

EUGENIO SAWIT ET AL., PETITIONERS, VS. THE HONORABLE SOTERO RODAS, ETC., AND YSIDRA COJUANGCO, RESPONDENTS.

G.R. No. 48322. October 16, 1941

Ponente: OZAETA, J.

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OZAETA, J.:

This case presents queer questions of procedure that may be said to have arisen from a comedy of errors.

We glean the following essential facts from thirty-two pages of pleadings in which they have been buried by the prolixity of counsel:

On March 21, 1938, the petitioners filed in the Court of First Instance of Nueva Ecija a petition to review a decree of registration issued on September 10, 1937, in favor of the respondent Ysidra Cojuangco covering lot 84 (now lot A-I) of land registration case No. 1856, alleging that said decree had been obtained thru fraud. To said petition Ysidra Cojuangco filed an opposition. On October 2, 1940, Judge Roberto Concepcion ordered the parties to file affidavits of merit in support of their respective contentions. After due consideration of the petition and of the opposition, in relation to the affidavits and other documentary evidence submitted by the parties, Judge Concepcion, on January 31, 1941, entered an order in which he found in substance that no fraud had been committed, and denied the petition to reopen and revise the decree.

Of that order the attorney for the petitioners was notified on February 14, 1941. On February 17, 1941, said attorney filed simultaneously two separate motions, one entitled "Motion for Reconsideration," which he set for hearing on March 10, 1941, and the other entitled "Motion for New Trial," which he set for hearing on March 17, 1941. The object of both motions was to attack and set aside the said order of January 31, 1941, on the ground that it was contrary to law and to the evidence. The motion for reconsideration was supported by an extensive argument, which was reproduced and incorporated by reference in the motion for new trial.

On March 10, 1941, Judge Guillermo F. Pablo denied the motion for reconsideration in a written order of which the attorney for the petitioners was notified on the following day, March 11, 1941.

The motion for new trial was heard, as scheduled, on March 17, 1941, by the same judge. According to the attorney for the petitioners, said judge had not yet entered any order either granting or denying said motion for new trial up to the time the present petition for certiorari was filed in this court on May 14, 1941; but according to the attorney for the respondents, said motion for new trial was denied by Judge Pablo on the same date it was heard, March 17, 1941, "although the stenographic notes of the order of denial were not transcribed in view of the absence of Judge Pablo who then took his vacation."

The petitioners took no steps to appeal from the order of Judge Concepcion of January 31, 1941, denying their petition for review, notwithstanding that their motion for reconsideration had been denied since March 10, 1941; but in their petition for certiorari in this Court they manifest:

"16. That in the event said motion for new trial will be denied, it was and is always the desire of the plaintiffs-petitioners to appeal the order of January 31, 1941, alleged in paragraph 11 hereof to the Hon. Court

of Appeals for the review of the points of law and of facts in controversy."

On April 8, 1941, the respondent Ysidra Cojuangco filed a motion asking the court to declare final its order of January 31, 1941, which motion was granted by the respondent judge, Honorable Sotero Rodas, in his order of April 17, 1941.

A motion for reconsideration and a second motion for reconsideration of said order of Judge Rodas having successively been denied by the court, the petitioners instituted in this court the present action for certiorari, praying (1) That the respondent judge be required to certify to this court the whole record and transcript of the proceedings in land registration case No. 1856, especially that with reference to their petition to revise the decree; (2) that the respondent judge "be ordered to refrain from further proceeding in the matter herein sought to be reviewed until further order of this court;" and (3) "that after hearing the parties, a judgment be rendered declaring the order of April 17, 1941, to be null and void, that on account of the frauds committed by the defendant-respondent Ysidra Cojuangco in unduly registering lot A-l in her status and capacity as coapplicant of Alberto Garcia, the reopening of the case be ordered, allowing and giving the plaintiffs-petitioners herein a chance and a day in court to present their evidence to prove and establish their right and ownership upon lot A-l, and conceding to the plaintiffs-petitioners such further and other relief as in the opinion of the court the plaintiffs-petitioners are justly and equitably entitled, with costs."

