REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE REGIONAL EXECUTIVE DIRECTOR, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, REGIONAL OFFICE IV, PETITIONER, VS. ILDEFONSO T. OL...

G.R. No. 156606. August 17, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review on certiorari[1] of the Decision[2] dated 30 July 2002 and the Resolution[3] dated 3 January 2003 of the Court of Appeals in CA-G.R. SP No. 66714. The 30 July 2002 Decision set aside the 24 July 2001 and 6 September 2001 Orders of the Regional Trial Court, Branch 80, Morong, Rizal (trial court) which reinstated the complaint filed by petitioner Republic of the Philippines (petitioner) and denied respondent Ildefonso Oleta's (respondent) motion for reconsideration, respectively. The 3 January 2003 Resolution denied petitioner's motion for reconsideration.

The Facts

On 29 December 1999, petitioner filed a complaint for cancellation of free patent, original certificate of title, and reversion against respondent and the Register of Deeds of Rizal. On 17 April 2000, respondent filed his answer. Thereafter, the trial court issued an Order dated 4 July 2000 directing petitioner "to take the legal steps so that the case can be expedited."

On 11 January 2001, the trial court issued an Order[4] dismissing the complaint without prejudice because of petitioner's failure to set the case for pre-trial. Upon petitioner's motion and over respondent's opposition, the trial court reinstated the complaint on 15 March 2001.[5]

Pre-trial was set for 17 May 2001. However, on 8 May 2001, petitioner moved that the pre-trial be reset to 14 June 2001 at 10:00 a.m. The trial court granted petitioner's motion and reset the pre-trial to 14 June 2001 at 8:30 a.m. The trial court warned petitioner that failure to appear at the scheduled pre-trial would constrain the trial court to act accordingly.

On the 14 June 2001 pre-trial, petitioner and petitioner's counsel failed to appear. Records also showed that petitioner failed to file a pre-trial brief. In an Order[6] dated the same day, the trial court dismissed the complaint for failure to prosecute.

Petitioner filed a motion for reconsideration. Petitioner's counsel explained that he arrived at the pre-trial conference at 9:55 a.m. because he expected the pre-trial to start at 10:00 a.m., the time requested in the motion for postponement. Petitioner also explained that the pre-trial brief was filed on 8 June 2001 by registered mail and that it was unfortunate that neither the trial court nor respondent received it on time. Petitioner asked the trial

court to reconsider its 14 June 2001 Order and reset the pre-trial to 2 August 2001.

In its 24 July 2001 Order,[7] the trial court, in the interest of substantial justice, granted petitioner's motion and reinstated the complaint. Respondent filed an Urgent Motion for Reconsideration. In its 6 September 2001 Order,[8] the trial court denied respondent's motion.

On 18 September 2001, respondent filed a petition[9] for certiorari with prayer for preliminary injunction or temporary restraining order with the Court of Appeals. Respondent alleged that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the 24 July 2001 and 6 September 2001 Orders because the trial court disregarded the rules on pre-trial.

In its 30 July 2002 Decision, the Court of Appeals granted the petition and set aside the 24 July 2001 and 6 September 2001 Orders of the trial court. The Court of Appeals ruled that the trial court "abused its discretion" when it reinstated the complaint even if petitioner's counsel had no special authority to represent plaintiff at pre-trial. The Court of Appeals added that the trial court had no discretion on the matter of petitioner's failure to file its pre-trial brief on time.

Petitioner filed a motion for reconsideration which the Court of Appeals denied in its 3 January 2003 Resolution.

Hence, this petition.

The Issue

Petitioner raises the sole issue of whether the Court of Appeals erred in setting aside the 24 July 2001 and 6 September 2001 Orders of the trial court.

The Ruling of the Court

The petition is meritorious.

On Failure to File Pre-trial Brief

Section 6, Rule 18[10] of the Rules of Court (Rules) mandates that parties shall file with the court and serve on the adverse party their pre-trial briefs at least three days before the scheduled pre-trial. The Rules also provide that failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.[11] Therefore, plaintiff's failure to file the pre-trial brief shall be cause for dismissal of the action.[12]

The Court of Appeals erred in ruling that the trial court had "no discretion" on the matter of a party's failure to file a pre-trial brief. If the trial court has discretion to dismiss the case because of plaintiff's failure to appear at pre-trial,[13] then the trial court also has discretion to dismiss the case because of plaintiff's failure to file the pre-trial brief. Moreover, whether an order of dismissal should be maintained under the circumstances of a particular case or whether it should be set aside depends on the sound discretion of the trial court.[14]

In this case, petitioner sufficiently explained that the pre-trial brief was sent by registered mail to the trial court and respondent on 8 June 2001. That the trial court and respondent did not receive the pre-trial brief at least three days prior to the pre-trial was already beyond petitioner's control. Therefore, the trial court had discretion to lift the order of dismissal after giving credence to petitioner's explanation.

