

FAUSTO R. PREYSLER, JR., PETITIONER, VS. MANILA SOUTHCOAST DEVELOPMENT CORPORATION, RESPONDENT.

G.R. No. 171872. June 28, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for review[1] assails the 22 November 2005 Decision[2] and the 3 March 2006 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 89621.

The Facts

On 15 January 2002, petitioner Fausto R. Preysler, Jr. (petitioner) filed with the Municipal Trial Court (MTC) of Batangas a complaint for forcible entry against respondent Manila Southcoast Development Corporation (respondent). The subject matter of the complaint is a parcel of land with an area of 21,922 square meters located in Sitio Kutad, Barangay Papaya, Nasugbu, Batangas. The disputed land, covered by Transfer Certificate of Title (TCT) No. TF-1217[4] in the name of petitioner, is also within the property covered by TCT No. T-72097[5] in the name of respondent.[6] TCT No. T-72097 covers three contiguous parcels of land with an aggregate area of 86,507,778 square meters.

On 13 December 2002, the MTC ruled in favor of petitioner and ordered respondent to vacate the disputed land covered by TCT No. TF-1217 in the name of petitioner and to return the possession of the land to petitioner.[7] Respondent appealed to the Regional Trial Court (RTC). In its Decision dated 22 January 2004, the RTC, Branch 14, Nasugbu, Batangas reversed the MTC decision and dismissed petitioner's complaint.

Petitioner received the RTC Decision on 9 February 2004 and thereafter filed a Motion for Reconsideration, which was set for hearing on 26 February 2004. Petitioner sent a copy of the Motion for Reconsideration to respondent's counsel by registered mail on 23 February 2004. During the 26 February 2004 scheduled hearing of the motion, the RTC judge reset the hearing to 2 April 2004 because the court's calendar could not accommodate the hearing of the motion. All the parties were notified of the schedule for the next hearing.

Meanwhile, it was only on 3 March 2004, or 6 days after the scheduled hearing on 26 February 2004, that respondent's counsel received a copy of petitioner's Motion for Reconsideration.

The rescheduled hearing on 2 April 2004 was again reset on 7 May 2004 because the RTC judge was on official leave. The 7 May 2004 hearing was further reset to 6 August 2004. After the hearing, respondent filed its Motion to Dismiss dated 9 August 2004,[8] claiming that non-compliance with the three-day notice rule did not toll the running of the period of appeal, which rendered the decision final.

On 4 October 2004, the RTC issued an Order, denying petitioner's Motion for Reconsideration for failure to appeal within the 15 days reglementary period and declaring the 22 January 2004 Decision as final and executory.

The RTC ruled that petitioner's Motion for Reconsideration was fatally flawed for failure to observe the three-day notice rule. Petitioner filed an Omnibus Motion for Reconsideration of the Order dated 4 October 2004. In its Order dated 22 February 2005, the RTC dismissed the Omnibus Motion. Petitioner then filed a petition for certiorari with the Court of Appeals, alleging that the RTC committed grave abuse of discretion in dismissing the Motion for Reconsideration and Omnibus Motion for petitioner's alleged failure to observe the three-day notice rule.

The Ruling of the Court of Appeals

In its Decision dated 22 November 2005, the Court of Appeals dismissed the petition. The Court of Appeals held that the three-day notice rule under Sections 4, 5, and 6 of Rule 15 of the Rules of Court is mandatory and non-compliance therewith is fatal and renders the motion pro forma. As found by the RTC, petitioner's Motion for Reconsideration dated 12 February 2004 was received by respondent only on 3 March 2004, or six days after the scheduled hearing on 26 February 2004. Furthermore, the Court of Appeals held that all violations of Sections 4, 5, and 6 of Rule 15 which render the purpose of the notice of hearing of the motion nugatory are deemed fatal.

Petitioner moved for reconsideration, which the Court of Appeals denied in its Resolution dated 3 March 2006. Hence, this petition for review.

The Issues

In his petition for review, petitioner submits that:

I

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN AFFIRMING THE RULING OF THE PUBLIC RESPONDENT THAT PETITIONER HAD VIOLATED THE THREE-DAY NOTICE RULE DESPITE THE FACTS THAT:

A) PRIVATE RESPONDENT WAS DULY HEARD ON THE MOTION FOR RECONSIDERATION, HAD OPPORTUNITY TO OPPOSE, AND ACTUALLY OPPOSED SAID MOTION.

