

RESURRECCION VDA. DE STA. ANA, PLAINTIFF AND RESPONDENT, VS. RODOLFO RIVERA, DEFENDANT AND PETITIONER.

G.R. No. 22070. October 29, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Rodolfo Rivera appeals to this Court from an order dated 22 August 1963 of the Court of First Instance of Manila (in its Case No. 51726) denying his petition for relief from the judgment on default entered against petitioner as well as from another order of 7th September 1963 denying his motion to amend the petition for relief.

It appears that in a suit filed against him by the appellee, Resurreccion Vda. de Sta. Ana, defendant-appellant Rivera was declared in default on 1 December 1962. After hearing plaintiff's evidence, taken in the absence of defendant, the court of first instance rendered judgment, on 7 January 1963, sentencing him to pay P5,000.00, with interest at 12% per annum from 1 January 1959, and P500.00 attorney's fees.

On 3 July 1963, within the six months period set by Rule 38, section 3, Rivera filed a sworn petition for relief averring that he only learned of the judgment rendered against him on 22 May 1963, when a writ of garnishment was served on his employer, and pleading excusable negligence in that he failed to answer the complaint "for lack legal advice". Movant further averred that he had executed the promissory note sued upon "under usurious conditions and said defendant had already paid part of his indebtedness to the plaintiff as shown by copies of receipts which are attached hereto". (Rec. on Appeal, p. 3)

The court of first instance, on 6 July 1963, ordered Rivera to serve copy of the motion upon plaintiff, and directed the latter to answer. A few days later, the court, upon motion and filing of a P500.00 bond, enjoined execution of the judgment.

Answer to the motion having been made, wherein plaintiff averred defendant's laches, non-excusable negligence and failure to plead adequate facts, the motion was heard on 22 August 1963. At the hearing, queried by the court,

"If they made partial payments, why are you going to collect twice? Isn't it fair enough to give them an allowance for the payments?"

counsel for plaintiff answered:

"We have no objection, your Honor, to deduct those payments. We will just count whatever payment they can produce and which we will admit. We will be agreeable to adjust the payments."

On 24 August 1963, Rivera moved to amend his petition for relief in order to conform to the evidence, alleging that "fraud was committed by plaintiff-respondent in demanding full payment of the loan claimed by her without deduction of payments made by defendant-petitioner and thus secured a Judgment for the full amount." It turned out, however, that on 22 August the court had entered an order denying the petition for relief, because no excusable negligence was shown. Rivera moved for reconsideration but it was denied, and so was the motion to amend the petition.

Whereupon, Rivera appealed to this Court.

A rare and striking feature of these proceedings is that defendant's charge that he had made partial payments on account of his indebtedness, but that plaintiff did not reveal the same to the court, has been practically admitted. At the hearing on the motion for relief, counsel for the plaintiff not only did not contest the copies of the receipts annexed to the defendant's motion but manifested in open court that his client was "agreeable to adjust the payments." In other words, it is not denied that plaintiff had taken advantage of the defendant's absence in the default hearing, and had concealed from the court that part of its claim had been satisfied, and was not collectible.

Plaintiff's conduct, repugnant to all canons of justice and fair play, constituted an imposition and fraud upon a court of justice, and must not be tolerated. Even if defendant had been lax and negligent, that fact can in no way excuse plaintiff's behaviour of resorting to distortion and deceit in order to obtain judgment for a sum greater than was due. That this is not the function of default proceedings is incontestable.

While the defendant's petition for relief suffers from technical deficiencies, we think that the present case is an exceptional one, and that the court below erred in allowing technical rules to stand in the way of granting defendant a remedy, in the face of overwhelming proof that the main decision was not according to conscience, equity and justice. The main purpose of the rules is to promote and facilitate the administration of justice, and it would be a dangerous precedent to deny correction of patent injustices solely because of technical matters, particularly since in the case relief was sought within the period prescribed by the Rules, and the plaintiff's conduct amounted to fraud on the court. Whether the case be controverted or not, it is inescapable duty on the part of litigants and counsel to present to the court "the truth, the whole truth and nothing but the truth".

Wherefore the orders appealed from, denying the petition for relief and its amendment, are set aside, with directions for the trial court to grant a reopening and new trial. Costs against plaintiff-appellee, Resurreccion Vda. de Sta. Ana.

Concepcion C.J., Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Orders set aside.

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