

SPOUSES RUBEN AND LUZ GALANG, PETITIONERS, VS. COURT OF APPEALS AND LEONARDO DE LEON, RESPONDENTS.

G.R. No. 76221. July 29, 1991

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

In an ejectment suit filed by private respondent Leonardo de Leon, owner of a 6-door apartment at 1177 Quiricada Extension, Tondo, Manila, against petitioners spouses Ruben and Luz Galang, lessee of one of the units, the Metropolitan Trial Court of Manila, Branch V, rendered a decision on February 27, 1986[1] ordering petitioners herein to vacate the premises in question, to pay P130 per month from September 1985 until the premises are vacated, and P1,000 attorney's fees.

On appeal by petitioners herein, the Regional Trial Court of Manila, Branch XL, affirmed on July 22, 1986 the decision of the Metropolitan Trial Court of Manila.[2]

Dissatisfied, petitioners elevated the case to the Court of Appeals in a petition for review. After therein respondents' comment was filed, the petition was given due course in a resolution dated September 1, 1986, which also required petitioners to deposit the amount of P80.40 for costs within three (3) days from notice thereof, failure of which, the petition shall be dismissed. Respondents were required to answer the petition which shall take the place of respondents' brief within 10 days from receipt of the resolution and copy of the petition. Within five (5) days from receipt of the respondents' answer, petitioners may reply thereto.[3]

Petitioners' counsel, Atty. Cirilo Doronila of the Citizens Legal Assistance Office (now Public Assistance Office) received said resolution on September 5, 1986. On September 9, 1986, or four (4) days from receipt, he filed a motion for extension of 30 days from September 8, 1986 within which to pay costs.

On September 16, 1986, the Court of Appeals promulgated a resolution dismissing the petition for review for failure of petitioners to pay the costs of P80.40 within three (3) days from notice of the resolution of September 1, 1986. The motion of petitioners for an extension of time to pay costs was likewise denied in the same resolution for having been filed one (1) day after due date, hence out of time.[4]

Petitioners filed a motion for reconsideration contending that their counsel was not able to notify them of the order to pay costs within three (3) days from September 5, 1986. In a resolution dated October 9, 1986, the Court of Appeals denied said motion for reconsideration.[5]

Meanwhile, on the same date, or on October 9, 1986, petitioners filed a supplemental motion for reconsideration, followed by a memorandum in support of the motion and supplemental motion for reconsideration with prayer for the acceptance of the deposit of P80.40 and for the issuance of a restraining order.

Acting on the pleadings filed by petitioners as well as private respondent's opposition to said motion for reconsideration, the Court of Appeals promulgated a resolution on October 27, 1986 finding no reason to disturb its resolution of October 9, 1986 denying the motion for reconsideration.[6]

Petitioners are now before this Court seeking to set aside the questioned resolutions of respondent Court of Appeals dated September 16, 1986 and October 9, 1986 and praying that judgment be rendered ordering respondent appellate court to admit petitioners' payment of P80.40 as costs in CA-G.R. No. SP-09717 and to decide the case on the merits.

Imputing error and grave abuse of discretion on the Court of Appeals in dismissing the petition for review for non-payment of P80.40 as costs within three (3) days from notice and in denying the motion for extension of time to pay costs for being filed one (1) day late, petitioners claim that there is nothing in the Rules of Court governing the procedure in the Court of Appeals (Rule 46 to Rule 55) that requires payment of costs within three (3) days from notice of the order; that the period of three (3) days from notice for a party-litigant to perform an act is too short a time for counsel to contact petitioners who were not themselves duly furnished with a copy of the resolution of September 1, 1986; that under the Rules of Court, Batas Pambansa Blg. 129, and the Interim Rules and Guidelines, ten (10) days is the shortest period within which a party-litigant in the Court of Appeals should perform a required act.

While it is true that litigation is not a game of technicalities and that the rules of procedure should not be strictly enforced at the cost of substantial justice, this does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. Justice eschews anarchy.[7] The Court in said case stated, thus:

"Rules of procedure are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial and extrajudicial proceedings. It is a mistake to suppose (sic) that substantive law and adjective law are contradictory to each other or, as has often been suggested, that enforcement of procedural rules should never be permitted if it will result in prejudice to the substantive rights of litigants. This is not exactly true; the concept is much misunderstood. As a matter of fact, the policy of the courts is to give effect to both kinds of law, as complementing each other, in the just and speedy resolution of the dispute between the parties. Observance of both substantive rights is equally guaranteed by due process whatever the source of such rights, be it the Constitution itself or only a statute or a rule of court."

It is not entirely correct for petitioners to claim that the dismissal of the petition for review of the decision of the RTC in cases falling under the original exclusive jurisdiction of municipal and city courts on the ground of non-payment of costs within three (3) days from notice is without authority and legal basis. The Court of Appeals, pursuant to its rule-making power under Rule 54 of the Rules of Court, promulgated an en banc Resolution on August 12, 1971 governing the practice to be observed in elevating to the Court of Appeals for review decisions of CFIs (now RTCs) in cases falling under the original exclusive jurisdiction of municipal and city courts. Section 2 of said en banc Resolution provides, thus:

"SECTION 2. Upon filing of the petition, the petitioner shall pay to the Clerk of the Court of Appeals the docketing fee. If the Court finds that, from the allegations of the petition, the same is not prima facie meritorious or is intended manifestly for delay, the Court may outright dismiss the petition, otherwise, the same shall be given due course, in which case, the petitioner shall deposit the amount of eighty pesos (P80.00) for cost within three (3) days from notice of the resolution giving due course to the petition. Upon the failure of the petitioner to deposit the amount for costs within the said period of three (3) days, the petition shall be dismissed." [8]

Section 22 par. (2) of the Interim or Transitory Rules and Guidelines Relative to the Implementation of the Judiciary Reorganization Act of 1981 adopted the Resolution dated August 12, 1971 of the Court of Appeals as the governing rules of procedure in the review of appealed cases from the Regional Trial Courts.

