

JIMMY L. BARNES, A.K.A. JAMES L. BARNES, PETITIONER, VS. HON. MA. LUISA QUIJANO PADILLA, PRESIDING JUDGE, RTC, BRANCH 215, QUEZON CITY AND TERESITA C. REYES, ELIZABETH C. PASION...

G.R. No. 160753. September 30, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks the reversal of the Resolution,[1] dated November 17, 2003, of the Court of Appeals (CA for brevity), denying petitioner's manifestation and motion to admit his motion for reconsideration with leave of court on the ground that the motion for reconsideration was filed beyond the fifteen day reglementary period.

The records bare the following antecedent facts:

On April 29, 1998, private respondents filed a complaint for ejectment before the Metropolitan Trial Court, Branch 34, Quezon City (MeTC for brevity) against petitioner for non-payment of rentals of P960,000.00 based on a Contract of Lease over a 714-square meter parcel of land with improvements located at 114 West Ave., Quezon City, docketed as Civil Case No. 19992.[2] On October 26, 1998, the MeTC rendered judgment, finding that: petitioner entered into a Contract of Lease with private respondents' late mother, Natividad Crisostomo, whereby the latter leased to the former the subject property from January 1, 1995 to December 31, 1997 at P60,000.00 per month; in a Memorandum of Agreement (MOA) dated December 5, 1995, petitioner and Natividad extended the term of lease until December 31, 2007, petitioner has the obligation to pay lease rentals and at the same time, he is given the option to purchase the disputed property; and petitioner has not been paying rentals since September 1996. Consequently, the MeTC ordered petitioner to vacate the disputed premises.[3] Petitioner then filed an appeal with the Regional Trial Court, Branch 227, Quezon City (Branch 227 for brevity), docketed as Civil Case No. Q-99-36479, on the ground of lack of jurisdiction and cause of action.

However, on March 27, 1999, barely three months before Branch 227 rendered its judgment, petitioner filed before the Regional Trial Court, Branch 215, Quezon City (Branch 215 for brevity), a complaint for specific performance with damages, docketed as Civil Case No. Q-99-37219. He prayed that judgment be rendered in his favor ordering private respondents to abide, honor and ratify the MOA executed on December 5, 1995 between him and the late Natividad with respect to all the terms and conditions of the contract to sell a 403.41 square meter portion of the subject property, the payment of P60,000.00 a month as lease and P80,000.00, as amortization payment for the sale.[4]

On May 5, 1999, Branch 227 upheld petitioner. It ruled that the MeTC had no jurisdiction over the case since the case is not for ejectment but for specific performance of contract, cognizable by the Regional Trial Court in its original and exclusive jurisdiction. Thus, it set aside the MeTC decision and dismissed the case without prejudice.[5] Private respondents filed a motion for reconsideration[6] which was denied by Branch 227.[7] Private respondents filed a petition for review with the CA, docketed as CA-G.R. SP No. 55949.[8]

Pending trial in Branch 215, private respondents moved therein for outright dismissal of the complaint on the ground of forum-shopping in view of the pendency of the appeal to the CA from the decision of Branch 227 to the CA which involves the issue of the validity, application and enforceability of the MOA. Thus, on April 20, 2001, Branch 215 dismissed the complaint for specific performance, ratiocinating that the “broad scope of inquiry into the Memorandum of Agreement dated December 5, 1995 having been intertwined earlier in the ejectment case and considering the pendency of the said case with the Honorable Court of Appeals, the continued reception of evidence in the present case involving the aforementioned contract would now be improper.”[9] Petitioner sought reconsideration[10] thereof but the same was denied by Branch 215 in a Resolution dated December 21, 2001.[11]

Thereupon, petitioner filed a petition for certiorari with the CA, docketed as CA-G.R. SP NO. 69573, assailing Branch 215’s dismissal of the complaint for specific performance.[12] On August 18, 2003, the CA dismissed the petition for certiorari,[13] ruling that petitioner committed forum-shopping in view of the pendency of CA-G.R. SP No. 55949. Petitioner received a copy of the decision on August 26, 2003.[14] On September 3, 2003, petitioner filed a Motion for Extension of Time to File Motion for Reconsideration from September 10, 2003 to September 25, 2003.[15] On September 23, 2003, petitioner filed his Motion for Reconsideration.[16] On September 25, 2003, the CA denied petitioner’s Motion for Extension to File Motion for Reconsideration on the ground that the period for filing a motion for reconsideration is non-extendible.[17] On October 3, 2003, petitioner filed a Manifestation and Motion to Admit Petitioner’s Motion for Reconsideration with Leave of Court[18] which the CA denied on November 17, 2003 on the ground that the motion for reconsideration was filed beyond the reglementary period.[19] Petitioner received the CA’s resolution on November 20, 2003.[20]

