JUNE 27, 2000

ESTATE OF FELOMINA G. MACADANGDANG, REPRESENTED BY COURT APPOINTED ADMINISTRATOR ATTY. OSWALDO MACADANGDANG, PETITIONER, VS. LUCIA GAVIOLA, AGAPITO ROMERO, CRISTINA QUIÑONES, BO...

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CARPIO, J.:

The Case

Before the Court is a petition for review assailing the 26 July 2002 Decision[1] and the 10 December 2002 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 62002.

The Antecedent Facts

On 18 January 2000, Atty. Oswaldo Macadangdang (Atty. Macadangdang), acting as administrator of the Estate of Felomina G. Macadangdang (petitioner), filed an action for Unlawful Detainer with Damages against Lucia Gaviola, Agapito Romero, Cristina Quiñones, Boy Laurente, Agustina Tuna, Sotero Tapon, Buenaventura Muring, Sr., Rogelio Pasaje, Fe Tuboro, Estanislao Pen, Pablo Navales, and Jose Dagatan (respondents). Respondents were occupying, by mere tolerance, portions of four parcels of land in the name of the late Felomina G. Macadangdang, covered by Transfer Certificate of Title Nos. T-6084, T-6085, T-6086, and T-6087, all in the Registry of Deeds of Davao City.

In a Decision[3] dated 27 June 2000, the Municipal Trial Court in Cities (MTCC), Branch 4, Davao City, ruled in favor of petitioner, as follows:

> WHEREFORE, judgment is hereby rendered ordering the defendants and all the persons claiming rights under them to:
>
> a) vacate their respective possession over the subject premises, and remove their structures built therein at their expense;
>
> b) pay plaintiff the sum of P500.00 a month, for each defendant, for the use and occupation of the said premises commencing the date of this decision until they vacate the same;
>
> c) pay plaintiff the sum of P5,000.00, each defendant, as attorney's fee; and
>
> d) cost of suit.
>
> Defendants' counterclaims being compulsory are dismissed.
>
> SO ORDERED.[4]

Respondents appealed from the MTCC's Decision.

The Ruling of the Trial Court

In an Order[5]dated 14 September 2000, the Regional Trial Court (RTC) of Davao City dismissed the appeal for

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respondents' failure to file an appeal memorandum.

On petitioner's motion, the RTC remanded the case to the MTCC for execution of judgment in its Order[6] dated 22 September 2000.

On 3 October 2000, respondents filed a Motion for Reconsideration/New Trial.

In an Order[7] dated 16 October 2000, the MTCC ordered the issuance of a writ of execution after payment of the execution fee.

In an Order[8] dated 30 October 2000, the RTC denied respondents' motion for reconsideration. The RTC ruled that it no longer had jurisdiction over the motion after the dismissal of respondents' appeal.

Respondents filed a petition for review before the Court of Appeals assailing the RTC's 14 September 2000 Order.

The Ruling of the Court of Appeals

In its Decision promulgated on 26 July 2002, the Court of Appeals set aside the 14 September 2000 Order and remanded the case to the RTC.

The Court of Appeals ruled that as a matter of policy, the dismissal of an appeal on purely technical grounds is frowned upon. The Court of Appeals ruled that rules of procedure are intended to promote and not defeat substantial justice and should not be applied in a very rigid and technical sense. The Court of Appeals further ruled that litigants should be afforded every opportunity to establish the merits of their cases without the constraints of technicalities.

The Court of Appeals ruled that a distinction should be made between failure to file a notice of appeal within the reglementary period and failure to file the appeal memorandum within the period granted by the appellate court. The Court of Appeals ruled that failure to file a notice of appeal within the reglementary period would result to failure of the appellate court to obtain jurisdiction over the appealed decision. Thus, the assailed decision would become final and executory upon failure to move for reconsideration. On the other hand, failure to file the appeal memorandum within the period granted by the appellate court would only result to abandonment of appeal, which could lead to its dismissal upon failure to move for its reconsideration. Thus, the RTC erred in denying respondents' motion for reconsideration on the ground of lack of jurisdiction.

Finally, the Court of Appeals ruled that while the negligence of counsel binds the client, the rule is not without exceptions such as when its application would result to outright deprivation of the client's liberty or property, or when a client would suffer due to the counsel's gross or palpable mistake or negligence.

Petitioner moved for the reconsideration of the Decision of the Court of Appeals.

In its 10 December 2002 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the petition before this Court.

The Issue

The sole issue in this case is whether the Court of Appeals erred in reversing the RTC's dismissal of respondents' appeal for failure to file an appeal memorandum.

The Ruling of this Court

The petition has merit.

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Petitioners allege that the Court of Appeals erred when it allowed the filing of a motion for reconsideration before the RTC. Petitioners allege that the case stemmed from an unlawful detainer case where the Rules on Summary Procedure apply. Petitioners allege that under the Rules on Summary Procedure, a motion for reconsideration is a prohibited pleading. Petitioners also allege that due to the mandatory character of Section 7(b), Rule 40 of the 1997 Rules of Civil Procedure, the RTC correctly dismissed the appeal. Petitioners also pointed out that respondents' Motion for Reconsideration/New Trial was neither verified nor accompanied by affidavits of merit as required under Section 2, Rule 37 of the 1997 Rules of Civil Procedure.

