, Rule 17 of the Rules of Court which reads:

SEC. 3. Dismissal due to fault of plaintiff. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

However, we agree with the CA that the dismissal of the respondents' amended complaint is too severe a sanction for their delayed filing of their motion to set the case for pre-trial.

The dismissal of an action by the court, on its own motion, or upon motion of the defendant under Section 3, Rule 17 of the Rules of Court applies where, due to the fault of the plaintiff (1) he fails to appear on the date of the prosecution of his evidence-in-chief on the complaint; (2) he fails to prosecute his case for an unreasonable length of time; or (3) he fails to comply with the Rules of Court or any order of the court.

In every action, the plaintiff is duty-bound to prosecute the same with utmost diligence and with reasonable dispatch to enable him to obtain the relief prayed for by him and, at the same time, minimize the clogging of the court dockets. The expeditious disposition of cases is as much the duty of the plaintiff as the court. The defendant has also the right to the speedy disposition of the case filed against him, considering that the pre-trial and trial are delayed, the defense of the defendants might be impaired.

The bare and unjustifiable failure of the plaintiff to comply with the Rules of Court may result in the trial court's dismissal of the complaint, *motu proprio*, or on motion of the defendant. The sanction in this case may be imposed on the plaintiff even absent any allegation and proof of his lack of interest to prosecute his action, or of any prejudice to the defendants resulting from the failure of the plaintiff to comply with the Rules of Court. It must be stressed that every litigant is mandated to abide by and comply with the Rules of Court.

There may be instances, however, where the court may dismiss the complaint for the failure of the plaintiff to prosecute his action and for his failure to comply with the Rules of Court within a reasonable period of time that may give rise to the inference that the plaintiff has lost interest to prosecute his action. Indeed, the speedy disposition of cases will spare litigants and their witnesses the anxieties, tribulations and expenses of a protracted or prolonged litigation. The failure of the plaintiff to prosecute the action without any justifiable cause within a reasonable period of time will give rise to the presumption that he is no longer interested to obtain, from the court, the relief prayed for in his complaint; hence, the court is authorized to order the dismissal of the complaint on its own motion or on motion of the defendants. The presumption is not, by any means, conclusive because the plaintiff, on a motion for reconsideration of the order of dismissal, may allege and establish a justifiable cause for such failure.

The concept of promptness of a motion of the plaintiff for the setting of the pre-trial is a relative term and must necessarily be a flexible one. Promptness connotes an action without hesitation and loss of time. However, promptness is consistent with delays depending upon circumstances. As to what constitutes the "prompt" filing of a motion to set a case for pre-trial is addressed to the sound discretion of the trial court, depending upon the circumstances of each case. While actions must be disposed of with dispatch, the essential ingredient in the administration of justice is orderly, expeditious, and not mere speed.^[15]

Thus, the plaintiff's counsel might need time to communicate with his client and inquire when the latter will be available for pre-trial before filing a motion therefor. If the plaintiff is a corporation, the said counsel might want to secure a board resolution authorizing its representative or attorney-in-fact to represent it at pre-trial. Said counsel must, likewise, be given time to study the feasibility of filing a motion for summary judgment on the pleadings instead of filing a motion to set the case for pre-trial. Thus, there are variant justifications for the delayed filing of a motion to set the case for pre-trial.

It must be stressed that even if the plaintiff fails to promptly move for pre-trial without any justifiable cause for such delay, the extreme sanction of dismissal of the complaint might not be warranted if no substantial prejudice would be caused to the defendant, and there are special and compelling reasons which would make the strict application of the rule clearly unjustified.^[16] In the absence of patent abuse, the burden of showing in the Court

of Appeals that the trial court abused its discretion in dismissing a case, with or without prejudice, for failure of the plaintiff to promptly move for pre-trial is lodged on the plaintiff-appellant.

In this case, we agree with the trial court that there was an appreciable interregnum of time from the time the respondents filed their motion to set the case for pre-trial on September 16, 1997, to the time they received a copy of petitioners' Answer to the amended complaint on July 21, 1997. Since the respondents opted not to file any reply to the petitioners' Answer, the respondents had to promptly file their motion to set the case for pre-trial as mandated by Rule 18, Section 1 of the Rules of Court. The respondents failed to do so. It bears stressing that Branch 12 of the RTC where the case was pending is located in Lipa City where the respondents reside, and is also the place where the office and residence of their counsel are located. The respondents' pretext for their failure to promptly move for a pre-trial hearing, namely, heavy pressure work of their counsel consisting in the preparation and filing of pleadings in other courts and daily court appearances, is not only self-serving but also flimsy. In fact, the respondents' counsel even failed to specify the cases in which he had to appear in court. Parenthetically, a lawyer should arrange his court appearances and adopt a system that takes into account the pleadings to be filed within the period therefor. His failure to do so constitutes negligence.[17] Even if a practicing lawyer has to make daily court appearances, he can very well prepare a simple ex parte motion in a few minutes and have it filed by his clerk-messenger without much ado. Thus, the respondents must bear the consequence of their counsel's negligence.

