

SISTER MA. ANGELINA M. FERNANDO, R.V.M., PETITIONER, VS. HON. CESAR D. SANTAMARIA, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, NATIONAL CAPITAL REGION, BRANCH 145, MAKATI CITY,...

G.R. No. 160730. December 10, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This is a petition for review of the August 18, 2003 Decision[1] of the Court of Appeals in CA-G.R. SP No. 72787, and its November 6, 2003 Resolution[2] denying petitioner's motion for reconsideration.

The antecedent facts are as follows:

On October 13, 2000, petitioner filed a complaint[3] against respondents Willibaldo Uy (Uy), Chua Ping Hian (Chua) and the latter's agent, Laureana P. Borres (Borres). She alleged that on three separate occasions, she obtained loans from Chua in the total amount of P5.5 million. As security for said loans, she executed a real estate mortgage over a lot[4] covered by Transfer Certificate of Title (TCT) No. 124391, registered in her name and located at No. 1661, Evangelista St., Bangkal, Makati City. Before the third loan could be released, she signed a deed of absolute sale conveying the lot in favor of Chua in consideration of the amount of P3 Million[5] upon the assurance of Borres that the deed was a mere formality. On November 9, 1995, however, she learned that her title over the property was cancelled and that a new one was issued on November 8, 1995 in the name of Chua.

Thereafter, Chua offered to sell back the property to petitioner for P10 million, which the latter accepted. However, on December 7, 1995, petitioner came to know that Chua sold the subject lot for P7 Million to Uy, to whom a new transfer certificate of title was issued by the Makati Register of Deeds.

Petitioner filed a complaint on the following causes of action: (1) annulment of the deeds of absolute sale over the subject lot in favor of Chua and Uy and the cancellation of the TCT issued in the name of the latter; (2) recovery from Borres of the amount of P200,000.00 which she allegedly gave as payment of the real property taxes of the lot as well as the amount of P120,000.00 which Borres unlawfully deducted from her third loan; and (3) recovery of damages against all respondents.

Chua filed a motion to dismiss[6] on the ground that petitioner's action which is founded on fraud is barred by prescription. In their Answer,[7] Uy and Borres contended, among others, that petitioner's cause of action, if any, has been waived or abandoned.

On July 24, 2001 the trial court dismissed the complaint against all the respondents on the grounds of prescription, ratification and abandonment of cause of action. It held that petitioner ratified Chua's act of selling the lot to Uy by acknowledging that the latter is now the owner of the lot in her letter dated December 19, 1995 offering to repurchase the same and to pay the incidental expenses of the sale. The letter reads –

Mr. Willie Uy
Quezon City
Philippines

Dear Mr. Uy,

I offer to buy back the property at 1661 Evangelista St., Bangkal, Makati City, M.M. which once belonged to me and my family at thirteen million (P13,000,000.00) pesos and I will pay on or before January 22, 1996.

I agree to shoulder all expenses after I buy the said property like the Capital Gains Tax and others.

My request is to include in the Deed of Sale all necessary documents such as all receipts etc., and the cancelled Title under my name for keep sake.

Thank you.

Very sincerely yours,

Ma. Angelina M. Fernando[8]

On October 25, 2001, the trial court modified its order dated July 24, 2001 by reinstating the complaint insofar as the action for recovery of sum of money against Borres is concerned. Thus –

...

Consequently, the Order dated 24 July 2001 is therefore MODIFIED, as to the dismissal of the complaint against the defendant Borres is concerned, and the complaint against said defendant is reinstated. Defendant Borres is given a new fifteen (15) day... period from receipt of a copy of this Order, through counsel, within which to file her Answer to the complaint, particularly as to plaintiff's cause of action stated in paragraphs 16 to 19 thereof.

The Order of dismissal of the complaint against Chua and Uy still stands.

SO ORDERED. (Emphasis supplied)[9]

On November 16, 2001, petitioner filed a notice of appeal[10] questioning the July 24, 2001 and October 25, 2001 orders of the trial court.

Chua filed a motion to dismiss[11] petitioner's appeal for failure to file a record on appeal within the required period. On August 19, 2002, the trial court granted the motion, thus –

PREMISES CONSIDERED, the motion to dismiss filed by defendant Chua is GRANTED for the reasons aforementioned. Necessarily, the motion for reconsideration filed by plaintiff dated March 25, 2002 is DENIED for lack of merit. However, the motion for execution filed by defendant Uy dated April 15, 2002 is not to be acted upon until finality of this Order. On the other hand, the motion of defendant Borres to have the same scheduled for pre-trial conference is GRANTED and the same is scheduled on September 16, 2002 at 8:30 a.m. Notify the plaintiff and defendant Borres of this assignment immediately as well as their respective counsel.

