

PALOMO BUILDING TENANTS ASSOCIATION, INC., GUILLERMO S. SUAREZ & 57 OTHERS WHOSE NAMES APPEAR IN THE LIST HERETO ATTACHED AS ANNEX “A”; PETITIONERS, VS. THE HONORABLE INTERMEDIA...

G.R. No. 68043. October 31, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

For resolution is the issue of whether or not the Intermediate Appellate Court (IAC) erred in sustaining the order of respondent RTC Judge Abelardo M. Dayrit, denying petitioners' motion for approval of the record on appeal due to failure to amend the record on appeal within the period granted them.

Records show that on August 12, 1982 petitioner filed an action for Declaration of Nullity of Sale and Damages with Preliminary Injunction before the then Court of First Instance of Manila against respondents Government Service Insurance System (GSIS) and Capitol Hills, as principal defendants, and the five (5) judges of the then City Court of Manila in the injunction aspect of the case. The case was docketed as Civil Case No. 82-11725. Respondent GSIS and Capitol Hills filed separate motions to dismiss on the grounds that the complaint states no cause of action and that there are other actions pending between the same parties for the same cause.

On October 14, 1982, respondent judge granted private respondents' motion to dismiss. The order of dismissal was received by petitioners on October 29, 1982. On November 23, 1982, they filed their cash appeal bond and, on November 24, 1982, their notice of appeal and record on appeal.

Respondents GSIS and Capitol Hills opposed the approval of the record on appeal because it did not conform to Section 6, Rule 41 of the Rules of Court.

On December 27, 1982, respondent judge ordered petitioners to amend their record on appeal within ten (10) days. This order was received by petitioners on January 4, 1983. Before the lapse of this period petitioners filed a motion for an extension of seven (7) days within which to file the required amended record on appeal. On January 21, 1983, they filed their amended record on appeal, not knowing that their motion for extension of time had been denied on January 17, 1983.

Petitioners went to respondent appellate court through a petition for mandamus to compel respondent judge to approve their record on appeal and to restrain the City Judges from proceeding with the ejectment cases filed against them by Capitol Hills. On July 8, 1983, respondent Intermediate Appellate Court (IAC) dismissed the petition for mandamus on the ground that the record on appeal was filed out of time, and, therefore, the court has the discretion to approve or disapprove the same and that since petitioners had appealed pursuant to Section 3, Rule 41 of the Rules of Court, the appeal must be perfected within the period required therein. Petitioners' motion for reconsideration thereof was likewise denied on June 5, 1984.

Availing of certiorari before Us, petitioners invoke Section 39 of the Judiciary Reorganization Act of 1980 (Batas

Pambansa 129) which dispensed with the record on appeal and claim that herein respondent IAC erred in not applying retrospectively the said law.

We resolve to give due course to this petition. As We have ruled in *Alday vs. Camilon*, 120 SCRA 521, "[t]he reorganization having been declared to have been completed, BP Blg. 129 is now in full force and effect. A Record on Appeal is no longer necessary for taking an appeal. The same proviso appears in Section 18 of the Interim Rules and Guidelines issued by this Court on January 11, 1983. Being procedural in nature, those provisions may be applied retroactively for the benefit of petitioners, as appellants. 'Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retrospective in that sense and to that extent' (*People vs. Sumilang*, 77 Phil. 764 [1946]).' "

ACCORDINGLY, the decision of respondent appellate court dated July 8, 1983, and its resolution dated June 5, 1984, are SET ASIDE and respondent judge is hereby ordered to forward the entire records of Civil Case No. 82-11725 to the Intermediate Appellate Court for disposition on the merits.

No costs.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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