As quoted above, the rule is clear that upon failure of the petitioner to deposit the amount for costs within the said

period of three (3) days, the petition shall be dismissed. Records show that petitioners filed on September 9, 1986, or one (1) day after expiration of the three (3)-day period, a motion for a 30-day extension of time to deposit costs. Yet even if said motion were granted by the Court of Appeals, the purchase and payment by petitioners of Money Order No. 66188604 on October 13, 1986 for costs was five (5) days late from the expiration of the supposed 30 day extension on October 8, 1986. Manifestly, there was no serious intention on the part of petitioners to comply in good faith with the order of the Court of Appeals.

Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[9]

In the instant case, petitioners have not pleaded the most persuasive of reasons which would make this Court relax the cited rule of procedure embodied in the August 21, 1971 Resolution of the Court of Appeals. The attendant circumstances in cases where a liberal interpretation of the Rules was adopted by the Court are absent in the instant case. What is obviously clear is that while the case was on appeal before the Regional Trial Court, petitioners ignored the order dated May 14, 1986 of the said RTC to file their memorandum within ten (10) days from notice. The case was thus decided on July 22, 1986 without petitioners' memorandum.[10] Even at that early stage of the case, petitioners had already chosen to ignore the order of the Regional Trial Court. The Court cannot now stamp with approval the second defiance of the rule of procedure before the Court of Appeals.

The reason cited that petitioners were not themselves furnished with a copy of the resolution of September 1, 1986 does not call for a liberal application of the Rules. It is basic that notice to Counsel is notice to the client. Under Section 2 of Rule 13 of the Rules of Court, if any of the parties in a case has appeared by an attorney or attorneys, service upon him shall be made upon his attorney or one of them, unless service upon the party himself is ordered by the court. No such order to serve copy of the orders, notices, etc. upon petitioners herein was given by the court.

Even if the deposit of costs were to be allowed by the Court on the ground of liberal application of the rules, still, the Court in the exercise of its discretionary power, instead of remanding the case to the Court of Appeals, finds that the instant petition lacks merit.

The legitimate need of the owner/lessor to repossess his property for use of any immediate member of his family is a valid ground to eject petitioners from the questioned premises under Section 5 par. (c) of Batas Pambansa Blg. 25. The factual question of whether or not all the requisites provided under Section 5 par. (c) of Batas Pambansa are present in the instant case was properly addressed and resolved by the trial court.

Records show that private respondent's sister Consuelo De Leon is staying with their parents in a rented apartment of only about 48 square meters at 1111 Quiricada Extension, Tondo, Manila.[11] The intended use of the questioned premises by his parents and sister is a legitimate need under Section 5 par. (c) of B.P. 25 as private respondent is the one paying for their monthly rentals. The desire of private respondent to repossess the questioned premises in order to provide his parents and sister with a decent place to stay must be given the traditional respect and recognition. Besides, it was not clearly proven that private respondent is an owner of any other property in Manila.

It is settled that a lease on a month to month basis is a lease contract with a definite period.[12] As this Court ruled in *Baens vs. Court of Appeals*,[13] even if the month to month arrangement is on a verbal basis, if it is shown that the lessor needs the property for his own use or for the use of any immediate member of the family or for any of the other statutory grounds to eject under Section 5 of Batas Pambansa Blg. 25, which happens to be

applicable, then the lease is considered terminated as of the end of the month, after proper notice or demand to vacate has been given.[14] As early as June 7, 1985, private respondents had demanded that petitioners vacate the premises in question on September 15, 1985. The ejectment case was filed on October 7, 1985 after a lapse of more than three (3) months from receipt of said notice.

While the sympathies of the Court are with the lessees, who must now face displacement and relocation with all their attendant inconveniences and expense, but the law, as the Court aptly observed in *Pascua vs. Court of Appeals*,^[15] is on the side of the lessors, who and so must be upheld. That law, let it be stressed, is not less humane because it favors the landlord, for social justice is for fairness to all or it is no justice at all.

WHEREFORE, in view of the foregoing, the petition is DISMISSED for lack of merit. This decision is immediately executory. Costs against petitioners.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] pp. 101-104, Rollo.

[2] p. 115, Rollo.

[3] pp. 133-134, Rollo.

[4] p. 135, Rollo.

[5] p. 136, Rollo.

[6] p. 139, Rollo.

[7] *Limpot vs. Court of Appeals*, 170 SCRA 367 (1989).

[8] Underscoring supplied.

[9] *Limpot vs. Court of Appeals*, *supra*.

[10] p. 115, Rollo.

[11] pp. 11-15, Comment in AC-G.R. Sp. No. 09717, pp. 127-131, Rollo.

[12] *Rantael vs. Court of Appeals*, 97 SCRA 453.

[13] 125 SCRA 634.

[14] *Crisostomo vs. Court of Appeals*, 116 SCRA 199.

[15] 183 SCRA 262 (1990).

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