

PHILIPPINE VETERANS BANK, PETITIONER, VS. COURT OF APPEALS, JOSE ROLANDO SANTOS AND IMELDA C. SANTOS, RESPONDENTS.

G.R. No. 81957. May 23, 1989

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The crux of this controversy focuses on the dismissal of Petitioner-Appellant's appeal by respondent Appellate Court for failure of the former's Brief to contain an Assignment of Errors and a Statement of Facts with page references to the record, as required by the Rules of Court.

The background facts disclose that on 5 November 1982 private respondents filed a Complaint with the Regional Trial Court of Quezon City, Branch 106,[1] against petitioner, Philippine Veterans Bank, for the return of their Transfer Certificates of Title and for the cancellation of the mortgages annotated thereon in favor of the Bank. It appears that those titles were lost while in the Bank's possession. Private respondents also prayed for actual and exemplary damages, attorney's fees and costs of suit.

Petitioner Bank disclaimed negligence stating that the titles were lost when the Bank had to transfer its records and other facilities to another suitable place to meet its expanding operations; that upon discovery of the loss and to show its good faith, it immediately informed private respondents thereof and filed the necessary petitions for reconstitution of titles; that after the titles were properly reconstituted during the pendency of the case, they were delivered to private respondents; and that as to the claim for damages, the Bank had compensated private respondents by, among other concessions, waiving payment of all interest and other charges on their loan of P500,000.00 and by not collecting the service charges.

On 24 April 1985, the Trial Court rendered its Decision finding Petitioner Bank negligent in the custody of the documents and awarding actual damages representing interest paid on the loan of P730,000.00 at the rate of P15,000.00 a month from 1 January 1981, and attorney's fees of P10,000.00. The Bank appealed.

Before respondent Court of Appeals, private respondents filed a Motion to Strike Out Petitioner Bank's Brief for non-compliance with the Rules.

In a Resolution dated 28 November 1986 respondent Appellate Court[2] ordered Petitioner-Appellant's Brief stricken off the record, and dismissed its appeal pursuant to Section 1(g), Rule 50 of the Rules of Court.[3]

The grounds for the striking out of the Brief were: (1) it did not comply with Section 16(b) of Rule 46, which requires that an Appellant's Brief must contain an assignment of the errors which shall be separately, distinctly and concisely stated; and (2) under the heading "Statement of Facts", there is no clear and concise statement in a narrative form of the facts of the case sufficient in detail with page references to the record as required by Sec. 16(d) of the same Rule.

Section 16 of Rule 46 does provide:

"SEC. 16. Contents of appellant's brief. - The appellant's brief shall contain in the order herein indicated the following:

"(b) An assignment of the errors intended to be urged. Such errors shall be separately, distinctly and concisely stated without repetition, and shall be numbered consecutively.

"x x x x x

"(d) Under the heading 'Statement of Facts', a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;

"x x x x x"

The Appellate Court further relied on *Palomique vs. Court of Appeals* (Nos. L-39288-89, January 31, 1985, 134 SCRA 331), which ruled:

"We hold that the Appellate Court erred in not dismissing the appeal. Appellant's failure to make page references to the record to support their factual allegations together with their failure to make a separate statement of facts justifies the dismissal of their appeal (*Genobiagon vs. Court of Appeals*, L-44323, March 2, 1977, 76 SCRA 37, 39, cited in 2 *Moran's Comments on the Rules of Court*, 1979 Ed., p. 509). It may even be argued that the appeal is frivolous and dilatory."

We resolved to give due course to this Petition for Review on Certiorari and, in doing so, are constrained to reverse.

