

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE INTESTATE ESTATE OF FRANCISCO DE GUZMAN, REPRESENTED BY HIS HEIRS: ROSALIA, ELEUTERIO, JOE, ERNESTO, HARRISON, ALL SURNAMED DE GUZM...

G.R. No. 182507. June 18, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Litigants should not be allowed to file identical motions repeatedly, speculating on the possible change of opinion of the court or of its judges.[1] We emphasize this principle in the present case and warn the parties to desist from the practice of filing several motions to dismiss which allege the same ground.

This is a petition for review on certiorari of Court of Appeals (CA) Decision[2] dated October 22, 2007 and Resolution[3] dated April 14, 2008, which affirmed the denial of petitioner's motion to dismiss.

Respondent Gina de Guzman obtained a P300,000.00 loan from petitioner, Philippine National Bank, secured by a real estate mortgage over a parcel of land registered in her name. Gina acquired the property from her father, Francisco de Guzman, through a Deed of Absolute Sale dated August 28, 1978. Gina's sister, Rosalia de Guzman, the beneficiary of the family home standing on the said lot, gave her consent to the mortgage.

Later, Rosalia filed a Complaint for Declaration of Nullity of Document, Cancellation of Title, Reconveyance, Cancellation of Mortgage, and Damages[4] against Gina and petitioner, alleging that the purported sale of the property by Francisco to Gina was fraudulent. The Complaint was then amended to replace respondent Intestate Estate of Francisco de Guzman as plaintiff.[5]

On January 21, 1999, the Regional Trial Court (RTC) dismissed the case due to plaintiff's failure to comply with its order to pay the legal fees so that alias summons could be served, thus:

A review of the records discloses that the plaintiffs failed to comply, despite due notice, with the order of this court dated November 17, 1998, as indicated in the registry return cards addressed to plaintiff Rosalia de Guzman-Poyaoan and her counsel as attached at the dorsal side of said order.

WHEREFORE, this court is constrained to dismiss this case on the ground that plaintiffs failed to comply with the aforementioned order to pay legal fees to the Clerk of Court within five (5) days from receipt of the order so that an alias summons can be served by the sheriff of this court to defendant Gina de Guzman at her new address in Metro Manila, in consonance with Section 3, Rule 17 of the 1997 Rules of Civil Procedure.

SO ORDERED.[6]

No appeal was taken from this order; hence, the dismissal became final and executory.

Thereafter, on April 11, 2000, respondent Intestate Estate filed another Complaint,[7] also for Declaration of Nullity of Documents, Cancellation of Title, Reconveyance, Cancellation of Mortgage, and Damages, against

Gina and petitioner, with essentially the same allegations as the former Complaint.

On June 1, 2000, petitioner filed a Motion to Dismiss[8] on the ground of res judicata, alleging that the Complaint is barred by prior judgment. In an Order[9] dated October 2, 2000, the RTC denied the motion. The court ruled that, since there was no determination of the merits of the first case, the filing of the second Complaint was not barred by res judicata. It also held that courts should not be unduly strict in cases involving procedural lapses that do not really impair the proper administration of justice.

On October 25, 2000, petitioner filed a Second Motion to Dismiss[10] on the ground of forum shopping. Petitioner argued that respondent Intestate Estate violated the rule against forum-shopping when it filed the Complaint despite knowing that a similar Complaint had been previously dismissed by the court.

The RTC, in an Order[11] dated March 13, 2001, denied the motion for lack of merit, and petitioner was directed to file its answer within five days. The court said that there was forum-shopping if a final judgment in one case would amount to res judicata in another case, and since it had already ruled in its previous order that the dismissal of the first complaint did not constitute res judicata, respondents were not guilty of forum-shopping.

Petitioner filed another Motion to Dismiss, raising the same ground, which was denied by the RTC in an Order dated May 31, 2001.[12]

Petitioner then filed an Omnibus Motion for Reconsideration[13] of the three RTC Orders, this time, raising the following grounds: (a) res judicata; (b) forum-shopping; (c) lack of jurisdiction over the person; and (d) complaint states no cause of action.