SO ORDERED.[12]

Petitioner filed a petition for certiorari with the Court of Appeals contending that her complaint seeks to hold all respondents solidarily liable for the fraudulent conveyance of her property. She claimed that the trial court cannot render several judgment and separate the liability of Borres with that of her co-respondents. As such, appeal from the decision of the trial court can be perfected by the filing of a notice of appeal within 15 days from receipt of the questioned order without need of submitting a record on appeal.

On August 18, 2003, the Court of Appeals dismissed the petition holding that the trial court validly rendered several judgment because the liability of Borres in petitioner's third cause of action is distinct from the liability of the other respondents. To perfect an appeal, the Court of Appeals ruled that petitioner must file a record on appeal in addition to the notice of appeal within 30 days from notice of the assailed order pursuant to Section 2(a) and 3, Rule 41 of the Revised Rules of Civil Procedure. The dispositive portion of the decision, states –

IN VIEW OF ALL THE FOREGOING, we find that the respondent judge did not commit grave abuse of discretion in issuing the Order dated 19 August 2002. Accordingly, for lack or merit, the instant petition is hereby DISMISSED and the assailed Order is hereby AFFIRMED.

SO ORDERED.[13]

On November 6, 2003, petitioner's motion for reconsideration was denied. Hence, the instant petition.

The issue for resolution is whether or not petitioner was able to perfect an appeal within the required period.

Section 4, Rule 36 of the Revised Rules of Civil Procedure provides –

SEC. 4. Several judgments.—In an action against several defendants, the court may, when a several judgment is proper, render judgment against one or more of them, leaving the action to proceed against the others.

A several judgment is proper when the liability of each party is clearly separable and distinct from that of his co-parties, such that the claims against each of them could have been the subject of separate suits, and judgment for or against one of them will not necessarily affect the other.[14]

In the instant case, the trial court correctly applied the foregoing provision because the complaint was filed against several defendants with respect to whom, rendition of several judgment is proper. Pertinent portion of petitioner's complaint reads –

As Third Cause of Action

...

- Defendant BORRES did not comply with her undertaking to pay the real property taxes on the aforementioned property for the year 1995 – the same having been actually paid by MONTE DE PIEDAD & SAVINGS BANK (later renamed KEPPEL MONTE BANK), the administrator of the said property for plaintiff – for which she received the sum of ONE HUNDRED TWENTY THOUSAND PESOS (P120,000.00).

- Furthermore, said defendant BORRES unlawfully deducted the sum of TWO HUNDRED THOUSAND PESOS (P200,000.00) from the third loan obtained by plaintiff from defendant CHUA.

- Plaintiff is entitled to recover the aforesaid sums from defendant BORRES with interest.

...

Prayer

...

c. that thereafter, judgment be rendered in favor of plaintiff and against the defendants: on the first cause of action, declaring the Deed of Absolute Sale (Annex "B") null and void and of no effect whatsoever, and as a result thereof, directing defendant RD [Register of Deeds] to cancel Transfer Certificate of Title No. 203326 (Annex "C") which was issued in the name of defendant CHUA pursuant thereto;

on the second cause of action, directing defendant RD similarly to cancel Transfer Certificate of Title No. 203771 (Annex "E") issued in the name of defendant Uy;

on the third cause of action, ordering defendant BORRES to return to plaintiff the sums of P120,000.00 and P200,000.00 wrongfully obtained by her from the latter, with interest at the legal rate from the filing of the instant case until fully paid; and

on the fourth cause of action, ordering defendants, except defendant RD, jointly and severally, to pay plaintiff: moral damages in the amount of not less than P1,000,000.00

the sum of P500,000.00 as and for attorney's fees and expenses of litigation.

the sum of P100,000.00 as exemplary or corrective damages;

and ordering defendants, except defendant RD, jointly and severally, to pay the costs of suit. (Emphasis, supplied)[15]

