

**IMPERIAL INSURANCE, INC., REPRESENTED BY THE IMPERIAL
INSURANCE, INC., CAGAYAN DE ORO BRANCH OFFICE MANAGER,
BERNARDITO R. PULVERA, PETITIONER, VS. THE HONORABLE
EULALIO D. ROSE...**

G.R. No. 55630. March 06, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Section 2, Rule 1 of the Rules of Court provides for the basic rule of thumb that said "rules shall be liberally construed in order to promote its objective and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding." Its application is put into test in the present case.

The antecedent facts are undisputed. Private respondent filed a complaint for specific performance and damages against petitioner dated April 11, 1980 in the Court of First Instance of Misamis Oriental, docketed as Civil Case No. 7072. After receipt of service of summons petitioner filed an answer with counterclaim within the reglementary period.

The case was set for pre-trial conference on August 5, 1980 of which the parties and their counsel were duly notified. At said pre-trial conference petitioner was represented by Atty. Arturo A. Magallanes who presented a special power of attorney executed by Bernardito R. Pulvera, regional branch manager of petitioner for Mindanao and Visayas, authorizing said counsel to represent petitioner at the pre-trial conference, to enter into any amicable settlement and to do such other acts as may be necessary to implement the authority. The presiding judge refused to honor the same and observed that it is only the Board of Directors of the petitioner who may authorize the appearance of the regional manager in behalf of petitioner and that he cannot delegate his functions. Counsel for private respondent stated he was willing to give petitioner a chance to produce the appropriate authority. Nevertheless, the respondent judge declared the petitioner in default in an order dated August 5, 1980 and set the reception of the evidence for the private respondent on August 12, 1980.[1]

A motion to set aside the said order of default was filed by petitioner, stating therein that the rules of court should be liberally construed, that the special power of attorney was submitted in good faith and that there are meritorious and good defenses as shown in the attached affidavit showing that as early as June 1980 Pulvera had asked for such a special power of attorney from the main office in Manila but the same had not yet arrived and will be submitted upon receipt. The motion was denied in an order dated August 27, 1980.

A motion for reconsideration of the denial was filed by petitioner alleging that it is within the implied powers and duties of the regional branch manager of petitioner to represent the petitioner and in the process to settle claims against petitioner as this has been done in a similar case that was amicably settled before the same court docketed as Civil Case No. 6316; and that the special power of attorney of Atty. Arturo Magallanes to represent the petitioner was executed in good faith. The motion for reconsideration was likewise denied for lack of merit on October 17, 1982.

Hence, the herein petition for *cetiorari* and/or *mandamus* wherein petitioner alleges that the respondent acted without or in excess of jurisdiction and in grave abuse of discretion in declaring petitioner in default and in denying the motion for reconsideration of the order of default.

The petition is impressed with merit.

In Civil Case No. 6316 entitled "Heirs of Ruiz Dosdos, et al. vs. Andres Tan; and Andres Tan as third party plaintiff vs. Imperial Insurance, third party defendant", filed in the Court of First Instance of Misamis Oriental, Cagayan de Oro City, presided by the respondent Judge, a special power of attorney was presented dated June 20, 1979 executed by the same regional manager of petitioner in favor of Carmelito Gaburno, production manager of sales of petitioner, to appear in behalf of petitioner in all stages of the case and to enter into any stipulation of facts.[2] A compromise agreement was entered into by the parties assisted by their respective counsel and the same was submitted for approval of the court wherein Carmelito Gaburno signed for and in behalf of petitioner. In an order dated November 27, 1979 the respondent judge approved the compromise agreement by rendering judgment in accordance therewith.[3]

Thus, when at the pre-trial conference of Civil Case No. 7072 before the same respondent judge a special power of attorney executed by Pulvera on July 31, 1980 in favor of Atty. Magallanes to appear in behalf of petitioner and to enter into any amicable settlement[4] was presented, the court finds no cogent reason why the respondent judge refused to honor the said special power of attorney for purposes of the pre-trial and instead declared the petitioner to be in default.

Obviously in the earlier case, Civil Case No. 6316, the respondent judge accepted and/or acknowledged the authority of Pulvera as regional branch manager of the petitioner to represent the petitioner, to enter into a compromise agreement and as such to execute a special power of attorney in favor of another person to act in his place and to represent the petitioner in the litigation.

Indeed, in another case docketed as Civil Case No. 2899 entitled *Gil Ecleo vs. Lydia Sacal and Imperial Insurance, Inc.*, in the Court of First Instance of Surigao del Norte, Surigao City a similar special power of attorney for purposes of pre-trial was executed by regional branch manager Pulvera in favor of Atty. Magallanes dated December 9, 1980.[5] A compromise agreement was entered into by Magallanes in behalf of petitioner which was duly approved by the trial court on January 13, 1981.[6]

There can be no doubt therefore that regional branch manager Pulvera, as regional manager for Visayas and Mindanao of petitioner, was authorized to represent petitioner in any litigation and in the process to enter into a compromise agreement or settlement thereof. As such agent of petitioner he may appoint a substitute as he was not prohibited from doing so by his principal.[7]

Moreover, even assuming for the sake of argument that the observations of the respondent judge is correct in that a board resolution of the petitioner is required for the purposes of authorizing Pulvera and/or Magallanes to bind the petitioner, the counsel for the private respondent manifested to the respondent judge his willingness to give the petitioner an opportunity to comply with the requirement of the court. Just the same, the respondent judge declared petitioner to be in default. No doubt, the respondent judge was unnecessarily harsh when the Rules call for liberality in such cases.

This is a case where petitioner filed an answer with counterclaim and advanced apparently a meritorious and valid defense. It should be given its day in court and the opportunity to prove its assertions. This is the situation contemplated by the Rules. The courts must lean in favor of affording substantial justice as against a technical requirement.

WHEREFORE, the questioned orders of the respondent judge dated August 6, 1980, August 27, 1980 and October 17, 1980 are hereby REVERSED AND SET ASIDE and the record of this case is remanded to the trial court for further proceedings. No costs in this instance.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] TSN, August 5, 1980, pages 3 to 7.

[2] Page 34, Rollo.

[3] Page 35 to 37, Rollo.

[4] Annex F of Petition, page 18, Rollo.

[5] Annex A to Reply to Comment.

[6] Annex A-1, id.

[7] Article 1892, Civil Code of the Philippines.

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