On the Absence of a Special Power of Attorney

Petitioner's counsel admits that he was not equipped with a special power of attorney when he appeared at the 14 June 2001 pre-trial. However, petitioner's counsel claims that the special authority need not be in writing and may be established by competent evidence or subsequently ratified by the party concerned.[15]

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Section 4, Rule 18 of the Rules provides:

> SEC. 4. Appearance of parties. It shall be the duty of the parties and their counsels to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

Under the old rules, a representative was allowed to establish the authority needed by showing either a written special power of attorney or competent evidence other than the self-serving assertions of the representative.[16] However, the new rules require nothing less than the authority be in writing. As held in United Coconut Planters Bank v. Magpayo,[17] "the rules now require the special power of attorney be in writing because the courts can neither second-guess the specific powers given to the representative, nor can the courts assume that all the powers specified in Section 4 of Rule 18 are granted by the party to his representative."

The Court of Appeals ruled that the trial court "abused its discretion" when it reinstated the complaint despite the fact that petitioner's counsel had no special authority to represent petitioner at pre-trial. However, abuse of discretion is not sufficient by itself to justify the issuance of a writ of certiorari. The abuse must be grave and patent, and it must be shown that the discretion was exercised arbitrarily and despotically.[18] In this case, there is no showing that the trial court gravely abused its discretion in reinstating petitioner's complaint.

Moreover, in Calalang v. Court of Appeals,[19] the Court ruled that "unless a party's conduct is so negligent, irresponsible, contumacious, or dilatory as to provide substantial grounds for dismissal for non-appearance, the courts should consider lesser sanctions which would still amount into achieving the desired end." In this case, there is also no showing that petitioner willfully and flagrantly disregarded the trial court's authority. There is also no indication that petitioner had manifested lack of interest to prosecute or acted deliberately with the intention to delay the proceedings. Therefore, the trial court acted accordingly when it set aside the order of dismissal and ordered the reinstatement of petitioner's complaint.

We are not saying that adherence to the Rules could be dispensed with. However, exigencies and situations might occasionally demand flexibility in their application.[20] In this instance, substantial justice can be best served if both parties are given the full opportunity to litigate their claims in a full-blown trial.

WHEREFORE, we GRANT the petition. We SET ASIDE the 30 July 2002 Decision and 3 January 2003 Resolution of the Court of Appeals in CA-G.R. SP No. 66714. We REINSTATE the 24 July 2001 and 6 September 2001 Orders of the Regional Trial Court, Branch 80, Morong, Rizal.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 26-33. Penned by Associate Justice Buenaventura J. Guerrero, with Associate Justices Rodrigo V. Cosico and Perlita J. Tria Tirona, concurring.

[3] Id. at 34.

[4] Id. at 54.

[5] Id. at 56-57.

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[6] Id. at 77.

[7] Id. at 79.

[8] Id. at 85-86.

[9] Id. at 88-98.

[10] Section 6, Rule 18 of the Rules of Court provides:

SEC. 6. Pre-trial brief. The parties shall file with the court and serve on the adverse party, in such a 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;
(b) A summary of admitted facts and proposed stipulation of facts;
(c) The issues to be tried and resolved;
(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.

[11] RULES OF COURT, Section 6, Rule 18.

[12] RULES OF COURT, Section 5, Rule 18.

[13] American Insurance Co. v. Republic of the Phils., 128 Phil. 490 (1967).

[14] Pacweld Steel Corp. v. Asia Steel Corp., 203 Phil. 606 (1982).

[15] Citing Lim Pin v. Liao Tan, 200 Phil. 685 (1982).

[16] See Fountainhead International Phils., Inc. v. Court of Appeals, G.R. No. 86505, 11 February 1991, 194 SCRA 12; Development Bank of the Phils. v. Court of Appeals, G.R. No. 49410, 26 January 1989, 169 SCRA 409; Lim Pin v. Liao Tan, 200 Phil. 685 (1982); Home Insurance Co. v. United State Lines Co., 129 Phil. 106 (1967).

[17] G.R. No. 149908, 27 May 2004, 429 SCRA 669, 675.

[18] Vette Industrial Sales Co., Inc. v. Cheng, G.R. No. 170232, 5 December 2006, 509 SCRA 532 citing Estate of Jimenez v. Philippine Export Processing Zone, 402 Phil. 271 (2001).

[19] G.R. No. 103185, 22 January 1993, 217 SCRA 462, 470.

[20] See Bahia Shipping Services Inc. v. Mosquera, 467 Phil. 766 (2004).

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