On December 2, 2003, petitioner filed before the Court a motion for extension of time praying that he be granted up to January 4, 2004 to file his petition for review on certiorari[21] but failed to allege the material dates to show that he filed his motion for reconsideration in the CA on time. On December 22, 2003, petitioner filed with the Court his petition for review on certiorari.[22]

However, on February 4, 2004, the Court denied petitioner’s motion for extension of thirty days from December 5, 2003 within which to file petition for review on certiorari for lack of sufficient showing that petitioner has not lost the fifteen day reglementary period to appeal pursuant to Section 2, Rule 45 of the 1997 Rules of Civil Procedure, as amended, in view of the lack of statement of material dates of receipt of the assailed judgment and of filing of the motion for reconsideration thereof. The Court also held that the petition lacked sufficient showing that the CA had committed any reversible error in the questioned judgment to warrant the exercise by the Court of its discretionary appellate jurisdiction.[23]

On March 17, 2004, petitioner filed a motion for reconsideration alleging that the material dates of receipt of the assailed judgment and of filing of the motion for reconsideration thereof were indicated in the motion for extension. Notwithstanding the alleged technical infirmities, petitioner averred that the assigned errors in his petition deserve evaluation since a denial of due process is put in issue.[24]

On May 17, 2004, the Court reinstated the petition and required private respondents to file their comment.[25] On July 6, 2004, private respondents filed their comment.[26] On July 21, 2004, private respondents filed a supplemental comment.[27] On July 23, 2004, petitioner filed his reply to private respondents’ comment.[28] On July 29, 2004, private respondents filed their rejoinder to petitioner’s reply.

In his petition for review on certiorari, petitioner assigns three errors of the CA, to wit:

I

THE HONORABLE COURT OF APPEALS/COURT A QUO GRAVELY ABUSED ITS DISCRETION IN DENYING PETITIONER’S MOTION FOR RECONSIDERATION WHICH IS TANTAMOUNT TO A

DENIAL OF DUE PROCESS, STRICTLY APPLYING THE TECHNICALITY OF LAW.

II

THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN IT MISAPPRECIATED THE FACTS OF THE CASE WHICH WAS OUTLINED IN THE PETITION AND FURTHER DISCUSSED IN PETITIONER'S MOTION FOR RECONSIDERATION.

III

PETITIONER HAS A MERITORIOUS CASE AND THE DISMISSAL OF HIS PETITION WILL WORK AGAINST THE INTEREST OF HEREIN PETITIONER FINDING NO OTHER LEGAL RECOURSE TO SEEK JUDICIAL RELIEF.[29]

Petitioner staunchly contends that due process provides one's day in court and the CA's denial of petitioner's Motion for Reconsideration is a clear denial of his right to due process by harking on the technicalities of the law. He insists that decisions should be tempered with compassion especially when one is humble enough to admit his mistakes. Petitioner admits that an error has been made but this error should not be capitalized and be punctuated to render further inquiry. Petitioner's counsel admits that the filing of a motion for reconsideration is not extendible but he practices alone and knowing his mortal limitations, he needed time, for if he prepared the said motion for reconsideration in a speedy and haphazard manner the consequences would prove to be more harmful to his client, if not fatal. Petitioner further argues that the CA failed to fully appreciate the import of certain facts which would result in a different conclusion, such as, the fact that the MOA effectively novated the lease contract and the issue of ownership, not only on lease. Petitioner submits that he is not guilty of forum-shopping because the final disposition in the ejectment case pending before the CA will not constitute *res judicata* on the specific performance case.

