

MONEYTREND LENDING CORPORATION, MERCANTILE CREDIT RESOURCES CORPORATION, RMJ AGRO-INDUSTRIAL DEVELOPMENT CORPORATION AND PROVINCIAL SHERIFF OF AKLAN, PETITIONERS, VS. COURT OF A...

G.R. NO. 165580. February 20, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

Under consideration is this special civil action for certiorari and prohibition under Rule 65 of the Rules of Court to annul and set aside, on ground of grave abuse of discretion, the Resolution[1] dated August 12, 2003, as reiterated in a subsequent Resolution[2] dated October 8, 2004, of the Court of Appeals (CA) in CA-G.R. CV No. 71990, reinstating private respondents' appeal in said case despite previous dismissal thereof by the same court, and even as an entry of judgment had already been made thereon. The prohibition aspect of the petition seeks to enjoin the CA from further proceeding with said case.

The material facts:

On February 5, 2001, in the Regional Trial Court of Kalibo, Aklan, herein private respondents who are heirs of one Soterania Siñel, filed, through their counsel, Atty. Florencio D. Gonzales, a complaint[3] for Annulment of Documents, Real Estate Mortgages, Promissory Notes, Annulment of Foreclosure Proceedings, Accounting and Damages against the herein corporate petitioners and the Provincial Sheriff of Aklan. Docketed in the same court as Civil Case No. 6247 and raffled to Branch VI thereof, the complaint substantially alleged that the real estate mortgages and promissory notes therein mentioned executed by respondents' predecessor-in-interest in favor of petitioner Moneytrend Lending Corporation (Moneytrend) and the deeds of assignments executed by the latter in favor of co-petitioner Mercantile Credit Resources Corporation (Mercantile) as well as the extrajudicial foreclosure proceedings conducted by the Provincial Sheriff of Aklan which evidently resulted in the sale of the mortgaged properties to co-petitioner RMJ Agro-Industrial Development Corporation (RMJ) were all null and void for lack of consideration.

In time, petitioner Mercantile, followed later by petitioners Moneytrend and RMJ filed their respective motions to dismiss on the common ground of *litis pendentia*. The motions uniformly alleged that about two (2) years earlier, or on April 16, 1999, some of the respondents, as plaintiffs, had already filed against petitioners a similar complaint for annulment of the same real estate mortgages, which complaint, docketed in the same court as Civil Case No. 5735, was dismissed by Branch V thereof and presently on appeal with the CA in CA-G.R. CV No. 66559.

In an Order[4] dated June 27, 2001, the trial court granted petitioners' motions to dismiss and accordingly dismissed Civil Case No. 6247, *ratiocinating* as follows:

There is no dispute that on April 16, 1999, herein plaintiff Antonio G. Siñel, Jr., filed before the Regional Trial

Court, 6th Judicial Region, Branch 5, Kalibo, Aklan, Civil Case No. 5735, entitled 'Antonio G. Siñel vs. Viola S. Cahilig and Moneytrend Lending Corporation'. The case is for annulment and/or declaration of nullity of real estate mortgage and damages. It is now pending appeal before the Court of Appeals, docketed as CA-G.R. CV No. 66559.

Defendant Viola S. Cahilig in Civil Case No. 5735 is the same Viola S. Cahilig as one of the herein Plaintiffs while herein defendant Moneytrend Lending Corporation is the same defendant Moneytrend Lending Corporation in Civil Case No. 5735. defendant Mercantile Credit Resources Corporation which is not one of the defendants in Civil Case No. 5735 is admittedly a successor-in-interest of defendant Moneytrend Lending Corporation. Other plaintiffs in the present case are successors-in-interest of Soterania Siñel, one of the plaintiffs in Civil Case No. 5735. Hence, according to movants, there is an identity of the parties in the instant case with that of the parties in Civil Case No. 5735. The identity of parties need not be absolute but merely substantial (*Anticamora vs. Ong*, 82 SCRA 337,342).