1. It will be noted from the above-quoted prayer of the petitioners that, while ostensibly their purpose in instituting the present certiorari proceeding is to assail the validity of the order of Judge Rodas of April 17, 1941, their principal objective is the revision and reversal by this court of the order of Judge Concepcion of January 31, 1941, denying their petition for review. That, obviously, is not permissible. Even if the said order of Judge Rodas did not exist, the petitioners could not, by certiorari, ask this court to revise and reverse the order of Judge Concepcion denying their petition. The ordinary remedy of appeal cannot be supplanted by or converted into the extraordinary remedy of certiorari by the circumstance that the respondent judge has declared said order final. If the order in question has really become final, it cannot be reviewed on certiorari. Neither may this remedy be availed of if the said order is not yet final or still appealable, as petitioners contend; for in that case the petitioners should appeal. Therefore, under either hypothesis, the real and main purpose of the petitioners in instituting this proceeding cannot prosper.

2. There remains to be considered the ostensible and secondary purpose, namely, to test the validity of the order of Judge Rodas of April 17, 1941, declaring final the order of Judge Concepcion of January 31, 1941.

A series of avoidable errors have brought about this incident. It was an error on the part of counsel for the petitioners to present on the same day two separate motions—one for reconsideration and the other for new trial—for practically the same purpose, and to set them for hearing on different dates. There was no imaginable reason for that. Lawyers should not indulge in superfluities. They should realize that the court's time is valuable and that to file two separate motions on the same grounds and for the same purpose is to trifle with the court. Certainly, counsel had no reason to speculate that the court would decide his motion for new trial differently from his motion for reconsideration, the former being based on substantially the same grounds and supported by exactly the same arguments as those of the latter. Moreover, the Rules of Court do not permit the filing of a second motion for new trial unless "on a ground not existing when the first motion was made." (Section 4, rule 37.)

Another error was committed by someone when the order denying the superfluous motion for new trial was not transcribed. But such error is of no consequence because, since the court should not be imposed upon or trifled with, it should not entertain the so-called motion for new trial after having denied the same motion under another label—reconsideration. We might add that the labeling of the second motion as one for "new trial" was not even a good disguise. There having been no trial on the petition to revise the decree of registration because, after a

preliminary consideration thereof, the court found it to be devoid of merit, the petitioners could not logically ask for a new trial. The motion for reconsideration was the proper writing to file; and after the trial court had considered and denied it, the petitioners exhausted their remedies there.

It was not necessary for the respondent Ysidra Cojuangco to file a motion for, nor for the court to enter, an order declaring its previous order final. An order or decision becomes final by operation of law and not by judicial declaration.

Said order became final ipso jure after thirty days from the date the parties were notified thereof, deducting the period from the presentation of the motion for reconsideration to the notice of the order denying the same. The so-called motion for new trial, being superfluous and improper, produced no legal effect whatsoever regardless of whether or not the court failed to decide it. Even in cases where a motion for reconsideration and a motion for new trial are both permissible, this Court has decided that the presentation of the latter does not suspend the time for appeal if the grounds of the motion for reconsideration are the same as those of the motion for new trial. (Aquino vs. Tongco, 61 Phil., 840; Laquian vs. Reyes [August 25, 1938], 38 Off. Gaz., 2284; Levett vs. Sy Quia et al. [August 27, 1935], 61 Phil., 847; Ebro vs. Fernandez [April 14, 1941], G. R. No. 47723.) In the present case, there was not even a plausible excuse for the presentation of a motion for new trial.

The writ prayed for is denied, and the petition is hereby dismissed, with costs. So ordered.

Abad Santos, Diaz, Moran, and Horrilleno, JJ., concur. Writ denied, and petition dismissed.

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