On the other hand, private respondents impugn the reinstatement of the instant petition. They contend that the decision of the CA is final and executory and the issues resolved therein can no longer be disturbed, amended, and re-litigated. They argue that petitioner was not denied due process because a full-blown trial was held and terminated and it was petitioner who slept on his rights by allowing, through inexcusable mistake and negligence, the decision of the CA to attain finality by failing to timely file a motion for reconsideration.

Petitioner claims that he received the CA Decision dated August 18, 2003 on August 26, 2003.[30] Thus, counting fifteen days from August 26, 2003, his motion for reconsideration should have been filed on September 10, 2003. However, what he filed before the CA was a Motion for Extension of Time to File Motion for Reconsideration praying for an additional fifteen days from September 10, 2003 or up to September 25, 2003, to file his motion for reconsideration.[31]

The 2002 Internal Rules of the Court of Appeals (IRCA) expressly provides that only the filing of a motion for reconsideration or new trial or an appeal from the decision within the fifteen-day reglementary period shall stay the finality of a decision, thus:

Rule VII

Entry of Judgment and Remand of Cases.

Section 1. Entry of Judgment. – Unless a motion for reconsideration or new trial is filed or an appeal taken to the Supreme Court, judgments and final resolutions of the Court shall be entered upon expiration of fifteen (15) days from notice to the parties.

x x x

Section 5. Entry of Judgment and Final Resolution. – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment or final resolution and shall be signed by the clerk, with a certificate that such judgment or resolution has become final and executory.

As early as the 1986 case of *Habaluyas Enterprises, Inc. vs. Japson*,^[32] the Court has consistently held that the fifteen-day reglementary period for appealing or for filing a motion for reconsideration or new trial cannot be extended, except in cases pending with the Supreme Court as a court of last resort which may in its sound discretion either grant or deny the extension requested.^[33]

While the Court notes that the IRCA does not explicitly provide that the period of filing a motion for reconsideration is non-extendible, which was expressly stated in the Revised Internal Rules of the Court of Appeals^[34] (RIRCA) that was in effect prior to the IRCA,^[35] it is noteworthy that the afore-quoted Section 1, Rule VII proviso in the IRCA is substantially the same provision in the RIRCA.^[36] Thus, the IRCA simply reiterates that only a motion for reconsideration or new trial or an appeal shall stay the finality of a CA decision. A motion for extension of time to file a motion for reconsideration therefore continues to be a prohibited pleading which cannot toll the running of the fifteen-day reglementary period.^[37] Neither jurisprudence nor the procedural rules provide for an exception.^[38]

Consequently, the filing of petitioner's motion for extension of time to file motion for reconsideration did not toll the fifteen-day period before the CA decision becomes final and executory. Since the decision of the CA dated August 18, 2003 has long become final and executory at the time of the filing of the present petition, the Court can no longer alter or modify the same. The failure of the petitioner to file his motion for reconsideration within the period fixed by law renders the decision final and executory. Such failure carries with it the result that no court can exercise appellate jurisdiction to review the case.^[39] Phrased otherwise, a final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.^[40]

However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.^[41]

Invariably, rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflects this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself had already declared to be final.^[42]

In *De Guzman vs. Sandiganbayan*,^[43] this Court, speaking through the late Justice Ricardo J. Francisco, had occasion to state:

The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts in rendering justice have always been, as they ought to be guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around. Truly then, technicalities, in the appropriate language of Justice

Makalintal, “should give way to the realities of the situation”[44]

Indeed, the emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.[45]

Indubitably, the explanation of petitioner’s counsel that he is a sole legal practitioner and simply needed time to adequately prepare the motion for reconsideration is not a valid excuse. As a general rule, a client is bound by the acts of his counsel, including even the latter’s mistakes and negligence. However, where such mistakes or neglect would result in serious injustice to the client, a departure from this rule is warranted.[46] To cling to the general rule is to condone rather than rectify a serious injustice to petitioner whose only fault was to repose his faith and entrust his innocence to his lawyer.

In this case, the CA gravely erred in holding that petitioner committed forum-shopping in view of the pendency of CA-G.R. SP No. 55949.