We note that although not actually spelled out as an "Assignment", the errors in the appealed Decision of the Trial Court are sufficiently stated and assigned in Petitioner-Appellant's Brief filed before the Appellate Court. Thus, Petitioner-Appellant alleged:

"The Regional Trial Court's decision is erroneous on the following grounds:

"1. In *Raagas vs. Brayo*, L-20081, February 27, 1962, 22 SCRA 839, the Supreme Court held 'actual damages must be proved and that a court can not rely on' speculation, conjectures or guesswork as to the fact and amount of damages, but must depend on actual proof that damages had been suffered and/or evidence of the actual amount (underscoring supplied) x x x.

"2. In deciding this case in favor of the plaintiffs the Court relied in (sic) Art. 1170 of the Civil Code of the Philippines. However, the Court did not consider and overlook (sic) Art. 1174 of the Civil Code x x x:

"3. Furthermore the awarding to plaintiffs of actual damages of P15,000.00 from January 1, 1981 is not only arbitrary, unjust, capricious, but also highly immoral, irregular and unconscionable considering that there was no actual evidence adduced in the case to justify such huge actual damages sustained. The court was merely speculating in its decision to award such unsubstantiated damages.

"4. The award of attorney's fees in the amount of P10,000.00 in favor of plaintiff-appellees is also inapplicable because the present case does not squarely fall under Art. 2208 of the Civil Code of the Philippines. x x x" (pp. 3-5, Appellant's Brief).

In other words, sufficiently assailed in the Brief is the correctness of the Trial Court's findings on the issue/s in controversy. The purpose of the required assignment of errors has been accomplished. The following ruling of this Court is squarely in point:

"Appellants need not make specific assignment of errors provided they discuss at length and assail in their brief the correctness of the trial court's findings regarding the matter. Said discussion warrants the appellate

court to rule upon the point because it substantially complies with Section 7, Rule 51 of the revised Rules of Court, intended merely to compel the appellant to specify the questions which he wants to raise and be disposed of in his appeal. A clear discussion regarding an error allegedly committed by the trial court accomplishes the purpose of a particular assignment of error" (Miguel vs. Court of Appeals, L-20274, October 30, 1969, 29 SCRA 760. See also Cabrera and Diokno vs. Belen and Buiser, 95 Phil. 54; Philippine Commercial and Industrial Bank vs. Court of Appeals, G. R. No. L-34959, March 18, 1988, 159 SCRA 24).

It is true that Petitioner-Appellant's Brief contained only a Statement of the Case erroneously labelled as "Statement of Facts." Thus, it recited the allegations in the Complaint, the averments in the Answer, and the Decision of the Trial Court. While not in proper narrative form, substantially given are the admitted facts and those in controversy as well as the proof relative thereto.

More importantly, under the facts of the case, we may overlook the deficiencies, including the absence of page references to the record in Petitioner-Appellant's Brief in order to do justice in this case (Velayo, et al. vs. Court of Appeals, et al., L-49933, August 6, 1980, 99 SCRA 101). "Pleadings as well as remedial laws should be construed liberally in order that the litigants may have ample opportunity to prove their respective claims, and that a possible denial of substantial justice, due to legal technicalities, may be avoided." (Cruz and Sta. Maria, et al., vs. The Payatas Estate Improvement Co., Inc. 103 Phil. 1017 [1958]).

Besides, unlike in the Palomique case, supra, relied upon by the Appellate Court, the appeal herein does not appear frivolous and dilatory.

WHEREFORE, the Resolution of respondent Appellate Court dated 28 November 1986 is hereby SET ASIDE, and this case REMANDED to said Court for consideration of the appeal on the merits.

SO ORDERED.

Paras and Regalado, JJ., concur.

Padilla, J., no part.

Sarmiento, J., on leave.

[1] Presided over by Judge Miriam Defensor Santiago.

[2] Penned by Justice Josue N. Bellosillo and concurred in by Justice Vicente V. Mendoza and Hector C. Fule.

[3] Section 1. Grounds for dismissal of appeal. An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x

(g) Want of specific assignment of errors in the appellant's brief, or of page references to the record as required in Section 16(d) of Rule 46;

x x x."

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