

REPUBLIC PLANTERS BANK, PETITIONER, VS. HON. CONRADO M. MOLINA, AS PRESIDING JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH XX, SARMIENTO EXPORT CORPORATION, SARMIENTO SECURIT...

G.R. No. 54287. September 28, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The principal issue raised in this case is whether the trial court committed a grave abuse of discretion when it ordered Civil Case No. 129829 dismissed on the ground of res judicata it appearing that Civil Case No. 116028 was dismissed on May 21, 1979, for failure of petitioner to prosecute within a reasonable length of time, although in the said case, the trial court never acquired jurisdiction over the persons of private respondents.

It is not disputed that both complaints in Civil Case No. 116028 (Branch XXXVI, Manila, Judge Alfredo C. Florendo) and in Civil Case No. 129829 (Branch XX, Manila, Judge Conrado M. Molina) were filed by petitioner Republic Planters Bank against private respondent, for the collection of a sum of money based on a promissory note dated January 26, 1970, in the amount of P100,000.00.

On May 21, 1979, Judge Alfredo C. Florendo dismissed Civil Case No. 116028 for failure of the petitioner "to prosecute its case within a reasonable length of time." [1] A motion for reconsideration of that order was denied on January 15, 1979. [2]

When Civil Case No. 129829 was filed by petitioner, a motion to dismiss was submitted by private respondents on the ground that the cause of action is barred by a prior judgment (res judicata) in Civil Case No. 116028. Private respondents opined that said order was an adjudication upon the merits. Petitioner opposed the motion to dismiss, claiming that res judicata does not apply because the summons and complaint in Civil Case No. 116028 were never served upon private respondents and, as such, the trial court never acquired jurisdiction over private respondents and, consequently, over the case. Petitioner maintains that the order of dismissal in Civil Case No. 116028 never became final as against private respondents.

The trial court (Branch XX), in its order dated May 8, 1980, dismissed the complaint in Civil Case No. 129829 on the ground that the orders dated May 21, 1979 and June 15, 1979 issued by Judge Alfredo C. Florendo, dismissing Civil Case No. 116028, had become final. The trial court ruled that the dismissal of Civil Case No. 116028 had the effect of an adjudication upon the merits, that the dismissal was with prejudice since the order was unconditional, and that the lack of jurisdiction over defendants (private respondents) in Civil Case No. 116028 was of no moment. [3]

In a motion for reconsideration of the order of May 8, 1980, petitioner reiterated its allegation that in Civil Case No. 116028, the court did not acquire jurisdiction over private respondents and that at the time the court ordered its dismissal, a motion for an alias writ of summons was pending resolution inasmuch as the sheriff had not acted

on the same.[4] The motion for reconsideration was denied by the trial court on June 26, 1980 in Civil Case No. 129829.[5]

Petitioner appealed to the Court of Appeals both questioned orders of respondent court in Civil Case No. 129829.[6] But then, petitioner sought a more speedy remedy in questioning said orders by filing this petition for certiorari before this Court.

Under the foregoing undisputed facts, the Court finds this petition to be impressed with merit.

The questioned orders of the trial court in Civil Case No. 129829 supporting private respondent's motion to dismiss on the ground of res judicata are without cogent basis. We sustain petitioner's claim that respondent trial judge acted without or in excess of jurisdiction when he issued said orders because he thereby traversed the constitutional precept that "no person shall be deprived of property without due process of law" and that jurisdiction is vitally essential for any order or adjudication to be binding. Justice cannot be sacrificed for technicality. Originally, the action for collection of the loan, evidenced by a promissory note, was only for P100,000.00 but petitioner claims that as of March 5, 1981, the obligation was already P429,219.74. It is a cardinal rule that no one must be allowed to enrich himself at the expense of another without just cause.

In the very order of dismissal of Civil Case No. 116028, the trial court admitted that it did not acquire jurisdiction over the persons of private respondents and yet, it held that it was of no moment as to the dismissal of the case. We disagree. For the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties. If it did not acquire jurisdiction over the private respondents as parties to Civil Case No. 116028, it cannot render any binding decision, favorable or adverse to them, or dismiss the case with prejudice which, in effect, is an adjudication on the merits.[7] The controverted orders in Civil Case No. 116028 disregarded the fundamental principles of remedial law and the meaning and the effect of jurisdiction. A judgment, to be considered res judicata, must be binding, and must be rendered by a court of competent jurisdiction. Otherwise, the judgment is a nullity.

The order of dismissal in Civil Case No. 116820 does not have the effect of an adjudication on the merits of the case because the court that rendered the same did not have the requisite jurisdiction over the persons of the defendants therein. This being so, it cannot be the basis of res judicata and it cannot be a bar to a lawful claim. If at all, such a dismissal may be considered as one without prejudice.[8]

Trial courts have the duty to dispose of controversies after trial on the merits whenever possible. In this case, there are no indications that petitioner intentionally failed to prosecute the case. The delay could not be attributed to its fault. Petitioner pursued the case with diligence, but jurisdiction could not be acquired over defendants-private respondents. The sheriff had not yet submitted his return of the alias summons when the action was precipitately dismissed by the trial court. These are proven circumstances that negate the action of respondent judge that the dismissal of Civil Case No. 116028 has the effect of an adjudication upon the merits and constitutes a bar to the prosecution of Civil Case No. 129829. The court finds that the two questioned orders of the trial court are irregular, improper, and were issued with grave abuse of discretion amounting to excess of jurisdiction.

Petitioner correctly states that its appeal to the Court of Appeals in CA-G.R. No. 67288 pertaining to the questioned orders of the trial court is not an adequate remedy, because petitioner was not able to present evidence in the trial court. The sole issue involved in this case is one of jurisdiction, which is appropriate for resolution by the instant petition.

WHEREFORE, and by reason of the foregoing, the questioned orders dated May 8, 1980 and June 26, 1980 issued in Civil Case No. 129829 are hereby REVERSED and SET ASIDE. The records of the case are ordered

returned to the trial court for trial and disposition on the merits. No costs.

This decision is immediately executory.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Page 25, Rollo.

[2] Page 26, Rollo.

[3] Pp. 38-40, Rollo.

[4] Pp. 41-42, Rollo.

[5] Page 50, Rollo.

[6] Page 51, Rollo.

[7] Section 3, Rule 17, Rules of Court.

[8] Section 2, Rule 17, Rules of Court.

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