It has been said that forum-shopping exists where a litigant sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of *litis pendentia* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest.[47] Thus, there is forum-shopping when there exist: a) identity of parties, or at least such parties as represent the same interests in both actions, b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and c) the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful would amount to *res judicata* in the other.[48]

Undoubtedly, the parties in the ejectment case, which originated in the MeTC and was on appeal in Branch 227, and the specific performance complaint, before Branch 215, are the same. With respect to the second and third requisites, a scrutiny of the entirety of the allegations of the specific performance complaint before Branch 215 reveals that the rights asserted and reliefs prayed for therein are different from those pleaded in the ejectment case in the MeTC, such that a judgment in one case would not bar the prosecution of the other case.

The main purpose of the specific performance complaint before Branch 215 is to enforce the terms of the MOA. The complaint seeks to compel private respondents to abide, honor and ratify the MOA executed on December 5, 1995 between him and the late Natividad with respect to all the terms and conditions of the contract to sell a 403.41-square meter portion of the subject property, the payment of P60,000.00 a month as lease and P80,000.00, as amortization payment for the sale.[49] In the ejectment complaint, the relief sought by the private respondents was the recovery of possession of the leased property due to non-payment of rentals.

The Court has long recognized that suits for specific performance with damages do not affect ejectment actions.[50] A judgment rendered in an ejectment case shall not bar an action between the same parties respecting title to the land or building nor shall it be conclusive as to the facts therein found in a case between the same parties upon a different cause of action involving possession.[51] The resulting judgment would be conclusive only with respect to the possession but not the ownership of the property.[52]

Petitioner claims that the MOA novated the lease contract but such allegation cannot divest the MeTC of jurisdiction over the complaint. A court’s jurisdiction cannot be made to depend upon defenses set up in the answer or in a motion to dismiss but upon the allegations of the complaint.[53] Jurisdiction cannot be made to depend on the exclusive characterization of the case by one of the parties. This has to be so, for were the principle otherwise, the ends of justice would be frustrated by making the sufficiency of this kind of action dependent upon the defendant in all cases.[54] A contrary rule would pave the way for the defendant to trifle with the ejectment

suit, which is summary in nature, as he could easily defeat the same through the simple expedient of asserting ownership.[55]

In fine, this Court cannot look with favor on a course of action which would place the administration of justice in a straight jacket for then the result would be a poor kind of justice if there would be justice at all.

WHEREFORE, the Court GRANTS the petition, and SETS ASIDE the Resolution, dated November 17, 2003, of the Court of Appeals in CA- G. R. SP No. 69573, denying petitioner's manifestation and motion to admit his motion for reconsideration with leave of court.

In lieu thereof, the Court renders judgment whereby the Decision dated August 18, 2003 of the Court of Appeals, affirming the Resolution dated April 20, 2001 of the Regional Trial Court, Branch 215, Quezon City, in Civil Case No. Q-99-37219, which dismissed the complaint for specific performance on the ground of forum-shopping, is REVERSED and SET ASIDE. Let the case be immediately REMANDED to Branch 215 with instructions that the trial court shall proceed with the case with all deliberate dispatch.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., and Tinga, JJ., concur.
Chico-Nazario, J., on leave.

[1] Penned by Justice Eloy R. Bello, Jr. and concurred in by Justices Amelita G. Tolentino and Arturo D. Brion.

[2] Rollo, p. 727. The complaint was subsequently amended, *id.*, p. 595.

[3] *Id.*, p. 499.

[4] *Id.*, p. 45.

[5] *Id.*, p. 622.

[6] *Id.*, p. 716.

[7] *Id.*, p. 726.

[8] *Id.*, p. 402.

[9] *Id.*, p. 550.

[10] *Id.*, p. 551.

[11] *Id.*, p. 593.

[12] *Id.*, p. 25.

[13] *Id.*, p. 931.

[14] *Id.*, p. 937.

[15] *Ibid.*

[16] *Id.*, p. 942.

[17] *Id.*, p. 957.

[18] *Id.*, p. 958.

[19] Id., p. 963.

[20] Id., p. 3.

[21] Ibid.

[22] Id., p. 10.

[23] Id., p. 965.

[24] Id., p. 967.

[25] Id., p. 978.

[26] Id., p. 979.

[27] Id., p. 997.

[28] Id., p. 1005.

[29] Id., p. 13.

[30] Id., p. 937.

[31] Ibid.