It is clear that the third cause of action for payment of the amounts of P200,000.00 and P120,000.00 is directed only against Borres to the exclusion of Uy and Chua. There is no dispute that Chua, through Borres, granted loans to petitioner secured by a mortgage on the subject lot. The issues of whether or not Borres should reimburse the amount of P120,000.00 allegedly received from petitioner for payment real estate taxes of the lot, and the P200,000.00 purportedly deducted by Borres from petitioner's third loan, are distinct from and independent of the question of whether petitioner signed the deed of absolute sale through the misrepresentation of respondents. Otherwise stated, even if the trial court debunk petitioner's claim that respondents (including Borres) connived in defrauding her to convey the property, the action against Borres for sum of money will still subsist because it is based on issues which has nothing to do with the issue of fraud, i.e., whether Borres received the amount of P120,000.00 and whether she has the obligation to pay the real estate taxes of the mortgaged lot. As to the amount of P200,000.00 the question is the validity of the deduction of said amount from the third loan obtained by petitioner. The cause of action for collection of sum of money against Borres can thus proceed independently of the dismissal of the action to hold her solidarily liable with Chua and Uy for the alleged fraudulent conveyance of the lot (first, second and fourth causes of action of the complaint). As admitted by petitioner in her motion for reconsideration of the July 24, 2001 Order, the issue against Borres is one for misappropriation of the amounts sought to be recovered.

In *Roman Catholic Archbishop of Manila v. Court of Appeals*,^[16] which was cited by petitioner, private respondent-lessees withhold rental payments to petitioner-lessor in order to force the latter to make adjustments or correction on the area of the leased lot alleged to be encroached upon by the fence erected on the adjacent lot. The issues presented before the trial court were: (1) the existence of a right to compel correction or adjustment the alleged encroached portion; (2) the validity of petitioner-lessor's claim for non-payment of rentals; and (3) the propriety of compelling petitioner-lessor to sell to the subject lot to respondent-lessees. Separately resolving the issues in a motion to dismiss and judgment on the pleadings, the trial court ruled that private respondents-lessees cannot compel petitioner-lessor to sell the lot and that the former should pay rental arrearages to the latter. The same issues were raised before the Court of Appeals, except for the existence of private respondents-lessees' right to compel adjustment of the alleged encroachment which was not yet resolved by the trial court. The Court of Appeals held that the case is not one where multiple appeals can be taken, hence a notice of appeal is sufficient and a record on appeal is not required to perfect an appeal, thus –

The disputes in the case below for specific performance have arisen from the demand to make adjustments on the property where the adjacent owner is alleged to have usurped a part thereof, the exercise of the right of pre-emption and the payment of rental arrearages. A ruling on the issue of encroachment will perforce be determinative of the issue of unpaid rentals. These two points do not arise from two or more causes of action, but from the same cause of action. Hence, this suit does not require multiple appeals. There is no ground for the splitting of appeals in this case, even if it involves an Order granting (and denying) a motion to dismiss and

a Partial Judgment granting a motion for judgment on the pleadings. The subject matter covered in the Order and in the Partial Judgment pertain to the same lessor-lessee relationship, lease contract and parcel of land. Splitting appeals in the instant case would, in effect, be violative of the rule against multiplicity of appeals.

The conclusion is irresistible that since a case has not been made out for multiple appeals, a record on appeal is unnecessary to perfect the appeal.[17]

In the said cited case, the issue of encroachment and the area thereof, if there is any, will determine the propriety of awarding back rentals as well as the basis of the computation of rental arrearages on a per square meter basis. The trial court cannot validly render decision on the amount of arrearages without resolving first the question on encroachment. Hence, no several judgments can be rendered and no multiple appeals can be made in the said case because the issues arose from a single cause of action, i.e., to compel correction or adjustment of the encroached area. Accordingly, the Court affirmed the decision of the Court of Appeals, holding among others, that the trial court erred in rendering partial judgment on the rental arrearages because the averments and available evidence tendered a valid issue which could not be resolved merely on the pleadings.

The doctrine laid down in *Roman Catholic Archbishop of Manila v. Court of Appeals*, is not applicable to the instant case. Petitioner's cause of action against Borres for collection of sum of money is clearly severable from her action against the other respondents. Thus, rendition of several judgment is proper.

Sections 2(a), 3 and 13 of Rule 41 of the Revised Rules of Civil Procedure provides –

SEC. 2. Modes of appeal.—

(a) Ordinary appeal.—The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner. (Emphasis, supplied)

SEC. 3. Period of ordinary appeal, appeal in habeas corpus —The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order. (Emphasis, supplied)

SEC. 13. Dismissal of appeal.—Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may *motu proprio* or on motion to dismiss the appeal for having been taken out of time, or for non-payment of the docket and other lawful fees within the reglementary period. (As amended by A.M. No. 00-2-10-SC, May 21, 2000).

