

VICTORIO SANTOS, REPRESENTED BY IGNACIA SANTOS, HIS ATTORNEY-IN-FACT, PETITIONERS, VS. COURT OF APPEALS AND YAN CHUAN, REPRESENTED BY ADELA YAN, HIS ATTORNEY-IN-FACT, RESPONDENTS.

G.R. No. 59771. July 21, 1993

Ponente: NOCON, J.

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NOCON, J.:

This petition for review on certiorari seeks to reverse and set aside the decision[1] promulgated on December 29, 1981 of the Court of Appeals, the dispositive portion of which reads as follows:

"WHEREFORE, the petition is hereby denied due course and consequently dismissed, and the temporary restraining order heretofore issued is hereby lifted, with costs against petitioners."[2]

It appears on record that sometime in May of 1973, private respondent Yan Chuan, doing business under the name of Standard Food Products and represented by Adela Yan, leased from petitioner Victorio Santos, represented by his sister Ignacia Santos, a parcel of land with the improvements thereon consisting of a house and two (2) warehouses located at 2350 Gamban Street, Balut, Tondo, Manila for three (3) years. Thereafter or sometime in April of 1976, the contract of lease was renewed for another three (3) years.

On February 8, 1978, petitioner, through his representative and without the knowledge of private respondent, sold the leased property to Victor Reyes as shown by the Deed of Absolute Sale and the Transfer Certificate of Title.[3]

Upon the expiration of the lease contract or sometime in March of 1979, private respondent maintained that he offered to buy from petitioner the leased property and it was agreed between them that private respondent will pay the rent on a monthly basis in the amount of P1,200.00 until a final agreement on the selling price of the leased property can be reached.

Private respondent paid the agreed rent covering the months of April and May, 1979 which was duly accepted and receipted for by petitioner. However, from June of 1979, petitioner refused to accept private respondent's rental payments compelling private respondent to send the payments thru registered mail which was likewise refused and/or returned to private respondent.

Thus, private respondent was compelled to file a Petition for Consignation on October 26, 1979 against petitioner with the City Court of Manila in Civil Case No. 49598.

Petitioner filed an Answer with a Counterclaim for Ejectment against private respondent, alleging that the lease agreement executed between them had already expired; that private respondent had repeatedly requested for an extension or renewal of the lease contract which he refused and thereafter he gave private respondent sixty (60) days to remove his equipments on the leased property. However, after the lapse of said period, private respondent

still refused to vacate the leased property and insisted only on paying a monthly rent of P1,200.00 which petitioner refused to accept.

Upon failure of private respondent to strike out petitioner's counterclaim for ejectment, he filed a petition for certiorari with the then Court of First Instance of Manila in Civil Case No. 132412 which petition, however, was dismissed. Thereafter, private respondent filed an appeal with the Court of Appeals docketed as CA-G.R. No. SP-11806.

Meanwhile, the City Court of Manila, without waiting for the final resolution of the aforesaid petition for certiorari, set the hearing of petitioner's ejectment counterclaim on June 10, 1980 and, upon private respondent's failure to appear, allowed petitioner to present evidence ex-parte.

Upon the continuation of the hearing of the ejectment case on November 18, 1980, private respondent again did not appear and, instead, filed an ex-parte manifestation that he had appealed with the Court of Appeals its Order denying his motion to strike out petitioner's counterclaim for ejectment. On the same day, petitioner submitted the case for decision.

On December 10, 1980, the City Court of Manila rendered a decision,[4] the dispositive portion of which reads as follows:

“WHEREFORE, in view of the foregoing, judgment is hereby rendered:

“(1). Ordering the plaintiff Yan Chuan and any other person, or agent, claiming right under him to vacate the lease premises at 2350 Gamban St., Balut, Tondo, Manila;

“(2). Ordering the plaintiff Yan Chuan to pay the defendant Victorio Santos the sum of P1,200.00 a month as a reasonable compensation for the use and occupation of the leased premises starting from June 1979 up to the time the premises is finally vacated and surrendered to the defendant, minus whatever deposits may have been made by plaintiff in court or subsequent payments made to defendants;

“(3). Ordering the plaintiff to pay defendant the sum of P5,000.00 as and for attorney's fees;

“(4). The complaint for consignation is hereby ordered dismissed.”[5]

Thereafter, a writ of execution was issued upon the expiration of the reglementary period to appeal, the implementation of which, however, was stopped on April 14, 1981 by the Court of Appeals when it issued a restraining order in connection with the appeal filed by private respondent in CA G.R. No. SP-11806.

