

LIGAYA MENDOZA AND ADELIA MENDOZA, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS (EIGHT DIVISION), HONORABLE JUDGE LIBERATO C. CORTEZ AND BANGKO KABAYAN (FORMERLY IBAAN RURAL ...

G.R. No. 182814. July 15, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

This is a Petition for Certiorari[1] pursuant to Rule 65 of the Revised Rules of Court, assailing the 29 November 2007 Decision[2] rendered by the Eighth Division of the Court of Appeals in CA-G.R. SP No. 86745. In its assailed decision, the appellate court affirmed the 28 May 2003 Order[3] of the Regional Trial Court (RTC) of Batangas City, Branch 8 denying the Opposition to the Motion for Execution filed by petitioners Ligaya Mendoza and Adelia Mendoza.

In a Resolution[4] dated 28 April 2008, the Court of Appeals denied the Motion for Reconsideration of the petitioners.

The Facts

On 4 September 1997, petitioners obtained a loan from private respondent Bangko Kabayan (formerly Ibaan Rural Bank) in the amount of P12,000,000.00, as evidenced by a Promissory Note[5] executed by petitioners.

As security for the said obligation, petitioners executed a Deed of Real Estate Mortgage (REM)[6] over 71 parcels of land registered under their names and located in Mabini, Batangas. Subsequently, however, petitioners incurred default and therefore the loan obligation became due and demandable.

On 21 May 1998, private respondent filed a Complaint for Judicial Foreclosure[7] of the REM over the subject properties before the RTC of Batangas City.

After petitioners admitted the material allegations in the Complaint, the RTC, on 7 March 2002, rendered a Judgment[8] on the Pleadings, the dispositive portion of which reads:

"WHEREFORE, on the basis of the pleadings, judgment is hereby rendered in favor of the [private respondent] and against the [petitioners] ordering the [petitioners] to pay to the court or to [private respondent] within a period of ninety (90) days from the entry of this judgment the amounts hereunder set forth, and in default of such payment, the [properties] shall be sold at the public auction to satisfy this judgment:

- a. The principal sum of TWELVE MILLION PESOS (P12,000,000.00) with interest thereon at the rate of 30% per annum and penalty computed from September 4, 1997 until fully paid;
- b. Attorney's fees equivalent to 10% of the total amount due, and cost of suit.[9]

After petitioners failed to timely interpose an appeal or a motion for reconsideration, private respondent filed a

Motion for Execution to enforce the above judgment which was duly opposed by the petitioners on the ground that they were not duly served with a copy of the RTC Decision. It was argued by the petitioners that it was only on 13 June 2002 that their counsel was able to receive a copy of the said judgment prompting them to immediately file a Notice of Appeal on the following day, 14 June 2002.

On 28 May 2003 the RTC issued an Order[10] denying due course to petitioners' Notice of Appeal for being filed out of time. The court a quo declared that petitioners' counsel was negligent in handling her mails and that negligence is binding upon petitioners. Accordingly, the RTC forthwith directed the issuance of the motion for execution, to wit:

WHEREFORE, the [c]ourt declares that the [petitioners'] notice of appeal cannot be given due course as having been filed out of time, and the opposition to the motion for execution is hereby DENIED. Accordingly, let the corresponding writ of execution issue.[11]

In an Order[12] dated 13 July 2004, the RTC denied petitioners' Motion for Reconsideration and thereby ordered the Sheriff to proceed with the sale of the foreclosed properties at the public auction, thus:

WHEREFORE, the [petitioners'] Motion for Reconsideration is hereby DENIED and, accordingly-

The Order of this [c]ourt dated May 28, 2003; the writ of execution issued on September 25, 2003; and the order dated October 20, 2003 directing the Sheriff of this [c]ourt to proceed with the sale at public auction of the mortgaged properties subject matter of this case remain undisturbed and shall be implemented.