The rationale for requiring the filing of a record on appeal in cases where several judgment is rendered is to enable the appellate court to decide the appeal without the original record which should remain with the court *quo pending* disposal of the case with respect to the other defendants.[18]

Under Section 2(a) in relation to Section 3, of Rule 41, petitioner is required to file a record on appeal within thirty days from November 15, 2001,[19] her date of receipt of the October 25, 2001 order. Considering that no record on appeal was filed, the Court of Appeals correctly sustained the order of the trial court dismissing her appeal for failure to perfect the same within the reglementary period. A fundamental precept is that the reglementary periods under the Rules are to be strictly observed for being considered indispensable interdictions against needless delays and an orderly discharge of judicial business. The strict compliance with such periods has more than once been held to be imperative, particularly and most significantly in respect to the perfection of

appeals. Upon expiration of the period without an appeal having been perfected, the assailed order or decision becomes final and executory and the court loses all jurisdiction over the case.[20]

While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[21] In instances where we applied a liberal interpretation of the rules on filing a record on appeal, the parties although late, filed the required record on appeal.[22] Such, however, is not the case here because petitioner adamantly refused to file the required record on appeal.

The right to appeal is not a natural right or a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. The party who seeks to avail of the same must comply with the requirements of the rules. Failing to do so, the right to appeal is lost.[23]

Finally, even if we brush aside the procedural flaws in the instant case, the appeal is still dismissible because petitioner's conduct is inconsistent with her claim of fraud. Instead of impugning the validity of the sale of the lot to Chua, petitioner accepted the latter's offer to resell the property in the amount of P10 Million. After learning that Chua sold the same lot to Uy, she again offered to buy the lot for P13 Million and to shoulder the payment of all incidental expenses, thus, confirming that Uy has a valid title over the property. What is more, petitioner filed a criminal complaint for estafa with the Pasay City Prosecutor's Office against respondents only on October 6, 1998,[24] or almost 3 years from the time she learned of the alleged fraudulent transfers of her property. In dismissing the complaint, the City Prosecutor found petitioner to be intelligent to understand the import and consequences of signing the deed of sale and thus rejected her claim that she was defrauded by respondents. He also gave no credence to her contention that Borres refused to release the 3rd loan unless she sign the deed of sale because said deed was in fact executed on October 24, 1995, a much later date than the release of the 3rd loan on June 29, 1995.[25]

WHEREFORE, in view of all the foregoing, the petition is DENIED. The August 18, 2003 Decision and the November 6, 2003 Resolution of the Court of Appeals in CA-G.R. No. SP No. 72787, which sustained the August 19, 2002 order of the Regional Trial Court, of Makati Branch 145 dismissing the appeal of petitioner in Civil Case No. 00-1249 are AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Carpio, and Azcuna, JJ., concur.
Quisumbing, J., no part, close relation to counsel.

[1] Penned by Associate Justice Eloy R. Bello, Jr., and concurred in by Associate Justices Amelita G. Tolentino and Arsenio J. Magpale.

[2] Rollo, p. 52.

[3] Rollo, p. 59.

[4] Containing an area of more or less 208 square meters (CA Rollo, p. 218).

[5] CA Rollo, p. 228.

[6] Rollo, p. 53.

[7] Rollo, p. 75.

- [8] Rollo, p. 85.
- [9] Rollo, p. 195-196.
- [10] Rollo, p. 197.
- [11] Filed on March 18, 2002, Rollo, p. 224.
- [12] Rollo, p. 250.
- [13] Rollo, p. 51.
- [14] I F. Regalado, Remedial Law Compendium, 375 (6[th] ed., 1997).
- [15] Complaint, Rollo, pp. 64-69.
- [16] 327 Phil. 810 (1996).
- [17] Supra, p. 820.
- [18] Municipality of Biñan v. Garcia, G.R. No. 69260, 22 December 1989, 180 SCRA 576, 588.
- [19] Notice of Appeal, Rollo, p. 197.
- [20] Manila Memorial Park Cemetery, Inc. v. Court of Appeals, G.R. No. 137122, 15 November 2000, 344 SCRA 769, 776-777.
- [21] Garbo v. Court of Appeals, 327 Phil. 780, 784 (1996).
- [22] Dela Rosa v. Court of Appeals, G.R. No.103028, 10 October 1997, 280 SCRA 444, 451; Liquido v. Court of Appeals, 203 Phil. 239, 242-243 (1982).
- [23] Ong v. Court of Appeals, G.R. No. 152494, 22 September 2004.
- [24] Complaint, Rollo, p. 64.
- [25] Resolution, Rollo, p. 87.

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