

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND FIDELA DEL CASTILLO, MARRIED TO EULALIO MISTICA, RESPONDENTS.

G.R. No. 76209, May 04, 1989

Ponente: PARAS, J.

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PARAS, J.:

This petition seeks to set aside the Decision* dated September 9, 1985, of the Court of Appeals in CA-G.R. No. 63242, and the Resolution** dated October 2, 1986, denying petitioner's motion for reconsideration dated September 26, 1985, which affirmed the Order*** dated July 19, 1977 of the then Court of First Instance of Bulacan, Branch VIII, declaring herein petitioner in default.

The antecedent facts appearing on record are as follows:

Private respondent, on January 18, 1977, filed an Amended Application for Registration of Title (for confirmation of Title) involving three (3) parcels of land all situated in the Barrio of Perez, Municipality of Meycauayan, Bulacan, claiming that she is in open, actual, continuous and adverse possession of said parcels of land for more than thirty (30) years, together with her predecessors-in-interest.

The then Court of First Instance of Bulacan, issued an Order dated June 21, 1977 granting petitioner fifteen (15) days from said date within which to file a written opposition. This Order was received by the Office of the Solicitor General (OSG, for brevity) on June 27, 1977.

In compliance with the aforementioned Order, petitioner filed its written opposition on July 15, 1977 alleging among others, that:

"1. Applicant and her predecessors-in-interest have not acquired ownership in fee simple of subject property by the issuance by the Spanish Government in their favor of either (a) 'titulo real' or royal grant, (b) 'concession especial', or Special Grant, (c) 'composicion con estado titulo' or adjustment title, (d) 'titulo de compra' or title by purchase, (e) 'informacion posesoria' or possessory information under the Royal Decree of February 13, 1594, or by any other recognized mode of acquisition of title over realty under pertinent applicable laws. But even assuming arguendo that the applicant possesses any of said Spanish Government grants over the parcels of land applied for, still whatever legal and/or possessory rights she may have acquired by reason thereof, have been lost, abandoned or forfeited for failure to occupy and possess them for at least thirty (30) years immediately preceding the filing of this suit." (p. 19, Rollo, Copy of Opposition is attached as Annex F)

In an Order dated July 19, 1977, the Court of First Instance of Bulacan declared the petitioner in default in view of the failure of the Solicitor General, representing the petitioner to comply with the Court's Order dated June 21, 1977.

Subsequently, or on August 3, 1977, the Solicitor General filed a Supplemental Opposition on the ground that the parcels of land applied for registration in the instant application were found to be within the unclassified region or

denominated as forest land, consequently, no valid jurisdiction can be acquired by the court a quo, the subject properties being beyond the commerce of man.

On August 12, 1977, petitioner filed a Motion to Set Aside Order of Default arguing that: (1) the Republic actually filed its written opposition on July 15, 1977 by registered mail, followed by a Supplemental Opposition also sent by registered mail on August 3, 1977; (2) considering that the Order dated June 21, 1977 requiring the Republic to file the written opposition within fifteen (15) days was actually received by the OSG on June 27, 1977, said 15-day period therefore, expired on July 12, 1977, hence, the opposition filed on July 15, 1977 was only three (3) days late; (3) the late filing of the written opposition was occasioned by the fact that OSG was then waiting for a communication from the Bureau of Lands and Bureau of Forest Development regarding their stand on the instant application, however, no communication was received from the Bureau of Lands while the Bureau of Forest Development sent a report which was received by the OSG only on July 20, 1977; (4) nevertheless, to protect the interest of the government, an opposition was filed, and later, the Supplemental Opposition; (5) the three (3) days delay in the filing of the Opposition was due to accident and/or excusable negligence; (6) the Republic has meritorious grounds in opposing the application; and (7) applicant would not suffer any real injury should the lower Court grant the Motion to Set Aside the Order of Default.

Notwithstanding the foregoing arguments, the lower court denied said Motion to Set Aside the Order of Default in an Order dated August 23, 1977. Petitioners, through a motion, sought a reconsideration of said Order of denial but the same was likewise denied in an Order dated November 22, 1977.

