

ALFREDO DE GUZMAN, PETITIONER, VS. HON. JESUS M. ELBINAS IN HIS CAPACITY AS PRESIDING JUDGE, CFI-BULACAN OF BRANCH V, STA. MARIA AND LUZ C. ROXAS, AMALIA CORREA-CALALANG AND FRA...

G.R. No. 57395. April 17, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari and prohibition with preliminary injunction seeking the annulment of the order of the respondent judge dated January 23, 1981, denying the motion for postponement and considering the case submitted for decision after the filing of memoranda, the case to be decided on the basis of the evidence presented by the private respondents, in Civil Case No. SM-705, entitled Luz Roxas, et al. vs. Alfredo de Guzman.

The undisputed facts of the case are as follows:

As early as the year 1936, Miguel Pascual tenanted two parcels of land situated in Bo. Taboc, Angat, Bulacan, owned by the private respondents who had inherited the same from their parents. (Rollo, pp. 2-3).

In the year 1968 due to old age and sickness, Miguel Pascual unable to farm his tenanted landholding assigned the two lands to his son Ricardo Pascual and to his son-in-law, herein petitioner, Alfredo de Guzman. The bigger land went to Ricardo Pascual while the smaller parcel which consist of 5.000 sq. meters went to Alfredo de Guzman. (Rollo, p. 3)

The P50.00 agreed rental to be paid by the tenant was used to cultivate the portion assigned to Ricardo, the products being reserved for the landowners (private respondents) as their share.

The parcel of land assigned to Alfredo had a meager production, but Alfredo was able to make it more productive.

In the year 1974, the private respondents commenced the recovery of the possession of the land tilled by the petitioner on the ground that the former did not recognize the latter as their lawful tenant despite the fact that petitioner had been working on the land for more than seven years at that time. (Rollo, p. 3).

The private respondents filed with the Department of Agrarian Reform (DAR) office at Plaridel, Bulacan, the recovery of possession case (Rollo, p. 73). After hearing, the DAR investigator ruled that there was a tenancy relationship between petitioner and private respondents. (Rollo, Annex "A" p. 12-15).

Unsatisfied with the ruling, private respondents, requested that the DAR case be transferred to the DAR office in Baliuag, Bulacan where the case was eventually heard again. The hearing was ex-parte, the petitioner not having been notified thereof. The hearing officer opined that no tenancy relationship existed between the parties.

On November 6, 1975, armed with the Report of the Hearing Officer, private respondents filed a civil action for recovery of possession of the land, Civil Case SM-705. (Rollo, p. 3).

After a responsive pleading had been filed by the petitioner, the respondent judge set the pre-trial of the case, but on December 13, 1975, counsel for private respondents filed their first motion to postpone the pre-trial conference set for February 2, 1976 which motion was granted by respondent judge. (Rollo, Annex "C" p. 18).

On April 5, 1976, petitioner filed a motion to conduct preliminary hearing to determine the respondent judge's jurisdiction over the case. (Rollo, Annex "D" pp. 19-22).

On January 14, 1977, private respondents filed their second motion to postpone the hearing set for February 18, 1977 which motion was granted by the respondent judge in its order dated February 18, 1977. (Rollo, Annex "E" p. 24).

On June 15, 1977, an order was issued by the respondent judge directing the conduct of a preliminary hearing to determine the court's jurisdiction over the case. (Rollo, Annex "F" p. 25)

On July 25, 1977, another motion was filed by private respondents on the ground that they were not ready to present their evidence, which order was granted by the judge, who set the hearing for September 23, 1977. (Rollo, Annex "G" p. 26).

On December 8, 1977, respondent judge ruled that based on the report made by DAR Regional Office, there was no tenancy relationship between the parties, thus, the court had jurisdiction (Rollo, Annex "H" p. 27).

In the hearing of February 21, 1978, petitioner moved to defer the hearing of the case because a motion for reconsideration had been filed. Such motion was denied and an ex parte hearing was conducted to receive private respondents' evidence in the absence of petitioner. (Rollo, Annex "I" p. 28)

On April 13, 1978, respondent judge granted another motion to reset the case on the motion of the private respondents. (Rollo, Annex "J" p. 29)

On August 1, 1979, private respondents filed another motion for postponement, on the ground that their counsel would be out of the country. The motion was granted and hearing was reset.

On October 18, 1979, an order was issued by respondent judge granting another postponement requested by the private respondents for failure to produce their witness. And on February 12, 1980, still another motion for postponement was granted. (Rollo, Annexes "L" & "M" pp. 32-35).