On April 23, 1981, private respondent filed a Petition for Relief with the then Court of First Instance of Manila, Branch XXX in Civil Case No. 139674 alleging that the decision of the City Court of Manila in Civil Case No. 49598 is null and void which petition was subsequently dismissed. Unfazed, on April 30, 1981, private respondent filed a Second Petition denominated as an "Amendment To Amended Petition For Relief." [6]

Meanwhile, private respondent's appeal in CA G.R. No. SP-11806 was dismissed on May 14, 1981 and the restraining order lifted. Consequently, petitioner had the writ of execution implemented.

On May 21, 1981, private respondent's Second Petition for Relief was given due course by the then Court of First Instance of Manila.

On June 1, 1981, petitioner filed a Motion to Dismiss private respondent's Second Petition for Relief which was denied by the aforementioned court in an Order[7] issued on June 26, 1981, the pertinent portion of which reads as follows:

"The petitioner (herein private respondent) claims under oath that he never received any notice sent to him by

the respondent City Court setting the hearing of the case for ejectment on November 18, 1980, after dissolution of the restraining order issued by the Court of First Instance, Branch XXV. That being the case, the judgment rendered against him by the respondent City Court on December 10, 1980, was null and void. Such allegations does not appear to have been successfully rebutted by the respondents. No affidavit or document has been appended by the respondents (herein petitioner) to their pleadings to prove that notice of hearing set for November 18, 1980 was received by the petitioner. Lack of notice of hearing to the petitioner is in violation of due process. The judgment thus rendered without notice is null and void. It may be attacked directly or collaterally. The fact that the petition for relief was filed beyond sixty days after the petitioner learned of the judgment rendered is of no consequence. The petition filed in the instant case may be treated as a complaint for annulment of judgment, a direct attack at one that is null and void.

“The respondents' claim that the instant case has already become moot and academic, the parties having allegedly entered into a settlement or agreement, is not indubitable. The better that resolution thereon is deferred until after the hearing on the merits.”[8]

“WHEREFORE, upon the petitioners' filing of a bond in the amount of P1,000, let a writ of preliminary injunction issue enjoining the respondents from enforcing the judgment rendered by the respondent City Court, until further orders from this Court.”[9]

On July 2, 1981, petitioner moved for a reconsideration of said order on the ground that the decision of the City Court of Manila is valid as private respondent was duly notified of the hearing of November 18, 1980 as evidenced by the certified copies of the notice of hearing received by private respondent's counsel on November 7, 1980.[10]

While said motion is pending, private respondent filed on July 22, 1981 a Motion to admit his Third Petition for Relief, which was opposed by petitioner.

Petitioner's motion for reconsideration was denied by the lower court in an Order[11] dated September 4, 1981 while at the same time granting private respondent's motion to admit his Third Petition for Relief.

Thereafter, petitioner filed a Petition for Certiorari with the Court of Appeals which petition was dismissed on December 29, 1981 and so with his motion for reconsideration.

Hence, this petition alleging grave abuse of discretion on the part of the respondent appellate court in holding that the then Court of First Instance of Manila had jurisdiction when it admitted private respondent's Third Petition for Relief considering that the petition for relief was filed beyond the reglementary period as provided under Section 3, Rule 38 of the Revised Rules of Court.

The petition is impressed with merit.

Section 3, Rule 38 of the Revised Rules of Court provides:

"SEC. 3. Time for filing petition; contents and verification. - A petition provided for in either of the preceding sections of this rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, order, or other proceeding to be set aside, and not more than six (6) months after said judgment or order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case maybe."

From the foregoing provision, the mandatory period for filing a petition for relief from judgment should be within sixty (60) days from knowledge of the judgment and not more than six (6) months after said judgment is entered. In the instant case, there is no question that private respondent's Petition for Relief was filed beyond the reglementary period since the record shows that private respondent received the decision dated December 10,

1980 of the City Court of Manila on January 23, 1981 while the Petition for Relief was filed only on April 23, 1981 or more than sixty (60) days as required under said Rule. The then Court of First Instance of Manila, therefore, acted without jurisdiction when it admitted private respondent's Petition for Relief and committed grave abuse of discretion when it treated private respondent's Petition for Relief as a complaint for annulment of judgment and thereafter declared null and void the decision of the trial court for want of due process as private respondent allegedly did not receive a copy of the notice of hearing set on November 18, 1980.