Sheriff Rosalinda G. Aguado shall proceed without further delay with the sale [and] execution of the mortgaged properties.[13]

On Certiorari, the Court of Appeals affirmed the assailed RTC Orders after finding that there was a valid service of the notice of judgment to petitioners' counsel as attested by the postmaster who enjoys the presumption of regularity in the performance of his official duty and which presumption was not satisfactorily rebutted by the petitioners in the instant case.[14]

Similarly ill-fated was petitioners' Motion for Reconsideration which was denied by the Court of Appeals in a Resolution[15] dated 28 April 2008.

Arguing that the Court of Appeals gravely abused its discretion in rendering the assailed Decision, petitioners filed this instant Petition for Certiorari seeking the reversal of the appellate court's decision and resolution on the following grounds:

I.

WITH DUE RESPECT TO THE HONORABLE COURT OF APPEALS, THE HONORABLE COURT COMMITTED GRAVE ABUSE OF ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT AFFIRMED THE FINDING OF THE HONORABLE REGIONAL TRIAL COURT OF BATANGAS, BRANCH 8 THAT THERE WAS VALID SERVICE OF THE NOTICE OF JUDGMENT DATED 7 MARCH 2002, INSPITE OF THE OVERWHELMING PIECES OF EVIDENCE TO THE CONTRARY SINCE THE SECURITY GUARD ASSIGNED IN THE LOBBY OF THE LPL MANSIONS WAS NOT AUTHORIZED TO RECEIVE ANY MAIL MATTERS OF THE PETITIONERS' COUNSEL OF RECORD ATTY. MINERVA C. GENOVEA.

II.

WITH DUE RESPECT TO THE HONORABLE COURT OF APPEALS THE HONORABLE COURT, ERRED AND COMMITTED GRAVE ABUSE OF ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN RULING THAT ATTY. MINERVA C. GENOVEA IS AT FAULT SINCE

SHE FAILED TO ADOPT MEASURES TO ENSURE NOTICES AND DOCUMENTS INTENDED FOR HER WILL BE DULY RECEIVED BY HER OR HER STAFF.

III.

WITH DUE RESPECT TO THE HONORABLE COURT OF APPEALS, IT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT UPHELD THE DECISION OF THE HONORABLE REGIONAL TRIAL COURT PRESIDING JUDGE WHEN THE LATTER PRECIPITATELY DENIED DUE COURSE [TO] THE NOTICE OF APPEAL SEASONABLY FILED BY THE PETITIONERS ON 14 JUNE 2002 OR ONE (1) DAY FOLLOWING ACTUAL RECEIPT OF THE JUDGMENT (sic) DATED 7 MARCH 2002 BY THE PETITIONERS.

IV.

GRANTING ARGUENDO, THAT INDEED THERE WAS VALID SERVICE OF JUDGMENT ON THE PETITIONERS, STILL THE HONORABLE COURT HAS THE POWER AND DISCRETION TO EXTEND THE PERIOD FOR FILING THE RECORD ON APPEAL IN THE INTEREST OF JUSTICE; BESIDES AS REVEALED AND BASED ON RECORDS OF THE CASE, IT IS APPARENT THAT THE JUDGMENT WAS RENDERED THROUGH A MERE MOTION ON JUDGMENT ON THE PLEADINGS, WHICH WAS FROWNED UPON BY NO LEES THAN THIS HONORABLE COURT, PROPHETICALLY EMPHASIZED IN ITS NUMEROUS PRONOUNCEMENTS, THAT SHORT-CUTS IN JUDICIAL PROCESSES ARE TO BE AVOIDED WHERE THEY IMPEDE RATHER THAN PROMOTE A JUDICIOUS DISPENSATION OF JUSTICE.

V.

WITH DUE RESPECT TO THE HONORABLE COURT OF APPEALS, THE HONORABLE COURT COMMITTED GRAVE ABUSE OF ITS DISCRETION AMOUNTING TO LACK OR IN EXCESS OF DISCRETION WHEN IT STATED THAT NOTICE SENT TO THE COLLABORATING COUNSEL ATTY. JUANITO L. VELASCO, JR. WAS VALID SERVICE UPON THE PETITIONERS.

VI.