B) PRIVATE RESPONDENT WAS NOT PREJUDICED BY THE ALLEGED DEFECT OF THE MOTION.

C) THE PURPOSE OF THE THREE-DAY NOTICE RULE WAS SUFFICIENTLY ACHIEVED.

D) THE ALLEGED FAILURE OF PETITIONER TO COMPLY WITH SECTION 4, RULE 15 WAS CURED BY THE FACT THAT THE PUBLIC RESPONDENT RESET SEVERAL TIMES THE HEARING OF THE MOTION, AND THE PRIVATE RESPONDENT WAS PROPERLY NOTIFIED THEREOF AND OPPOSED SAID MOTION.

E) PETITIONER HAD AN EXTREMELY MERITORIOUS CASE.

II

THE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING ON THE ISSUE OF THE ALLEGED DEFECT OF THE PETITIONER'S OMNIBUS MOTION, THEREBY AFFIRMING THE ERRONEOUS COMPUTATION OF THE THREE-DAY NOTICE BY THE RESPONDENT TRIAL JUDGE.

III

THE COURT OF APPEALS ERRED IN NOT RESOLVING THE MERITS OF THE PETITIONER'S MOTION FOR RECONSIDERATION FILED BEFORE THE PUBLIC RESPONDENT.[9]

The Ruling of the Court

We find the petition meritorious.

In upholding the RTC Order denying petitioner's Motion for Reconsideration, the Court of Appeals relied mainly on petitioner's alleged violation of the notice requirements under Sections 4, 5, and 6, Rule 15 of the Rules of Court which read:

SECTION 4. Hearing of motion. - Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SECTION 5. Notice of hearing. - The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

SECTION 6. Proof of service necessary. - No written motion set for hearing shall be acted upon by the court without proof of service thereof.

The three-day notice rule is not absolute. A liberal construction of the procedural rules is proper where the lapse in the literal observance of a rule of procedure has not prejudiced the adverse party and has not deprived the court of its authority.[10] Indeed, Section 6, Rule 1 of the Rules of Court provides that the Rules should be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Rules of procedure are tools designed to facilitate the attainment of justice, and courts must avoid their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice.[11]

In *Somera Vda. De Navarro v. Navarro*,^[12] the Court held that there was substantial compliance of the rule on notice of motions even if the first notice was irregular because no prejudice was caused the adverse party since the motion was not considered and resolved until after several postponements of which the parties were duly notified.^[13]

Likewise, in *Jehan Shipping Corporation v. National Food Authority*,^[14] the Court held that despite the lack of notice of hearing in a Motion for Reconsideration, there was substantial compliance with the requirements of due process where the adverse party actually had the opportunity to be heard and had filed pleadings in opposition to the motion. The Court held:

This Court has indeed held time and again, that under Sections 4 and 5 of Rule 15 of the Rules of Court, mandatory is the requirement in a motion, which is rendered defective by failure to comply with the requirement. As a rule, a motion without a notice of hearing is considered pro forma and does not affect the reglementary period for the appeal or the filing of the requisite pleading.

As an integral component of the procedural due process, the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion

before a resolution of the court. Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.

The test is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based. x x x

A close perusal of the records reveal that the trial court gave petitioner ten days within which to comment on respondent's Motion for Reconsideration. Petitioner filed its Opposition to the Motion on November 26, 2001. In its 14-page Opposition, it not only pointed out that the Motion was defective for not containing a notice of hearing and should then be dismissed outright by the court; it also ventilated its substantial arguments against the merits of the Motion and of the Supplemental Motion for Reconsideration. Notably, its arguments were recited at length in the trial court's January 8, 2002 Joint Resolution. Nevertheless, the court proceeded to deny the Motions on the sole ground that they did not contain any notice of hearing.