The records do not support the appellate court's findings that private respondent was denied due process. While it is true that petitioner failed to attach an affidavit or a document in his pleading to prove that the notice of hearing set for November 18, 1980 was duly received by private respondent, it is equally true that under the Revised Rules of Court it is presumed, in the absence of evidence to the contrary, that public officers have performed their duties in accordance with the law.[12] Stated in another way, there is always a presumption that the court's officers had properly and regularly performed their official duties in sending the notice of hearing to private respondent in the absence of convincing proof to the contrary. Such being the case, the burden of proof is on the private respondent to show that the notice of hearing was not sent to him. This burden, private respondent failed to discharge. At any rate, the evidence on record showed that private respondent was duly notified of the hearing for November 18, 1980.[13]

The fact that the trial court proceeded to hear petitioner's counterclaim for ejectment while private respondent's certiorari case was still pending with the appellate court does not, in any way, violate private respondent's right to due process as he was duly notified of the proceedings in said case. Furthermore, no restraining order was issued by the appellate court enjoining the trial court from proceeding with the ejectment case.

It has been settled that a judgment can be annulled only on two (2) grounds: (a) that the judgment is void for want of jurisdiction or lack of due process of law; or (b) that it has been obtained by fraud.[14]

In order for fraud to serve as a basis for the annulment of a judgment, it must be extrinsic or collateral in character otherwise there would be no end to litigations. Extrinsic fraud refers to any fraudulent act of the prevailing party which is committed outside of the trial of the case, whereby the defeated party has been prevented from exhibiting fully his side of the case, by fraud or deception practiced on him by his opponent.[15]

In the case at bar, none of these grounds exists to warrant the annulment of the decision in question. Private respondent was duly notified of the hearing but chose not to appear and present his evidence. Furthermore, the fact of not informing private respondent that petitioner had already sold the leased property to Victor Reyes on February 8, 1978 does not constitute extrinsic fraud. That fact could have been presented by private respondent during the hearings of the ejectment case in the court below as he was not prevented by petitioner from doing so.

At any rate, the alleged concealment of the sale is not relevant or material in an ejectment case where the issue involved is merely physical possession of the land and not ownership thereof.[16] Consequently, petitioner's failure to disclose to private respondent that he had already sold the leased property to Victor Reyes is of no moment. Hence, the respondent court has no valid ground to annul the decision of the trial court since no extrinsic fraud was found to have vitiated the proceedings in the trial court.

WHEREFORE, the petition is GRANTED and the decision of the respondent Court of Appeals is hereby SET ASIDE. The decision dated December 10, 1980 of the City Court of Manila is hereby REINSTATED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Puno, J., no part.

[1] Penned by Justice Jose A. R. Melo with the concurrence of Justice Mama D. Busran and Justice Guillermo P. Villazor.

[2] Rollo, p. 73.

[3] Id., at pp. 102-104.

[4] Penned by Presiding Judge Jose B. Herrera.

[5] Rollo, p. 43.

[6] Id., at pp. 25-28.

[7] Penned by the Presiding Judge Pedro A. Ramirez.

[8] On May 27, 1981, petitioner, alleged that instead of implementing the writ of execution, he entered into a compromise agreement with private respondent whereby the former sold to the latter the leased property on installment which was later repudiated by the private respondent. However, private respondent maintained that the signature of his wife in the alleged compromise agreement was obtained through force and intimidation. Rollo, at p. 142.

[9] Rollo, pp. 32-33.

[10] Id., at p. 34.

[11] Id., at pp. 57-58.

[12] Revised Rules of Court, Rule 131, Section 3(m) and (n).

[13] Rollo, p. 34.

[14] Ruiz vs. Court of Appeals, 201 SCRA 577 [1991].

[15] Gerardo vs. De la Peña, 192 SCRA 691 [1990].

[16] Guzman vs. Court of Appeals, 177 SCRA 604 [1989].

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