In their opposition to the motion filed by defendants Moneytrend Corporation and RMJ Ago-Industrial Development Corporation, plaintiffs, however, did not seriously dispute the identity of parties in Civil Case No. 5735 with the present case. Plaintiffs simply pointed out that the present complaint involves six (6) causes of action while Civil Case No. 5735 is only for Annulment of Real Estate Mortgage and Damages.

While the present complaint mentions six (6) causes of action, yet the prayer only seeks for the annulment of the Real Estate Mortgage and the foreclosure proceedings as well as damages. This is the same relief being sought by the plaintiffs in Civil Case No. 5735.

It is therefore clear that there is another action (Civil Case No. 5735, now pending in the Honorable Court of Appeals, docketed as CA-G.R. CV No. 66559, entitled 'Antonio G. Siñel, Jr., etc. vs. Viola S. Macahilig and Moneytrend Lending Corp.') for the same cause of action.

Against said order of dismissal, respondents, as plaintiffs below, filed with the trial court a Notice of Appeal,[5] therein making known their intention to appeal to the CA the dismissal order. Consequently, the records of Civil Case No. 6247 were elevated to the CA whereat respondents' appellate recourse was docketed as CA-G.R. CV No. 71990.

In time, the CA issued a notice[6] to file brief, requiring respondents, as appellants, to file their Appellants' Brief within forty-five days from notice. It is not disputed that, respondents' counsel, Atty. Florencio Gonzales, received his copy of the notice on January 29, 2002, which means that respondents had only up to March 16, 2002 within which to file their Appellants' Brief.

The 45-day period came and went but no appellants' brief was ever filed. Neither did Atty. Gonzales file any motion for extension of time therefor.

Hence, in a Resolution[7] dated July 9, 2002, the CA deemed respondents' appeal as having been abandoned and accordingly dismissed the same, to wit:

For failure of counsel for appellants [respondents] to file appellants' brief, the appeal is hereby deemed ABANDONED and DISMISSED, pursuant to Section 1(e), Rule 50 of the 1997 Rules of Civil Procedure.

SO ORDERED.

Again, it is a matter of record that respondents' counsel, Atty. Gonzales, received copy of said dismissal resolution on July 17, 2002.[8] And neither is it disputed that counsel never filed any motion for reconsideration of the same dismissal resolution.

Accordingly, with said resolution having become final and executory, the CA caused to be made an Entry of

Judgment[9] in CA-G.R. CV No. 6247 on August 2, 2002.

Then, on January 20, 2003, or more than six (6) months after Entry of Judgment, Atty. Cesar Verano filed his Entry of Appearance[10] as respondents' new counsel. And simultaneously therewith, Atty. Verano filed in CA-G.R. CV No. 71990 the following pleadings, all dated January 20, 2003, to wit:

- MOTION TO ADMIT HEREIN ATTACHED MOTION FOR RECONSIDERATION OF THE RESOLUTION DATED JULY 9, 2002;[11]
- MOTION FOR RECONSIDERATION (OF RESOLUTION DATED JULY 9, 2002);[12] and}
- MOTION TO ADMIT HEREIN ATTACHED BRIEF FOR PLAINTIFFS-APPELLANTS[13] (with the appellants' brief[14] thereto attached).

To the foregoing motions, petitioners filed their comment/opposition.[15]

After a further exchange of pleadings by the parties, the CA came out with the herein assailed Resolution[16] dated August 12, 2003, setting aside its dismissal resolution of July 9, 2002 and admitting respondents' Appellants' Brief. Partly says the CA in its challenged resolution:

In the interest of justice and equity, the appellants [respondents] may not be made to bear the unfavorable effect of the gross negligence of their counsel, and lose their right to be heard. The right to counsel proceeds from the fundamental principle of due process which basically means that a person must be heard.

xxx xxx xxx

It is on the basis of these pronouncements of the Supreme Court that equity should be applied. What is sought to be applied in the absence of the law is the pervading principle of equity and justice above strict legalism. Strict application of the Rules cannot work to prejudice the right of the appellants [respondents]. (Words in brackets supplied).

