

SPOUSES LORETO LEYBA AND MATEA LEYBA, PETITIONERS, VS. RURAL BANK OF CABUYAO, INC. AND ZENAIDA REYES, RESPONDENTS.

G.R. No. 172910. November 14, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the Decision of the Court of Appeals (CA) in CA-G.R. CV No. 85410 entitled *Spouses Loreto Leyba and Matea Leyba v. Rural Bank of Cabuyao, Inc. and Zenaida Reyes*, which affirmed the Decision of the Regional Trial Court (RTC), Branch 92 in Calamba City in Civil Case No. 3148-01-C.

The Facts

Petitioners-spouses Loreto and Matea Leyba filed a complaint for Nullification of Real Estate Mortgage and Special Power of Attorney (SPA) against respondents Rural Bank of Cabuyao, Inc. (RBCI) and Zenaida Reyes. They alleged, among others, that: (1) they are the registered owners of a parcel of land in Calamba, Laguna; (2) Reyes enticed Matea to work in Japan subject to a PhP 150,000 placement fee; (3) Matea was made to sign an SPA, granting Reyes the authority to mortgage the subject land in exchange for a PhP 50,000 loan for the placement fee; and (4) Reyes used the SPA to obtain a PhP 500,000 loan from RBCI guaranteed by a real estate mortgage over the subject land.

A pre-trial conference was set for April 1, 2005. Petitioners and their counsel, however, failed to attend it. The RTC, thus, dismissed the complaint for lack of interest to further prosecute the case.[1] Petitioners' motion for reconsideration was denied by the RTC on June 15, 2005.

On their appeal to the CA, petitioners asserted that the trial court erred in (1) dismissing Civil Case No. 3148-01-C for "lack of interest to further prosecute" and (2) denying petitioners' motion for reconsideration.

The CA's Ruling

The CA ruled that the petition had no merit.[2] It cited Section 5, Rule 18 of the Rules of Civil Procedure, which provides that the plaintiff's failure to appear at the pre-trial when so required shall be a cause for dismissal of the action and such dismissal shall be with prejudice, unless otherwise ordered by the court. The CA observed that petitioners did not submit medical certificates to support their claim that their failure to attend the pre-trial conference was due to hypertension. The records also show that they wrote their lawyer telling the latter to withdraw the case.

The CA, thus, affirmed the assailed RTC orders.

Petitioners raise the following issues in this recourse: (1) whether the CA erred in not granting an extension to file a motion for reconsideration; (2) whether petitioners' failure to attend the scheduled pre-trial warrants the dismissal of the complaint; and (3) whether the trial court may dismiss the complaint on the ground of lack of

interest to prosecute despite one of the defendants having already been declared in default.

On July 24, 2006, this Court required respondents to comment on the petition. On February 21, 2007, we required Reyes to show cause why she should not be disciplinarily dealt with or held in contempt for failing to file a comment on the petition. On September 10, 2007, we resolved to await the comment of RBCI in view of its counsel's Notice of Withdrawal as Counsel dated September 13, 2006. In view of the refusal of respondents to file their comment on the petition, we consider their right to comment as waived.

This Court's Ruling

Petitioners claim that the dismissal of their case on a pure technicality would be highly unfair.

Indeed, the circumstances in the instant case merit a reversal of the trial court's order of dismissal. It is the policy of the Court to afford party-litigants the amplest opportunity to enable them to have their cases justly determined, free from the constraints of technicalities.^[3] It is undisputed that petitioners were present in all the scheduled pre-trial conferences, except for the last one set on April 1, 2005. The postponement of the pre-trial was made several times upon agreement by the parties and once upon motion of RBCI. Petitioners claim that they are both advance in age and that, on April 1, 2005, their blood pressure shot up. They reason that the lack of medical certificates explaining their medical condition was due to their non-consultation with a physician as they opted to take sufficient rest instead.

We note that the subject matter of the complaint is to petitioners a valuable parcel of land measuring 259 square meters. Petitioners stand to lose a lot on account of a mere technicality. They have manifested their interest to pursue the case even on appeal. They also have adequately explained their failure to attend the pre-trial conference. It has not been shown that a remand of the case for trial would cause undue prejudice to respondents. In the interest of substantive justice, we allow the petitioners an opportunity to present their side during a trial on the merits, to obviate jeopardizing substantive justice. This liberality underscores the importance of an appeal in our judicial grievance structure to give party-litigants the amplest opportunity for the just disposition of their cause freed from the noose of technicalities.

As held in *RN Development, Inc. v. A.I.I. System, Inc.*:

While a court can dismiss a case on the ground of non prosecutur, the real test of such power is whether, under the circumstances, plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude. In the absence of a pattern or a scheme to delay the disposition of the case or a wanton failure to observe the mandatory requirement of the rules on the part of the plaintiff, as in the case at bar, courts should decide to dispense rather than wield their authority to dismiss.^[4]

WHEREFORE, the petition is GRANTED. The Decision of the CA is REVERSED and SET ASIDE. The case is REMANDED to the RTC of origin for further proceedings.

SO ORDERED.

Quisumbing, Acting C.J.,[*] (Chairperson), Carpio-Morales, Tinga, and Brion, JJ., concur.

* Acting Chief Justice as per Special Order No. 532 dated November 7, 2008.

[1] Rollo, p. 95. The Order was penned by Pairing Judge Romeo C. De Leon.

[2] Id. at 41-49. The Decision was penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Hakim S. Abdulwahid and Estela M. Perlas-Bernabe.

[3] Vette Industrial Sales Co., Inc. v. Cheng, G.R. Nos. 170232 & 170301, December 5, 2006, 509 SCRA 532, 543.

[4] G.R. No. 166104, June 26, 2008; citing Bank of the Philippine Islands v. Court of Appeals, G.R. No. 117385, February 11, 1999, 303 SCRA 19.

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