

NATALIA BELTRAN, PETITIONER, VS. GUILLERMO CABRERA, JUDGE OF MUNICIPAL COURT OF MANILA, AND CIRILO MAPA, RESPONDENTS.*G.R. No. 48109. September 07, 1942*

Ponente: MORAN, J.

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In an action instituted against defendant Cirilo Mapa by plaintiff Natalia Beltran for a sum of money, judgment was rendered on November 7, 1940, by the municipal court of Manila awarding plaintiff the amount prayed for in her complaint. On November 16, 1940, defendant filed a motion for reconsideration and new trial, claiming that the judgment was not justified by the evidence and was contrary to law. The respondent court granted this motion in its order of December 28, 1940. On January 20, 1941, plaintiff moved to set aside this order and prayed that the judgment of November 7, 1940 be executed. The court denied both motions and set the case for new trial on February 8, 1941. On this last mentioned date, plaintiff instituted in this Court certiorari proceedings seeking to annul respondent court's order of December 28, 1940, and prayed that it be restrained from proceeding with the new trial. On the same date the respondent judge dismissed plaintiff's complaint for her failure to appear at the new trial.

Rule 4, section 16, of the new Rules of Court is authority for the municipal court to grant a new trial "to correct an error or injustice it may have committed." This provision is a mere restatement of the doctrine laid down in *Veluz vs. Justice of the Peace of Sariaya* (42 Phil., 557), wherein it was held (page 562) that even in the absence of statutory authority to grant a new trial, a justice of the peace court has the inherent power "to amend and control its process and orders so as to make them conformable to law and justice" (par. 7, sec. 11, Act No. 190, now Rule 124, sec. 5, par. (g), Rules of Court). In other words, "a judge has an inherent right, while his judgment is still under his control, to correct errors, mistakes, or injustices" (page 563), and may grant a new trial for that purpose.

But new trial, in such case, does not mean that the parties shall have to introduce anew all the proofs they had presented before. It only means that there shall be a new consideration of the evidence already presented and of the law applicable to the case for the purpose of rendering a new judgment. Since the new trial is predicated upon an erroneous appreciation of the evidence and/or upon an erroneous construction and application of the law, the court has nothing to do at the new trial but to correct the errors it may have committed. It is obvious that the presence of the parties at the new trial is not indispensable except for purposes of argument which may be dispensed with, and, accordingly, the non-appearance of the plaintiff thereat is not a ground for dismissal. Such non-appearance may merely signify that the plaintiff is submitting the case for new judgment without further argument.

There may be instances where the court cannot adequately correct a mistake in its judgment without additional evidence to clarify doubtful points; but in such a case it is the duty of the court so to state in its order for new trial for the guidance of the parties. The municipal court, in the instant case, failed to do so.

It may be suggested that appeal to the Court of First Instance from the order rendered by the municipal court is the proper remedy for the petitioner. Since) however, the only course which the Court of First Instance may take on appeal is to remand the case to the municipal court for further proceedings in accordance with Rule 40, section 10, of the Rules of Court, and since we may properly make that direction now under the issues made by the parties in their pleadings, we shall do so to avoid further delay in the proceedings.

The order of the respondent court granting new trial is declared valid, but its order dismissing the action for non-appearance of the plaintiff at the new trial is hereby set aside, and the case is remanded to the municipal court for further proceedings, without costs.

Yulo, C. J., and Ozaeta, J., concur.

BOCOBO, J.:

I concur in the result. A reading of the motion for new trial and reconsideration filed by defendant and of the arguments of both parties presented to the respondent judge shows that the main purpose of the new trial in this case was not the presentation of new evidence but the reconsideration of the proofs already presented and a restudy of the application of the law to the evidence adduced at the original trial. This being so, the respondent judge erred in dismissing the complaint for failure of plaintiff to appear at the new trial.

CONCURRING AND DISSENTING**PARAS, J.,**

I concur in so much of the decision as holds that the respondent Judge of the Municipal Court committed no error in granting a new trial, because such power is expressly conferred by section 16, Rule 4, of the Rules of Court.

For the reasons hereinbelow stated, I dissent from so much of the decision as rules that the said respondent Judge erred in dismissing petitioner's complaint in civil case No. 127201 for her failure to appear at the new trial set for February 8, 1941 of which she was duly notified:

(1) The respondent Judge not only granted a new trial but set aside the decision of November 7, 1940, after carefully considering the motion for new trial and reconsideration which was grounded upon the application of the law involved to the facts proven at the first trial. Under the circumstance the respondent Judge was bound to dismiss the case upon failure of the petitioner to appear at the new trial, as such dismissal had the effect of merely confirming the action of the respondent Judge in ordering anew trial and setting aside the decision, there being no new evidence justifying a different result.

(2) If, as conceded by the majority, the new trial was legally authorized, there is inconsistency on the part of this Court to so hold and, at the same time, to nullify the very force and effect given by the respondent Judge to said new trial at which the petitioner (plaintiff below) voluntarily failed to appear. The more consistent action would have been merely to order the respondent Judge to again decide the case in question upon the evidence already presented, without any further trial, but this would of course be a useless formality.

(3) New trial calls for the presentation of evidence, not merely oral arguments, especially where, as in the present case, it has not been specified to be partial and where the court involved is not a court of record. It cannot be true that the petitioner, by her nonappearance at the new trial, might have intended to rely on the evidence already presented, because such possibility is not compatible with the filing of the present proceedings.

(4) The petitioner had an adequate remedy, namely, to appeal from the order of dismissal. The decision will tend to fill the docket of this Court with cases involving errors of inferior courts which may be corrected in ordinary appeals. The ends of justice would have been amply met if the petitioner is merely allowed to perfect, if she so desires, an appeal from the order of dismissal within fifteen days from notice of this decision.

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