With their motion for reconsideration having been denied by the CA in its equally challenged resolution[17] of October 8, 2004, petitioners have come to this Court via the present recourse on the following grounds:

THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN GIVING DUE COURSE TO RESPONDENTS' MOTION FOR RECONSIDERATION FILED SIX (6) MONTHS AFTER SAID COURT HAD ALREADY DISMISSED CA G.R. CV. NO.71990, FOR FAILURE OF THE RESPONDENTS TO FILE THEIR APPELLANTS' BRIEF AND AFTER THE COURT OF APPEALS HAD ALREADY MADE AN ENTRY OF JUDGMENT IN SAID CASE.

CONSIDERING THE ADMISSION OF PRIVATE RESPONDENTS THROUGH ATTY. CESAR T. VERANO THAT THE FAILURE OF THEIR FORMER COUNSEL, ATTY. FLORENCIO D. GONZALES, TO FILE THEIR APPELLANTS' BRIEF ON TIME, "WAS SOLELY DUE TO THE GROSS NEGLIGENCE OF APPELLANT'S (sic) FORMER COUNSEL, WITHOUT THE PARTICIPATION OF HEREIN PLAINTIFFS-APPELLANTS (private respondents in this case)", THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION IN REINSTATING PRIVATE RESPONDENTS' APPEAL, CONTRARY TO THE WELL-ENSCONSED RULE THAT THE PARTIES ARE BOUND BY THE NEGLIGENCE OF THEIR COUNSEL.

The petition is impressed with merit.

In the disposition of judicial controversies, reasonable and justifiable liberality in the application of procedural rules should be the guiding principle, where otherwise substantial justice would be jeopardized. Inadequacies and errors of form should be overlooked when they would defeat rather than help the judge in arriving at a just and

fair result as to the essential merits of any case. This is not to say, however, that the rules fixing periods within which certain acts must be done either by the parties or by the court come within the realm of liberality in adjective law. Public interest demands that there be limits of time in the procedure laid down for the administration of justice. Otherwise, through inadvertence, negligence or indolence, not to speak of malice, suits may be unduly prolonged, thereby giving veracity to that lamentable situation of justice delayed, justice denied. In other words, when it comes to compliance with time rules, the Court cannot afford unexcusable delay.[18]

It may be that mere lapse of the period to file an appellant's brief does not automatically result in the dismissal of the appeal and loss of jurisdiction by the appellate court. It ought to be stressed, however, the relaxation of the rules on pleadings and practice to relieve a party-litigant of an injustice must be for most persuasive reasons.[19] And in case of delay, the lapse must be for a reasonable period. The element of reasonableness does not obtain in the present case. The 45-day period within which private respondents were supposed to file their brief expired on March 16, 2002. This notwithstanding, no attempt was made to move for extension on or before that date. Then, too, on July 14, 2002, when Atty. Florencio Gonzales received the July 9, 2002 Resolution of the CA dismissing private respondents' appeal for his failure to file his clients' brief, no motion for reconsideration was filed within fifteen (15) days from his receipt of such notice of dismissal explaining his failure to file the required brief.

Yet, despite the lapse of six (6) months from the finality of its Resolution of Dismissal of July 9, 2002, and even as Entry of Judgment had already been made in the case, the CA proceeded to reinstate private respondents' appeal purportedly "in the interest of substantial justice." Considering the period involved, the CA's act of reinstating a belated appeal amounts to grave abuse of discretion. The Court can allow that the power or discretion to reinstate an appeal that had been dismissed is included in or implied from the power or discretion to dismiss an appeal. Nonetheless, such power or discretion must be exercised upon showing of good and sufficient cause, in like manner as the power or discretion vested in the appellate court to allow extensions of time for the filing of briefs.