The requirement of notice of time and hearing in the pleading filed by a party is necessary only to apprise the other of the actions of the former. Under the circumstances of the present case, the purpose of a notice of hearing was served.[15] (Emphasis supplied)

In this case, the Court of Appeals ruled that petitioner failed to comply with the three-day notice rule. However, the Court of Appeals overlooked the fact that although respondent received petitioner's Motion for Reconsideration six days after the scheduled hearing on 26 February 2004, the said hearing was reset three (3) times with due notice to the parties. Thus, it was only on 6 August 2004, or more than five months after respondent received a copy of petitioner's Motion for Reconsideration, that the motion was heard by the RTC. Clearly, respondent had more than sufficient time to oppose petitioner's Motion for Reconsideration. In fact, respondent did oppose the motion when it filed its Motion to Dismiss dated 9 August 2004. In view of the circumstances of this case, we find that there was substantial compliance with procedural due process. Instead of dismissing petitioner's Motion for Reconsideration based merely on the alleged procedural lapses, the RTC should have resolved the motion based on the merits.

Furthermore, the RTC likewise erred in dismissing petitioner's Omnibus Motion for allegedly failing to comply with the three-day notice requirement. The RTC found that the notice of hearing of petitioner's Omnibus Motion which was set to be heard on 12 November 2004 was received by respondent on 9 November 2004. The RTC held that the service of the notice of hearing was one day short of the prescribed minimum three days notice.

We disagree. Section 4 of Rule 15 provides that "[e]very written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of the hearing, unless the court for good cause sets the hearing on shorter notice." Thus, the date of the hearing should be at least three days after receipt of the notice of hearing by the other parties. In this case, the petitioner's Omnibus Motion was set for hearing on 12 November 2004. Thus, to comply with the notice requirement, respondent should have received the notice of the hearing at least three days before 12 November 2004, which is 9 November 2004. Clearly, respondent's receipt on 9 November 2004 (Tuesday) of the notice of hearing of the Omnibus Motion which was set to be heard on 12 November 2004 (Friday), was within the required minimum three-days' notice. As explained by Retired Justice Jose Y. Feria in his book, *Civil Procedure Annotated*, when the notice of hearing should be given:

The ordinary motion day is Friday. Hence, the notice should be served by Tuesday at the latest, in order that the requirement of the three days may be complied with.

If notice be given by ordinary mail, it should be actually received by Tuesday, or if not claimed from the post office, the date of the first notice of the postmaster should be at least five (5) days before Tuesday.[16] (Emphasis supplied)

WHEREFORE, we GRANT the petition. We SET ASIDE the Decision dated 22 November 2005 and the Resolution dated 3 March 2006 of the Court of Appeals in CA-G.R. SP No. 89621. We REMAND the case to the Regional Trial Court, Branch 14, Nasugbu, Batangas to resolve petitioner's Motion for Reconsideration and Omnibus Motion on the merits.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur.

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

[2] Rollo, pp. 74-86. Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Hakim S. Abdulwahid and Estela M. Perlas-Bernabe, concurring.

[3] Id. at 88.

[4] CA rollo, p. 79.

[5] Id. at 270-287.

[6] MTC Decision dated 13 December 2002, p. 1; id. at 302.

[7] Id. at 310-311. The MTC Decision dated 13 December 2002 reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff Fausto R. Preysler, Jr. and against defendant Manila South Coast Development Corporation as follows:

1. Ordering the said defendant and all persons claiming rights from the defendant to vacate the subject parcel of land which is covered by Transfer Certificate of Title No. 1217 in the name of the plaintiff situated at Sitio Kutad, Barangay Papaya, Nasugbu, Batangas and to return and restore possession of the same to the plaintiff;
2. Ordering the defendant to pay the plaintiff reasonable compensation for the use and occupation of subject property in the amount of P30,000.00 a month beginning August 2001 until defendant vacates the subject premises and possession is restored to the plaintiff;
3. Ordering the defendant to pay attorney's fees in the amount of P50,000.00 and;
4. To pay the costs of the suit.

[8] Id. at 370-374.

[9] Rollo, pp. 29-30.

[10] E & L Mercantile, Inc. v. Intermediate Appellate Court, 226 Phil. 299 (1986).

[11] Strategic Alliance Development Corporation v. Radstock Securities Limited, G.R. Nos. 178158 and 180428, 4 December 2009.

[12] 76 Phil. 122 (1946).

[13] 1 J. FERIA & M.C. NOCHE, CIVIL PROCEDURE ANNOTATED, 406 (2001).

[14] G.R. No. 159750, 14 December 2005, 477 SCRA 781.

[15] Id. at 788-790.

[16] 1 J. FERIA & M.C. NOCHE, CIVIL PROCEDURE ANNOTATED, 405-406 (2001).

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