On March 31, 1980, the case was again postponed for the reason that the respondent judge went on vacation. It took several settings of the case before private respondents finally rested their case. (Rollo, pp. 5-6).

It was then petitioner's turn to present his evidence. But his counsel had to ask for postponement because he could not reach on such short notice his client.

On January 23, 1981, respondent judge denied the motion for postponement and issued the controverted order which gave as reason the fact that petitioner had not even begun presenting his evidence and that petitioner had previously asked for numerous postponements. The respondent judge then declared the case submitted for decision without presentation of petitioner's evidence.

On February 14, 1981, counsel for petitioner filed a motion to set aside the respondent judge order of January 23, 1981 which motion was denied in open court. And on March 22, 1981, counsel for petitioner filed a motion for reconsideration of the aforesaid order, which motion was likewise denied for lack of merit. (Rollo, Annexes "P" & "P-1" pp. 38-40,41)

Hence, this petition.

A petition for certiorari, prohibition with preliminary injunction was filed on July 15, 1981. In the resolution of August 31, 1981, the Court issued a temporary restraining order and required the respondents to file their comments (Rollo, Petition, pp. 2-11, Resolution pp. 42-44).

Said comment was filed on September 30, 1981, and the Court in the resolution of October 5, 1981, required the petitioner to file a reply, (Rollo, Resolution p. 55) which was filed on October 30, 1981. The Court in the resolution of November 11, 1981, gave due course to the petition and required the parties to file simultaneous Memoranda.

The sole issue in this case is whether or not respondent judge committed a grave abuse of discretion in denying petitioner's motion for postponement in violation of the due process clause of the Constitution.

The records show that it was not the defendant (petitioner herein) who requested for several postponements but private respondents. In fact it was a motion for postponement filed by the petitioner on meritorious grounds but such notwithstanding it was denied.

The Court has consistently maintained that although a speedy determination of an action implies a speedy trial, speed is not the chief objective of a trial. Careful and deliberate consideration for the administration of justice, a genuine respect for the rights of all parties and the requirements of procedural due process and an adherence to the Court's standing admonition that the discretion given judges in the granting or denial of motions for postponement and the setting aside or denial of orders previously issued "should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case the ends of justice and fairness would be served thereby". These are more important than a race to end the trial. (*Amberti vs. CA*, 89 SCRA 240 [1979]).

In the case at bar there are circumstances that justify postponement. It is noted that the petitioner has to present his case and adduce evidence. The first hearing for the defense was set by respondent judge for January 23, 1981, but the notice was received by the counsel for the petitioner only on January 21, 1981. Due to short notice and the fact that counsel had an intransferable criminal case scheduled on January 23, 1981 at the Municipal Court of Pulilan, Bulacan compelled petitioner's counsel to seek postponement.

Another reason for postponement in the present case was the fact that petitioner resides at Sulucan, Angat, Bulacan, some 65 kilometers from Quezon City where counsel of petitioner resides, and due to such short notice, counsel could not contact petitioner in due time to be in court ready for the hearing scheduled by the respondent judge. In *Sosa vs. Yu Chu*, 33 SCRA 601 (1970), it is stated that "where the notice setting the case for trial in the Court of First Instance of Marinduque was received by counsel with law office in Manila only one day before that date for trial, there is enough reason for the court to postpone the trial and re-set it for another date instead of dismissing the case."

While it is true that motions for postponement are addressed to the sound discretion of the courts, discretion must be exercised wisely. Thus in considering motions for postponement two things must be considered, namely: (1) the reason for the postponement, and (2) the merits of the case of the movant. Thus in the case of *Pebeauco vs. Dir. of Lands*, 119 SCRA 102 (1982), the trial judge rather adhered to the technical and rigid enforcement of the rule thereby defeating the purpose thereof which is to help and secure to the parties substantial justice.

In the case of *PLDT vs. Genova*, 116 SCRA 395 (1982), the Court stated that "Even if PLDT had sought several postponements due to absence of its witnesses, substantial justice demands that it be given its day in court."

In view of the foregoing it is manifest that respondent judge's denial of petitioner's motion for postponement constitutes denial of due process and petitioner's right to his day in court.

PREMISES CONSIDERED, the order dated January 23, 1981 is NULLIFIED and SET ASIDE and the petitioner is allowed to adduce evidence in his behalf.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento and Regalado, JJ., concur.

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