On January 15, 2002, the RTC denied the omnibus motion for lack of merit and gave petitioner five days within which to file its answer. The court held that the motion contained a mere rehash of the arguments raised in the three earlier Motions to Dismiss which had already been passed upon by the court in its three Orders and which contributed to the undue delay in the disposition of the case.[14]

Finally, petitioner filed an Answer[15] to the Complaint on February 19, 2002, again raising therein the issue of res judicata. Thereafter, the case was set for pre-trial.

Three years later, specifically on February 15, 2005, petitioner filed another Motion to Dismiss[16] with leave of court, alleging res judicata and forum-shopping.

On October 4, 2005, the RTC issued an Order[17] denying the Motion to Dismiss, declaring:

WHEREFORE, in view of the foregoing, the Motion to Dismiss is hereby DENIED.

No further Motion to Dismiss shall be entertained by this Court. Parties are directed to prosecute this case with dispatch.

Set the cross-examination of plaintiff Rosalia de Guzman Poyaoan on November 18, 2005 at 8:30 o'clock in the morning.

SO ORDERED.[18]

On November 6, 2006, the RTC denied petitioner's motion for reconsideration.

Petitioner filed a petition for certiorari with the CA, assailing these Orders. On October 22, 2007, the CA denied the petition, ruling in this wise:

WHEREFORE, the instant petition is hereby DENIED. ACCORDINGLY, the assailed Orders of Branch 57, Regional Trial Court of San Carlos City, Pangasinan dated 4 October 2005 and 6 November 2006,

respectively, are AFFIRMED.

SO ORDERED.[19]

On April 14, 2008, the CA denied petitioner's motion for reconsideration.[20]

Petitioner then filed this petition for review on certiorari, raising the following issues:

The Court of Appeals erred in holding that an element of res judicata, i.e., that the disposition of the case must be a judgment or order on the merits is absent in the case.

The Court of Appeals erred when it ruled that res judicata has not set in so as to bar the filing of the second case.

The Court of Appeals erred in holding that the respondent had not violated the rule against forum-shopping.[21]

The petition has no merit.

The Court finds insufferable petitioner's repeated filing of Motions to Dismiss raising the same ground. In the three previous Motions to Dismiss and in an omnibus motion for reconsideration, petitioner argued that the present case was barred by prior judgment and that there was forum-shopping. Correspondingly, the issues had been repetitively passed upon and resolved by the court a quo.

The motions were apparently filed for no other reason than to gain time and gamble on a possible change of opinion of the court or the judge sitting on the case. The Motions to Dismiss were filed in a span of five years, the first one having been filed on June 1, 2000 and the last $\frac{3}{4}$ the subject motion $\frac{3}{4}$ on February 15, 2005, three years after petitioner filed its answer. In fact, since the first Motion to Dismiss, three judges had already sat on the case and resolved the motions. By filing these motions, petitioner had disrupted the court's deliberation on the merits of the case. This strategy cannot be tolerated as it will entail inevitable delay in the disposition of the case.

Although the ground stated in the second Motion to Dismiss was forum-shopping and the subsequent motions included other grounds, nonetheless, all of these motions raised a similar argument--that since the dismissal in the first case is already final and executory and there is no reservation made by the court in its judgment that the dismissal is without prejudice, the filing of the second case is barred. Therefore, the subsequent motions, being reiterations of the first motion, technically partook of the nature of a motion for reconsideration of the interlocutory order denying the first Motion to Dismiss.

This is not the first time that the Court disallowed the repetitive filing of identical motions against an interlocutory order. In a parallel case, *San Juan, Jr. v. Cruz*,^[22] the Court acknowledged that there is actually no rule prohibiting the filing of a pro forma motion against an interlocutory order as the prohibition applies only to a final resolution or order of the court. The Court held, nonetheless, that a second motion can be denied on the ground that it is merely a rehash or a mere reiteration of the grounds and arguments already passed upon and resolved by the court.