On appeal, the Court of Appeals rendered a decision dated September 9, 1985, affirming the Order of the then Court of First Instance of Bulacan declaring the petitioner in default. Petitioner moved for a reconsideration but respondent Court issued a resolution denying the same.

Convinced that the grounds upon which the instant petition rents deserve this Court's solicitude, petitioner came to Us by way of petition for review on certiorari raising the issue: whether or not the lower court erred in denying the Motion to Set Aside the Order of Default, for which reason, a judgment by default inevitably ensued.

After a mature reflection, We resolve to grant the petition.

The appellate court in its Decision held that:

"x x x the period of 15-days started to run from the time of notice, which was June 21, 1977 because the Asst. Provincial Fiscal, Amando C. Vicente, was present in court when the order was given. Ordinarily, the standard rule is to reckon the period from the time of receipt of court order by mail or actual receipt thereof in the office of counsel. But in this case the government was put on notice personally of the 15-day period on June 21, 1977, because he was present in court. Hence, the government's opposition was 9 days late in July 19, 1977 when it was filed. x x x." (p. 6, Decision, IAC.; p. 25, Rollo)

However, contrary to the respondent court's declaration, the presence of the Assistant Provincial Fiscal does not alter the rule that the period is reckoned from the time of receipt of the court order by mail or actual receipt thereof by counsel of record, who in the case at bar, is the Solicitor General.

Of significance is the Notice of Appearance filed by the Solicitor General with the trial court where the limited power of the fiscal was clearly defined, such that "only notices of orders, resolutions, and decisions served on him (Solicitor General) will bind the party represented" (p. 26, Rollo). Inevitably, the reglementary fifteen (15) day period to file an opposition to the application for registration should be reckoned from the time the OSG was apprised of the said application and not from the time the assistant provincial fiscal was notified.

Notwithstanding the foregoing considerations, the petitioner's Opposition was still three (3) days late but the same could not be allowed to totally affect its case. Aside from the reasons mentioned by the petitioner to justify its delay, which We find credible, time and again this Court has enjoined the courts not to apply an iron-clad rule of technicality at the expense of due process in default cases, especially when the cause of the affected party is highly meritorious, as in this case where one of the grounds cited by the government in opposing the application is: "that the land applied for registration has been found to be within the unclassified region of Meycauayan, Bulacan, as per BF Map LC No. 657 dated March 1, 1927 (copy of the verification report is attached as Annex "A" to the Supplemental Opposition) and, therefore, ownership of said land cannot be acquired by acquisitive prescription and the trial court is bereft of jurisdiction to grant the instant application (Republic v. Reyes, 71 SCRA 426; Republic v. Animas, 56 SCRA 499)" (p. 29, Rollo), and when no real injury would result to the interest of the applicant by the grant of the petitioner's Motion to Set Aside Order of Default simply because at the time it was filed, no hearing had yet been held on the merits of the case.

Finally, well-settled is the principle that judgments by default are not looked upon with favor to prevent a positive and considerable injustice to the defendant. In fact, courts should be liberal in setting aside orders of default unless it clearly appears that the reopening of the case is intended for delay. Thus, it would not be amiss for the courts to give both parties every chance to fight their case fairly and in the open without resort to technicality.

WHEREFORE, in view of all the foregoing, the decision appealed from is hereby SET ASIDE and another one rendered ordering the trial court to proceed with the trial on the merits and to allow petitioner to present its case.

SO ORDERED.

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

* Penned by Justice Leonor Ines Luciano, concurred in by Justices Ramon G. Gaviola, Jr., Jose C. Campos, Jr., and Bienvenido C. Ejercito, and the dissenting opinion of Associate Justice Ma. Rosario Quetolio-Losa.

** Penned by Justice Leonor Ines Luciano and concurred in by Justices Carolina C. Grino-Aquino and Emeterio C. Cui.

*** Penned by Judge Eduardo P. Caguioa.

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