[32] 142 SCRA 208 (1986). The Court restated the Habaluyas doctrine in Circular 10-86 re: Restatement and Clarification of the Rules on Filing of Motions for Extension of Time to File Motion for New Trial or Reconsideration and the Modes and Periods of Appeal.

[33] *Amatorio vs. People*, 397 SCRA 445, 453-454 (2003); *Secretary of Agrarian Reform vs. Tropical Homes, Inc.*, 362 SCRA 115, 128 (2001); *Heirs of Andrea Cristobal vs. Court of Appeals*, 331 SCRA 707, 711 (2000); *Argel vs. Court of Appeals*, 316 SCRA 511, 519 (1999); *Uy vs. Court of Appeals*, 286 SCRA 343, 351 (1998); *Caltex (Philippines), Inc. vs. Intermediate Appellate Court*, 215 SCRA 580, 587 (1992); and, *Rollogue vs. Court of Appeals*, 193 SCRA 47, 55 (1991).

[34] Section 2 of Rule 9 on Motions for Reconsideration provides:

SEC. 2 Time for Filing. – The motion for reconsideration shall be filed within fifteen (15) days from notice of the decision or resolution and a copy thereof shall be served on the adverse party. The period of filing a motion for reconsideration is non-extendible. (Emphasis supplied.)

[35] Effective on August 18, 1988.

[36] Rule 11. Entry of Judgment and Remand of the Records.

SECTION 1. Entry of Judgment. – Unless a motion for reconsideration is filed or an appeal taken to the Supreme Court, judgments and final resolutions of the Court of Appeals shall be entered upon expiration of fifteen (15) days after notice to the parties. (Emphasis supplied.)

[37] *Amatorio vs. People*, *supra*.

[38] Ibid.

[39] *Uy vs. Court of Appeals*, *supra*; *Azores vs. Securities and Exchange Commission*, 252 SCRA 387, 392 (1996).

[40] Teodoro vs. Court of Appeals, 388 SCRA 527, 536 (2002); Pascual vs. Court of Appeals, 300 SCRA 214, 225 (1998).

[41] Sanchez vs. Court of Appeals, 404 SCRA 540, 546 (2003).

[42] Ginete vs. Court of Appeals, 296 SCRA 38, 51-52 (1998).

[43] 256 SCRA 171 (1996).

[44] Id., pp. 179-180.

[45] Ginete vs. Court of Appeals, supra.

[46] Tan vs. Tan, G.R. No. 133805, June 29, 2004; Elcee Farms, Inc. vs. Semillano, 413 SCRA 669, 677 (2003); Amatorio vs. People, supra; and, Villanueva vs. People, 330 SCRA 695, 703 (2000).

[47] Prubankers Association vs. Prudential Bank & Trust Company, 302 SCRA 74, 84 (1999); and First Philippine International Bank vs. Court of Appeals, 252 SCRA 259, 284 (1996).

[48] Philippine Commercial International Bank vs. Court of Appeals, 406 SCRA 575, 599 (2003).

[49] Rollo, p. 45.

[50] Wilmon Auto Supply Corporation vs. Court of Appeals, 208 SCRA 108, 115 (1992), citing Desamito vs. Cuyegkeng, 18 SCRA 1184 (1966); Pardo de Tavera vs. Encarnacion, 22 SCRA 632 (1968); Rosales vs. CFI, 154 SCRA 153 (1987); and, Commander Realty, Inc. vs. Court of Appeals, 161 SCRA 264 (1988).

[51] Barba vs. Court of Appeals, 376 SCRA 211, 220 (2002); and Hilario vs. Court of Appeals, 260 SCRA 420, 426 (1996).

[52] Dalumpines vs. Court of Appeals, 336 SCRA 538, 546 (2000); and Refugia vs. Court of Appeals, 258 SCRA 347 (1996).

[53] Concepcion, 296 SCRA 579, 589 (1998); and Sandel Intestate Estate of Alexander T. Ty vs. Court of Appeals, 356 SCRA 661, 667 (2001); Dio vs. vs. Court of Appeals, 262 SCRA 101, 110 (1996).

[54] Tomas Claudio Memorial College, Inc. vs. Court of Appeals, 316 SCRA 502, 508 (1999).

[55] Arcal vs. Court of Appeals, 285 SCRA 34, 46 (1998); and Hilario vs. Court of Appeals, supra.

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