In *San Juan*, the Court was also confronted with the question of when the reglementary period for filing a petition for certiorari shall be reckoned. Petitioner therein filed second and third motions for reconsideration from the interlocutory order and when he filed the petition for certiorari with the CA, he counted the 60-day reglementary period from the notice of denial of his third motion for reconsideration. He argued that, since there is no rule prohibiting the filing of a second or third motion for reconsideration of an interlocutory order, the 60-day period should be counted from the notice of denial of the last motion for reconsideration. Having declared that the filing of a second motion for reconsideration that merely reiterates the arguments in the first motion is subject to denial,

the Court held that the 60-day period for filing a petition for certiorari shall be reckoned from the trial court's denial of the first motion for reconsideration, otherwise, indefinite delays will ensue.

Applying the ruling in *San Juan*, the petition for certiorari was evidently filed out of time, as its filing was reckoned from the denial of the last motion. The subject Motion to Dismiss was filed in an attempt to resurrect the remedy of a petition for certiorari, which had been lost long before its filing.

In any case, we agree with the CA's conclusion that the trial court did not commit grave abuse of discretion in denying petitioner's Motion to Dismiss. However, we do not agree that the judgment of dismissal in the first case was not on the merits. A ruling on a motion to dismiss, issued without trial on the merits or formal presentation of evidence, can still be a judgment on the merits.[23] Section 3[24] of Rule 17 of the Rules of Court is explicit that a dismissal for failure to comply with an order of the court shall have the effect of an adjudication upon the merits. In other words, unless the court states that the dismissal is without prejudice, the dismissal should be understood as an adjudication on the merits and is with prejudice.[25]

Nonetheless, bearing in mind the circumstances obtaining in this case, we hold that *res judicata* should not be applied as it would not serve the interest of substantial justice. Proceedings on the case had already been delayed by petitioner, and it is only fair that the case be allowed to proceed and be resolved on the merits. Indeed, we have held that *res judicata* is to be disregarded if its rigid application would involve the sacrifice of justice to technicality,[26] particularly in this case where there was actually no determination of the substantive issues in the first case and what is at stake is respondents' home.

WHEREFORE, premises considered, the petition is DENIED. The Court of Appeals Decision dated October 22, 2007 and Resolution dated April 14, 2008 are AFFIRMED. Costs against petitioner. The trial court is DIRECTED to proceed with the trial of the case, and to resolve the same with dispatch.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Perez,[*] JJ., concur.

[*] Additional member in lieu of Associate Justice Jose C. Mendoza per Special Order No. 842 dated June 3, 2010.

[1] *Medran v. Court of Appeals*, 83 Phil. 164, 167-168 (1949).

[2] Penned by Associate Justice Monina Arevalo-Zenarosa, with Associate Justices Conrado M. Vasquez, Jr. (Ret.) and Edgardo F. Sundiam (deceased), concurring; rollo, pp. 11-25.

[3] *Id.* at 27-29.

[4] Rollo, pp. 86-91.

[5] *Id.* at 92-97.

[6] *Id.* at 98.

[7] *Id.* at 99-104.

[8] *Id.* at 105-106.

[9] Penned by Presiding Judge Bienvenido R. Estrada; *id.* at 107-108.

[10] Rollo, pp. 109-110.

[11] Id. at 111-112.

[12] Id. at 113.

[13] Id. at 113-118.

[14] Penned by Acting Presiding Judge Salvador P. Vedaña; id. at 119.

[15] Rollo, pp. 120-127.

[16] Id. at 132-136.

[17] Penned by Presiding Judge Anthony Sison; id. at 137-138.

[18] Id. at 138.

[19] Supra note 2, at 24.

[20] Supra note 3, at 28.

[21] Rollo, pp. 46-47.

[22] G.R. No. 167321, July 31, 2006, 497 SCRA 410.

[23] Cruz v. Court of Appeals, G.R. No. 164797, February 13, 2006, 482 SCRA 379, 390.

[24] Section 3. Dismissal due to fault of plaintiff. - If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

[25] Cruz v. Court of Appeals, supra note 23, at 389-390.

[26] Islamic Directorate of the Phils. v. Court of Appeals, G.R. No. 117897, May 14, 1997, 272 SCRA 454.

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