In a long line of decisions, the Court has repeatedly held that, while the rules of procedure are liberally construed, the provisions on reglementary periods are strictly applied, indispensable as they are to the prevention of needless delays and are necessary to the orderly and speedy discharge of judicial business. The same is true with respect to the rules on the manner and periods for perfecting appeals.[20] It bears stressing that the timely perfection of an appeal is a mandatory requirement not to be trifled with as a "mere technicality" to suit the interest of a party. The rules on periods for filing appeals are to be observed religiously, and parties who seek to avail themselves of the privilege must comply with the rules.[21] The failure to perfect an appeal as required by law renders the judgment final, immutable and executory.[22]

In their motion to admit their brief, respondents emphasized therein that their failure to timely file the same was due to the gross negligence of their former counsel who neither informed them of the necessity therefor nor of his failure to do so, even as the adverse resolution dated July 9, 2002 deemed their appeal as abandoned and thus dismissed. It cannot be over-emphasized that the client is, as a rule, bound by his counsel's negligence and mistakes in handling the case. A client who suffers prejudice by reason of his counsel's inexcusable negligence in the discharge of his duty may, however, file an action for damages against him. He may also institute a disbarment proceeding. Both actions can proceed independently of the other.[23]

Here, the CA's Resolution of Dismissal had indisputably become final. Well-settled is the rule that a judgment which has acquired finality becomes immutable and unalterable, and, hence, may no longer be set aside, modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of law or fact. The fundamental policy is that all litigations must, at some time, come to an end, however unjust the result of error may appear.[24] Otherwise, litigation would become more intolerable than the wrong or injustice it is

designed to correct.[25] And since the CA had already lost jurisdiction over CA-G.R. CV No. 71990 when the finality of its dismissal resolution of July 9, 2002, had set in, not to mention that an entry of judgment had already been made thereon, that court cannot justify the reinstatement of private respondents' appeal by invoking its equity jurisdiction.

WHEREFORE, the instant petition is GRANTED. Accordingly, the assailed CA resolutions dated August 12, 2003 and October 8, 2004 in CA G.R. CV No. 71990 are ANNULLED and SET ASIDE and its resolution of July 9, 2002 dismissing the appeal in said case is REINSTATED. A writ of prohibition is thus issued enjoining the CA from taking further action thereon, except to remand the records to the court of origin.

SO ORDERED.

Puno, (Chairman) and Azcuna, JJ., concur.

Corona, J., on leave.

Sandoval-Gutierrez, J., on sick leave.

[1]Penned by Associate Justice S. Labitoria (Ret.), with Associate Justices Jose L. Sabio and Juan Q. Enriquez, concurring; Rollo, pp. 44-46.

[2]Rollo, pp. 48-50.

[3] Rollo, pp. 82-88.

[4]Rollo, pp. 96-97.

[5]Rollo, p. 98.

[6] Rollo, p. 100.

[7]Rollo, p. 103.

[8]Per registry return receipt, Rollo, p. 106.

[9] Rollo, p. 108.

[10]Rollo, pp. 110-111.

[11]Rollo, pp. 114-117.

[12] Rollo, pp. 125-130.

[13] Rollo, pp. 135-137.

[14] Rollo, pp. 143-195.

[15]Rollo, pp. 200-2002.

[16] See Note #1, supra.

[17]See Note #2, supra.

[18] Mangali vs. Court of Appeals, 99 SCRA 236 (1980).

[19] Cometa vs. Court of Appeals, 351 SCRA 294 (2001).

[20]Gutierrez vs. Court of Appeals, 68 SCRA 329, 336 (1975).

[21] Cuevas vs. Bais Steel Corporation, 391 SCRA 192 (2002).

[22] Cirineo Bowling Plaza, Inc. vs. Gerry Sensing, et al., 448 SCRA 175 (2005).

[23] Agpalo, Legal Ethics, 1997 Ed. pp. 268, 273.

[24] Johnson & Johnson (Phil.) Inc. vs. CA, 214 SCRA 299 (1992).

[25] Reinsurance Company vs. CA, 198 SCRA 19 (1991).

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