WITH DUE RESPECT TO THE HONORABLE OF APPEALS, THE HONORABLE COURT ERRED AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT FAILED TO RULE THAT NO VALID EXECUTION CAN BE EFFECTED SEEING AS THERE WAS ABSENCE OF ACTUAL NOTICE TO HEREIN PETITIONERS.[16]

The Court's Ruling

The crux of the entire controversy is nestled on the issue of whether or not there was a valid service of the 7 March 2002 RTC Judgment to the petitioners.

As a rule where a party appears by attorney in an action or proceeding in a court of record, all notices or orders required to be given therein must be given to the attorney of record. Accordingly, notices to counsel should be properly sent to his address of record, and, unless the counsel files a notice of change of address, his official address remains to be that his address of record.[17]

There is no question that in this case, petitioners' counsel was able to receive a copy of the judgment, as evidenced by the Certification[18] issued by the Postmaster General. As borne by the Certification, the said copy of the judgment was duly delivered to the address on record of the petitioners' counsel at 2/F LPC Mansion, 122 L.P. Leviste St., Salcedo Village, Makati City and was received by Daniel Soriano, the security guard on 15 March 2002.

While petitioners impliedly admitted the fact that the security guard in the building where their counsel's office is located received the copy of the judgment, they argued, however, that such receipt is not valid under the law, a contention which pulled the rug from under their feet exposing the utter frailty of their position. In *Balgami v. Court of Appeals*,^[19] the Court instructed the counsels to device a system to ensure that official communications would be promptly received by them, lest, they will be chargeable with negligence, thus:

x x x. The law office is mandated to adopt and arrange matters in order to ensure that official or judicial communications sent by mail would reach the lawyer assigned to the case. The court has time and again emphasized that the negligence of the clerks, which adversely affect the cases handled by lawyers, is binding upon the latter. The doctrinal rule is that negligence of the counsel binds the client because, otherwise, there would never be an end to a suit so long as new counsel could be employed who could allege and [prove] that prior counsel had not been sufficiently diligent, or experienced, or learned.

Evidently, petitioners' counsel was wanting on this respect. Not only did petitioners' counsel fail to device a system for the prompt and efficient receipt of mails intended for her, she also failed to ensure that she could be notified of the decision as soon as possible. As a practicing lawyer, petitioners' counsel should have been more circumspect in monitoring official communications intended for her so as to avoid situations like this, where a mail matter was inexplicably lost after delivery thereby running the risk of losing a client's case on technicality. Petitioners' counsel cannot hide behind the security guard's negligence to shield her even professional negligence in an effort to seek reversal of a decision that has long attained finality. It bears stressing that a decision had become final and executory without any party perfecting an appeal or filing a motion for reconsideration within the reglementary period. It was only months after its finality that questions assailing the Decision were raised.

Neither can petitioners exempt themselves or their properties from the operation of a final and executory judgment by harping on their counsel's negligence. Jurisprudence is replete with pronouncements that clients are bound by the actions of their counsel in the conduct of their case. If it were otherwise, and a lawyer's mistake or negligence was admitted as a reason for the opening of the case, there would be no end to litigation so long as counsel had not been sufficiently diligent or experienced or learned.^[20] The only exception to the general rule is when the counsel's actuations are gross or palpable, resulting in serious injustice to client, that courts should accord relief to the party.^[21] Indeed, if the error or negligence of the counsel did not result in the deprivation of due process to the client, nullification of the decision grounded on grave abuse of discretion is not warranted.^[22] The instant case does not fall within the exception since petitioners were duly given their day in court.

Furthermore, it is a well-settled principle in this jurisdiction that a client is bound by the action of his counsel in the conduct of the case and cannot be heard to complain that the result might have been different had he proceeded differently.^[23] Every counsel has the implied authority to do all acts which are necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client. And, any act performed by counsel within the scope of his general and implied authority is, in the eyes of law, regarded as the act of the client himself and consequently, the mistake or negligence of the client's counsel may result in the rendition of unfavorable judgment against him.^[24] To rule otherwise would result to a situation that every defeated party, in order to salvage his case, would just have to claim neglect or mistake on the part of his counsel as a ground for reversing an adverse judgment. There would be no end to litigation if this were allowed as every shortcoming of counsel could be the subject of challenge of his client through another counsel who, if he is also found wanting, would likewise be disowned by the same client through another counsel, and so on ad infinitum. This would render court proceedings indefinite, tentative and subject to reopening at any time by the mere subterfuge of replacing counsel.^[25]

