

MANUEL S. LAUREL AND LILIA H. LAUREL, PETITIONER, VS. HON. EMETERIO CUI AND BA FINANCE CORPORATION, RESPONDENTS.

G.R. No. 50087. June 30, 1980

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

We have to grant this petition for certiorari in order to prevent a manifest injustice from being inflicted upon the petitioners.

It all started when the spouses, Manuel and Lilia Laurel, bought a Toyota Tamaraw from Delta Motor Sales Corporation. As part of the transaction the Laurels executed a chattel mortgage over the vehicle and signed a promissory note on August 2, 1977, in favor of the seller for P17,881.56 which it in turn assigned to the respondent BA Finance Corporation.

The Laurels allegedly defaulted in the payment of their monthly installments so that BA Finance Corporation filed Civil Case No. 113540 in the Court of First Instance of Manila on February 1, 1978, for replevin or if that is not possible for the payment of the unpaid balance of P15,991.83 and interest thereon plus in either case sums of money for attorney's fees and liquidated damages. The case was raffled to Branch XXV presided by the respondent judge just recently transferred from Marawi City whose legalistic and cavalier attitude contributed in no small measure to the petitioners' travail.

Summons were served on the defendant spouses on February 15, 1978, requiring them to answer the complaint within fifteen (15) days but as of May 5, 1978, they had not answered which prompted the plaintiff to have them declared in default and that it be allowed to present its evidence ex-parte. The respondent judge granted the plaintiff's prayer in his order dated June 19, 1978.

The respondent judge subsequently rendered a decision the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered:

- Ordering the defendants Manuel S. Laurel and Lilia Laurel, jointly and severally, to pay to the plaintiff the sum of P15,591.83, plus interest thereon at the rate of 14% per annum from January 11, 1978, until fully paid; and
- Ordering the defendants Manuel S. Laurel and Lilia Laurel, jointly and severally, to pay to the plaintiff the sums of P3,897.95 and P3,897.95, as and for attorney's fees and liquidated damages, respectively.

Costs against the defendants."

We have scrutinized the decision which reveals the attitude of the respondent judge towards his work. The decision states that summons were served on the defendants on February 1, 1980, when in fact the sheriff's return gave the date as February 15, 1980. (Expediente, p. 15.) Moreover, the decision bears no date.

A notice of the decision, dated August 23, 1978, was issued by the branch clerk of court and the Laurels claim

they received it on September 6, 1978. On September 7, 1978, defendants filed their "Answer with Counterclaim." Reacting to the Laurels' pleading, the plaintiff moved that it be stricken from the records because it was filed out of time when the defendants had already lost their standing in court. The motion was granted by the respondent judge on September 26, 1978.

In a motion dated September 24, 1978, the defendants asked for an extension of fifteen (15) days to file a motion for new trial counted from September 6, 1978, when they received the decision. Plaintiff opposed the motion for new trial but the defendants filed the motion nonetheless. In their verified motion for new trial, dated October 6, 1978, the defendants alleged that they had made remittances to the plaintiff totalling P12,300 which BA Finance Corporation maliciously and unjustly did not tell the court so that the remaining balance was only P3,291.83 and not P15,591.83, which it must be noted was the amount awarded in the decision of the respondent judge. It should be stated that during the hearing of this case before Us, counsel for BA Finance Corporation admitted that payments had been made by the Laurels so that their balance was less than that which had been awarded by the respondent judge. Moreover, "by way of affidavit of merit" the defendants also alleged that the plaintiff maliciously deceived them into not answering the complaint because plaintiff's Manager Dan I. Valera promised to withdraw the complaint provided that their account be updated -- which they did. In their motion for new trial the defendants concluded:

"39. From all the foregoing, it is clear that -

(a) Plaintiff secured the judgment of the Court through fraud, false representations, and malicious suppression of evidence;

(b) Defendants have a valid and meritorious defense against plaintiff's clearly unfounded, unwarranted, and unjust complaint.

WHEREFORE, premises considered, it is respectfully prayed:

- That this Honorable Court's decision in the above-entitled case be set aside;
- That defendants be allowed to file their answer to plaintiff's complaint;
- That a new trial be granted and the case be heard on the merits;
- That defendants be granted all such relief and remedies as may be just and equitable."

The respondent judge curtly denied the motion in his order of November 13, 1978. A motion for reconsideration was filed by the defendants which was denied in a similar fashion. It was when the plaintiff was poised to execute the judgment awarded in its favor that the defendants went to Us on certiorari alleging grave abuse of discretion on the part of the respondent judge in not granting their motion for new trial.

It could be that in strict law the motion for new trial was improper. For as stated in *Tan vs. Dimayuga*, G.R. No. L-15241, July 31, 1962, 5 SCRA 712, a defendant who has been declared in default loses his standing in court as a party litigant and his remedy is a petition for relief under Rule 38 of the Rules of Court, filed within sixty days after he learned of the order and not more than six months after such order was entered. But if the respondent judge leaned more on equity than on strict legalism he could and should have treated the motion for new trial as a petition for relief under Rule 38, Section 2 of the Rules of Court for although it was denominated as a motion for new trial in substance it could be considered as a petition for relief which had been filed within the reglementary period. Moreover, denial of relief from judgment would have caused overpayment to the plaintiff resulting in unjust enrichment.

WHEREFORE, the petition is granted; the order of default and the decision as well as all the orders issued by the

respondent judge subsequent thereto are hereby set aside; and he is ordered to allow the petitioners to answer the complaint of the private respondent within fifteen (15) days from their receipt of this decision. Cost against both respondents.

SO ORDERED.

Aquino, Concepcion, Jr., and De Castro, JJ., concur.

Barredo, (Chairman), J., in the result, reserving the filing of a separate opinion based on equity jurisdiction.

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