

SERGIA MENDOZA, PETITIONER, VS. MODESTO CASTILLO, JUDGE OF FIRST INSTANCE OF BATANGAS, AND THE SPOUSES GAVINO GUICO AND CIPRIANA MAGPANTAY, RESPONDENTS.

G.R. No. 49183. March 23, 1946

Ponente: HILADO, J.

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HILADO, J.:

By her petition for a writ of certiorari dated May 9, 1944, Sergia Mendoza seeks the annulment of the order of the Court of First Instance of Batangas, dated March 30, 1944, in civil case No. 38 of said court, and that the judgment of the said court in the same case, dated December 23, 1943, be declared final and binding, with such other relief as may be just and proper in the premises.

Without prejudice to the now well known opinion of the writer on the question of validity of judicial proceedings had in the courts of the so-called Republic of the Philippines during the Japanese occupation, this decision upon the merits of the instant case has been penned in deference to the view of the majority of the court in favor of such validity.

The facts necessary for the resolution of the questions raised by the aforesaid petition and the answer thereto of the respondents dated August 4, 1944, are as follows:

The Court of First Instance of Batangas rendered its judgment in said civil case No. 38 in favor of the therein plaintiff, now petitioner Sergia Mendoza, the dispositive part of which reads as follows:

"Wherefore, the court renders judgment in favor of the plaintiff Sergia Mendoza ordering the defendants Jose Cantos and Martina Soriano to sell the land in question to the plaintiff for the sum of P1,200 and to execute the corresponding deed of sale, but if said land has really been sold to the defendants Gavino Guico and Cipriana Magpantay said sale is declared null and void; and condemning the defendants Jose Cantos and Martina Soriano to pay the plaintiff the amount of P250 by way of damages as well as to pay the costs of the suit."

The herein respondent spouses Gavino Guico and Cipriana Magpantay were the defendants of the same names in that civil case, the other defendants therein being Joso Cantos and Martina Soriano also named in the above quoted dispositive part of the judgment now sought to be annulled. Within sixty days following the date on which respondents Gavino Guico and Cipriana Magpantay learned of the said judgment of the Court of First Instance of Batangas against them, and within six months after that judgment was entered, they filed with said court a so-called motion for new trial supported by an affidavit, which was really a petition for relief from the said judgment under Rule 38, sections 2 and 3, alleging that it had been obtained through fraud. f that motion, with its supporting affidavit, tho adverse party, plaintiff therein and petitioner in this case, was duly served with copies and notified of the hearing; thereon, said adverse party having filed an opposition there to. In relation to said motion and opposition, it appears that under date of July 1, 1943, Atty. Pedro P. Munoz appeared in said civil case No. 38 in behalf of all the defendants therein, among them the spouses Gavino Guico and Cipriana Magpantay, and filed a motion to dismiss (Annex 3 of respondents' answer).

Under date of September 22, 1943, the Court of First Instance of Batangas entered an order ruling against said motion to dismiss and directing "counsel for the defendants" to file their answer to the complaint within five days from receipt of a copy of said order. Under the same date the special deputy clerk of court certified that a copy of said order had been sent by registered mail to Atty. Pedro P. Munoz and another copy by ordinary mail to opposing counsel. No copy of said order was served directly on the instant respondents Gavino Guico and Cipriana Magpantay, who were among the defendants in that case for whom Attorney Munoz had previously appeared and filed the motion to dismiss already alluded to. The so-called motion for new trial which, as above stated, was really a petition for relief under Rule 38, sections 2 and 3, was sworn to by the said spouses Guico and Magpantay before the justice of the peace of Batangas, Batangas.

The Court of First Instance of Batangas at first denied the said motion of Gavino Guico and Cipriana Magpantay by an order dated March 17, 1944. But, subsequently, upon motion for reconsideration dated March 22, 1944, filed by the said respondents, as defendants in the case before the lower court, the same court, Judge Modesto Castillo presiding, by order dated March 30, 1944, set aside its order of March 17, 1944, and vacated the court's judgment of December 23, 1943. The instant petitioner filed a motion for reconsideration of said order of March 30, 1944 but it was denied by Judge Castillo.

It appears from the record that the instant respondents Gavino Guico and Cipriana Magpantay, aside from not having been served with copy of the lower court's order of September 22, 1943, directing "counsel for the defendants" to file his answer to the complaint, did not personally appear to answer said complaint in the bona fide belief that Attorney Munoz, who had represented them, along with the other defendants, in the motion to dismiss would continue representing them in the case. That this was the conclusion arrived at by Judge Castillo is obvious. Far from considering that said judge, in granting relief to his co-respondents herein Gavino Guico and Cipriana Magpantay, from the effects of the lower court's order declaring said co-respondents in default and of the same court's judgment of December 23, 1943, acted without jurisdiction, as pretended by petitioner herein, we hold that it correctly applied the provisions of Rule 38, sections 2 and 3 with a view to administering substantial justice between the parties without depriving any of them of his day in court. If not actual fraud, the petition for relief and its supporting affidavit made out a good case of "accident, mistake, or excusable negligence."

Wherefore, the petition is denied, with costs against petitioner. So ordered.

Moran, C. J. Ozaeta, Paras, Jaranilla, Feria, De Joya, Pablo, Perfecto, Bengzon, and Briones, JJ., concur.
Petition denied.

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