In fact, this is not the first time that the Court dismissed the claim of litigants that they were denied their day in

court by conveniently invoking the mistake of their counsel in their vain effort to seek reversal of a judgment that has long become final and executory. In *Juani v. Alarcon*,^[26] We struck down the ploy of the petitioner to prolong the court process by unduly harping on his counsel's negligence to evade a valid obligation, thus:

Clearly, this is an instance where the due process routine vigorously pursued by *Bienvenido Juani* and his successor-in-interest is but a clear-cut afterthought meant to delay the settlement of uncomplicated legal dispute. Aside from clogging the court dockets, the strategy is deplorably a common curse resorted to by losing litigants in the hope of evading manifest obligations. This Court will ever be vigilant to nip [in] the bud any dilatory maneuver calculated to defeat or frustrate the ends of justice, fair play and the prompt implementation of final and executory judgments.

Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurance of his lawyer that everything is being taken care of is not enough.^[27] Where the party failed to act with prudence and diligence, its plea that it was not accorded the right to due process cannot elicit this court's approval or even sympathy.^[28]

When a party lost the right to appeal on account of his own and his counsel's negligence, and, as a result of which, a judgment has attained finality, such party cannot thereafter unduly burden the courts by endlessly pursuing the due process routine in an effort to frustrate the prompt implementation of final and executory judgment. It must be emphasized that the instant case stemmed from a simple judicial foreclosure proceeding involving several parcels of land where the trial court, after finding that petitioners admitted the material allegations in the complaint, rendered a judgment on the pleadings.

Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final the issue or the cause involved therein should be laid to rest. This doctrine of finality of judgment is grounded on fundamental consideration of public policy and sound practice. In fact, nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact and law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.^[29] Just as a losing party has the right to file an appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the resolution of his case by the execution and satisfaction of the judgment, which is the "life of the law."^[30] To frustrate it by dilatory scheme on the part of the losing party is to frustrate all efforts, time and expenditure of the courts. It is in the best interest of justice that this court write *finis* to this litigation.^[31]

WHEREFORE, premises considered, the petition is hereby **DISMISSED**. The assailed Decision dated 29 November 2007 and Resolution dated 28 April 2008 of the Court of Appeals in CA-G.R. SP No. 86745 are hereby **AFFIRMED**.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo De-Castro, Bersamin, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 3-42.

[2] *Id.* at 43-53; Penned by Associate Justice Jose C. Reyes, Jr. with Associate Justices Jose L. Sabio, Jr. and Myrna Dimaranan Vidal concurring.

- [3] Id. at 164-168.
- [4] Id. at 54.
- [5] Id. at 79.
- [6] Id. at 80-96.
- [7] Id. at 55-78.
- [8] Id. at 122-124.
- [9] Id. at 124.
- [10] Id. at 164-168.
- [11] Id. at 167.
- [12] Id. at 221-229.
- [13] Id. at 229.
- [14] Id. at 43-53.
- [15] Id. at 54.
- [16] Id. at 11-13.
- [17] National Power Corporation v. Tac-an, 445 Phil. 515, 522 (2003).
- [18] Rollo, pp. 49 & 137.
- [19] Balgami v. Court of Appeal, 487 Phil. 102, 113 (2004).
- [20] GCP-Manny Transport Services, Inc. v. Principe, 511 Phil. 176, 184-185 (2005).
- [21] Id.
- [22] Id.
- [23] Juani v. Alarcon, 532 Phil. 585, 603 (2006).
- [24] Id.
- [25] Id. at 603-604.
- [26] Id. at 602.
- [27] Bejarasco, Jr., v. People, 656 Phil. 337, 340 (2011).
- [28] GCP-Manny Transport Services, Inc., v. Principe, supra note 20 at 186.
- [29] Juani v. Alarcon, supra note 23 at 604.
- [30] De Leon v. Public Estates Authority, et al., 640 Phil. 594, 611-612 (2010).
- [31] Id. at 612.

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