Applicability of the Rules on Summary Procedure

Jurisdiction over forcible entry and unlawful detainer cases falls on the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts.[9] Since the case before the the MTCC was an unlawful detainer case, it was governed by the Rules on Summary Procedure. The purpose of the Rules on Summary Procedure is to prevent undue delays in the disposition of cases and to achieve this, the filing of certain pleadings is prohibited,[10] including the filing of a motion for reconsideration.[11]

However, the motion for reconsideration that petitioners allege to be a prohibited pleading was filed before the RTC acting as an appellate court. The appeal before the RTC is no longer covered by the Rules on Summary Procedure. The Rules on Summary Procedure apply before the appeal to the RTC. Hence, respondents' motion for reconsideration filed with the RTC is not a prohibited pleading.

Procedure on Appeal

Section 7, Rule 40 of the 1997 Rules of Civil Procedure provides:

> Sec. 7. Procedure in the Regional Trial Court. -
>
> (a) Upon receipt of the complete records or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.
>
> (b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.
>
> (c) Upon the filing of the memorandum of the appellee, or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed. (Emphasis supplied)

In this case, the RTC dismissed respondents' appeal for their failure to file an appeal memorandum in accordance with Section 7(b), Rule 40 of the 1997 Rules of Civil Procedure. The Court of Appeals reversed the RTC's dismissal of the appeal.

The Court of Appeals ruled that while the negligence of counsel binds the client, the circumstances in this case warrant a departure from this general rule. The Court of Appeals ruled that respondents' counsel only realized his failure to submit the appeal memorandum when he received a copy of the dismissal of the appeal. The Court of Appeals ruled that exceptions to the general rule are recognized to accord relief to a client who suffered by reason of the counsel's gross or palpable mistake or negligence.

We do not agree with the Court of Appeals.

The general rule is that a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique.[12] There are exceptions to this rule, such as when the reckless or gross negligence of counsel deprives

the client of due process of law, or when the application of the general rule results in the outright deprivation of one's property through a technicality.[13]

In this case, respondents' counsel advanced this reason for his failure to submit the appeal memorandum:

> c. That there was a delay in the filing of defendants-appellants['] appeal memorandum due to the heavy backlog of legal paperwork piled on the table of the undersigned counsel, and he realized his failure to submit defendants['] appeal memorandum when he received a copy of the dismissal of the case. This is to consider that he is the only lawyer in his law office doing a herculean task.[14]

We find no reason to exempt respondents from the general rule. The cause of the delay in the filing of the appeal memorandum, as explained by respondents' counsel, was not due to gross negligence. It could have been prevented by respondents' counsel if he only acted with ordinary diligence and prudence in handling the case. For a claim of gross negligence of counsel to prosper, nothing short of clear abandonment of the client's cause must be shown.[15] In one case, the Court ruled that failure to file appellant's brief can qualify as simple negligence but it does not amount to gross neglience to justify the annulment of the proceedings below.[16]

Finally, respondents were not deprived of due process of law. The right to appeal is not a natural right or a part of due process.[17] It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of the law.[18] The Court notes that in their memoranda,[19] respondents admitted that they signed an agreement that they would vacate the land they occupy not later than 28 February 1998. They refused to vacate the land only because they were not relocated as promised by the owner. Respondents claimed that the land was later declared alienable and disposable, and the decision was affirmed by this Court. Hence, respondents alleged that petitioner no longer had the right to drive them out of the land. However, respondents did not even indicate the case number and title, as well as the date of promulgation of the alleged Supreme Court decision, in their memoranda.

WHEREFORE, we GRANT the petition. We SET ASIDE the 26 July 2002 Decision and the 10 December 2002 Resolution of the Court of Appeals in CA-G.R. SP No. 62002.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Brion,[*] JJ., concur.

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* Designated member per Special Order No. 570.

[1] Rollo, pp. 33-38. Penned by Associate Justice Romeo A. Brawner with Associate Justices Jose L. Sabio, Jr. and Mario L. Guariña III, concurring.

[2] Id. at 40.

[3] Id. at 111-117. Penned by Presiding Judge George E. Omelio.

[4] Id. at 116-117.

[5] Id. at 118. Penned by Judge Augusto V. Breva.

[6] Id. at 125-126.

[7] Id. at 141.

[8] Id. at 140.

[9] Section 1(A), Revised Rule on Summary Procedure.

[10] Arenas v. Court of Appeals, 399 Phil. 372 (2000).

[11] Section 18(c).

[12] R Transport Corporation v. Philippine Hawk Transport Corporation, G.R. No. 155737, 19 October 2005, 473 SCRA 342.

[13] Id.

[14] Records, p. 144.

[15] Que v. Court of Appeals, G.R. No. 150739, 18 August 2005, 467 SCRA 358.

[16] Redeña v. Court of Appeals, G.R. No. 146611, 6 February 2007, 514 SCRA 389.

[17] Producers Bank of the Phils. v. Court of Appeals, 430 Phil. 812 (2002).

[18] Id.

[19] Rollo, pp. 312-321, 323-332.

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