We note that before the petitioners filed their motion on September 12, 1997 praying that the court require the respondents to explain in writing their failure to file their motion to set the case for pre-trial, fifty-seven (57) days had already elapsed. It was only on September 16, 1997 that the respondents filed their motion to set the case for pre-trial. Instead of justifying their failure to promptly file their motion, they merely alleged in their opposition that the delay was only for a short period of time and that they failed to file their motion much earlier because of the heavy pressure of work of their counsel; and, in the same breath, the respondents even ascribed ill-motives on the petitioners by alleging that, in filing their motion to dismiss the complaint in case of the respondents' failure to justify their delay in moving for pre-trial, the petitioners resorted to technicalities to prevent the case from being tried because they had no defense to their action. What is so nettlesome is that, as claimed by the petitioners, the respondents failed to comply with the Rules of Court not only once but three times, thereby delaying the pre-trial, and, ultimately, the entire proceedings in the court a quo. To add insult, the respondents even blamed the petitioners for calling the attention of the respondents for their repeated failure to comply with the Rules of Court. Were it not for the vigilance and fastidiousness of the petitioners, the proceedings in the trial court would have been a waste of the court's precious time, as well as that of the parties', for failure of the respondents to implead indispensable parties.[18]

On the last issue, the petitioners assert that the Court of Appeals erred when it set aside and reversed the assailed Orders of the RTC dismissing the amended complaint, with prejudice. They posit that as held by this Court in *Limpot v. Court of Appeals*,[19] and in *Santos v. Court of Appeals*,[20] procedural rules are not to be belittled or ignored simply because the non-observance thereof may have resulted in the loss of their substantial right. Like all rules, the petitioners posit, they are required to be followed except only when, for the most persuasive of reasons, they may be relaxed to relieve a litigant of an injustice most commensurate to the degree of his thoughtlessness in not complying with the procedure prescribed.

For their part, the respondents aver that, conformably with our ruling in *Ramos v. Court of Appeals*,[21] where a rigid application of the rules tend to frustrate rather than provide substantial justice, the Court is empowered to suspend their operation. They assert that, considering the factual milieu in this case, the dismissal of their complaint, with or without prejudice, is unwarranted.

On the other hand, the Court of Appeals held as follows:

Plaintiffs-Appellants Have A
Meritorious Case Which Calls For
A Liberal Interpretation Of The Rules

The property subject of the case covered by O.C.T. No. 8756 is registered in the names of Ceferina, Basilio and Maria, all surnamed Mistas, who are brother and sisters. Plaintiffs-appellants alleged in their complaint that these registered owners died intestate. Defendants-appellees are the surviving heirs of spouses Ceferina Mistas and Ignacio Olave, while plaintiffs-appellants are the surviving heirs of the late spouses Basilio Mistas and Agatona Arellano. If these allegations are established during the trial, defendants-appellees Eleuterio and Luciano Olave cannot adjudicate for themselves the entire property and sold the same to co-defendants Thelma Lapen (sic) Idonah (sic) Lopez and Haide (sic) de Jesus.

It has been held that when the complaint is meritorious, plaintiff should be given the chance to vindicate his right. It bears stressing that the rules of procedure are not to be applied in a very rigid and technical manner, as rules of procedure are used only to help secure substantial justice. They cannot be blindly adhered to if they would serve no other purpose than to put into oblivion the very *lis mota* of the controversy under scrutiny.

Moreover, when no substantial rights are affected and the intention to delay is not manifest, it would be a sound exercise of judicial discretion that the trial court allow the setting of the pre-trial, instead of precipitately dismissing the case.[22]

Indeed, while there was no intention on the part of the respondents and their counsel to deliberately or intentionally refuse to comply with the Rules of Court precisely to delay the early disposition of the case in the trial court, we are convinced that because of the incompetence and negligence of the respondents and their counsel, the proceedings in the court *a quo* was unduly prolonged, to the prejudice of the petitioners. Unchastened, the respondents even blamed the petitioners for the said delay and ascribed ill-motives on them. All the attendant circumstances considered, a dismissal of the amended complaint of the respondents, WITHOUT PREJUDICE, will serve the ends of substantial justice.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed Order of the Court of Appeals is REVERSED and SET ASIDE. The October 20, 1997 Order of the Regional Trial Court, Lipa City, Branch 12, is REINSTATED, with the sole modification that the dismissal of the respondents' amended complaint is without prejudice. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Records, p. 4.

[2] *Id.* at 30.

[3] *Id.* at 36-39.

[4] *Id.* at 44.

[5] The following were included as parties-plaintiffs in the second amended complaint:

Antonina Mistas, Lucita Mistas, Miguela Mistas, Felix Mistas, Aurelio Mistas, Ludegario Mistas, Tomasa Olave, Felisa Mistas, Estanislao Mistas, Basilia Mistas and Ireneo Mistas.

[6] Section 5, Rule 7 of the 1997 Rules of Civil Procedure reads:

SEC. 5. Certification against forum shopping. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

[7] Records, p. 100.

[8] Id. at 106-107.

[9] CA Rollo, pp. 60-61.

[10] Id. at 70-76.

[11] Rollo, p. 127.

[12] Reply dated January 29, 2003, pp. 6-7.

[13] *Skippers Pacific, Inc. v. Mira*, 392 SCRA 371 (2002); *Western Shipyards Services, Inc. v. Court of Appeals*, 358 SCRA 257 (2001).

[14] Rollo, pp. 24-25.

[15] *Smith v. United States*, 3L.ed.2d. 1041 (1959).

[16] See *Melo v. Court of Appeals*, 318 SCRA 94 (1999).

[17] *Adaza v. Barinaga*, 104 SCRA 684 (1981).

[18] *De Castro v. Court of Appeals*, 384 SCRA 607 (2002).

[19] 170 SCRA 367 (1989).

[20] 198 SCRA 806 (1991).

[21] 269 SCRA 34 (1997).

[22] Rollo, pp. 41-43.

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