

GOLDLOOP PROPERTIES, INC., PETITIONER, VS. COURT OF APPEALS, ROBERTO S. ROBLES AND ALICIA G. ROBLES, RESPONDENTS.

G.R. No. 99431. August 11, 1992

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a petition for review on certiorari of the Decision of the Court of Appeals of 27 November 1990[1] annulling and setting aside the order of dismissal issued by the Regional Trial Court of Pasig, Branch 158, in Civil Case No. 58027, as well as the Resolution of 14 May 1991 denying the motion for reconsideration.

The present recourse proceeds from the Order of 25 October 1989 of the Regional Trial Court of Pasig, Branch 158, which *motu proprio* dismissed for failure to prosecute the complaint for reformation of instrument filed by private respondent-spouses Roberto S. Robles and Alicia G. Robles against petitioner Goldloop Properties, Inc. The order of dismissal reads:

"By virtue of this Court's Order dated 10 August 1989, the parties are given fifteen (15) days upon receipt of the same to file a Compromise Agreement. To date, nothing has been filed, nor have plaintiffs done anything to further prosecute this case.

"WHEREFORE, for failure to prosecute, this case is dismissed."[2]

Upon its elevation to the Court of Appeals, said Order was nullified in its Decision of 27 November 1990. Petitioner now assails the validity of the decision in this instant petition for review on certiorari and seeks the reinstatement of the order of dismissal issued by the trial court.

The records show that on 27 March 1989, the Robles spouses instituted a complaint for reformation of instrument with damages maintaining that the contract they entered into with Goldloop Properties, Inc., on 17 June 1988 was a mortgage and not an absolute sale. They prayed for a writ of preliminary injunction to stop petitioner from making any encumbrance or disposition of the property which is a prime commercial parcel of land consisting of 618 square meters located at San Juan, Metro Manila.

On 2 August 1989, while the application for preliminary injunction was being heard, the parties manifested the possibility of an amicable settlement; whereupon, the hearing was deferred to 10 August 1989, on which date the parties were granted fifteen (15) days within which to submit a compromise agreement. However, no such agreement was presented. On 25 October 1989, the trial court dismissed the complaint "for failure to prosecute."

On 8 November 1989, respondent-spouses received the order of dismissal. Fourteen (14) days later, they filed their Motion for Reconsideration wherein they intimated that negotiations for a compromise were still ongoing.

Unfortunately, respondent-spouses failed to include a notice of hearing in their motion, so that on 6 February 1990, the trial court denied the motion. On 14 February 1990, respondent-spouses received the order of denial. Thereafter, on 16 February 1990, they filed a Notice of Appeal.

Initially, the trial court gave due course to the appeal and elevated the records to the Court of Appeals. On 26 March 1990, on motion of petitioner, the trial court recalled its prior order giving due course to the appeal.

On 23 April 1990, respondent-spouses filed a motion for reconsideration. On 2 May 1990, the trial court denied the motion on the ground that the dismissal had become final and executory.

Subsequently, said respondents sued for extension of time to file a petition for review with the Court of Appeals, docketed as CA-G.R. SP No. 20778. However, for their failure to allege the date of receipt of the Order of 25 October 1989 and the filing of the corresponding motion for reconsideration, their motion was denied by the appellate court, and on 27 July 1990 entry of judgment was made.

On 25 September 1990, respondent-spouses instituted a petition for mandamus in the Court of Appeals, docketed as CA-G.R. SP No. 22893, to set aside the order of dismissal and compel the trial court to set the case immediately for continuation of hearing on the preliminary injunction.

On 27 November 1990, treating the petition for mandamus as one also for certiorari, the appellate court annulled and set aside the assailed order of dismissal and directed the lower court to set the case for continuation of hearing on the preliminary injunction. Moreover, as respondent court observed -

"x x x there are equities of the case that should not be overlooked. The petitioners are trying to recover their property from the respondent Corporation. A parcel of land with 618 square meters located in San Juan, Metro Manila, in a commercial district on which an 8-door apartment stands, it is alleged to have a fair market value of P4,000,000.00. It is claimed that the petitioners were forced by the circumstance that they were hard pressed to execute a deed of sale of their property for P650,000.00 only, which was not the true agreement. The petitioners, therefore, should have been afforded a chance to negotiate with the respondent Corporation for the repurchase of their property. Dismissal of the action is precipitate.[3]

Petitioner moved for reconsideration but the same was denied. Hence, this petition.

Goldloop Properties, Inc., contends that respondent Court of Appeals erred in not holding that the disputed order of dismissal was final and executory and, consequently, respondent-spouses could no longer avail of the special civil action of certiorari in lieu of their lost appeal.

In their Comment, respondent-spouses maintain that the order of dismissal of the trial court is void ab initio. Correspondingly, there is no judgment at all that could acquire finality. Respondent-spouses also invoke the cardinal rule that "remedial laws should be construed liberally in order x x x that a possible denial of substantial justice, due to legal technicalities, can be avoided." [4]

Admittedly, the filing of respondent-spouses' motion for reconsideration did not stop the running of the period of appeal because of the absence of a notice of hearing required in Secs. 3, 4 and 5, Rule 15, of the Rules of Court. As we have repeatedly held, a motion that does not contain a notice of hearing is a mere scrap of paper; it presents no question which merits the attention of the court. Being a mere scrap of paper, the trial court had no alternative but to disregard it.[5] Such being the case, it was as if no motion for reconsideration was filed and, therefore, the reglementary period within which respondent-spouses should have filed an appeal expired on 23 November 1989.[6]

But, where a rigid application of that rule will result in a manifest failure or miscarriage of justice, then the rule may be relaxed,[7] especially if a party successfully shows that the alleged defect in the questioned final and executory judgment is not apparent on its face or from the recitals contained therein.[8] Technicalities may thus be disregarded in order to resolve the case. After all, no party can ever claim a vested right in technicalities. Litigations should, as much as possible, be decided on the merits and not on technicalities.[9]

Hence, this Court should not easily allow a party to lose title and ownership over a property worth P4,000,000.00 for a measly P650,000.00 without affording him ample opportunity to prove his claim that the transaction entered into was not in fact an absolute sale but one of mortgage. Such grave injustice must not be permitted to prevail on the anvil of technicalities.

Under authority of Sec. 9, par. (2), of B.P. 129, a party may petition the Court of Appeals to annul and set aside judgments of Regional Trial Courts.[10] Thus, "[t]he Intermediate Appellate Court (now Court of Appeals) shall exercise: x x x (2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts x x x" However, certain requisites must first be established before a final and executory judgment can be the subject of an action for annulment. It must either be void for want of jurisdiction or for lack of due process of law, or it has been obtained by fraud.[11] A close examination of the questioned order reveals that it is void for lack of jurisdiction, emanating as it does from the non-observance, if not utter disregard, of procedural due process.

As regards the dismissal of actions *motu proprio*, Sec. 3, Rule 17, of the Revised Rules of Court provides -

"Sec. 3. Failure to prosecute. - If plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by court."

The aforequoted Rule contemplates of three (3) instances whereby a trial court may dismiss an action on its own volition for failure to prosecute, namely: (1) where the plaintiff fails to appear at the time of the trial; (2) where he fails to prosecute his action for an unreasonable length of time; and, (3) when he fails to comply with these rules or any order of the court.

In the disputed order, the trial court obviously relied on the last two (2) grounds in dismissing the complaint. Notably, that respondent-spouses, as plaintiffs in the trial court, failed to submit their compromise agreement within fifteen (15) days, and that they failed to take further steps to prosecute their action for an unreasonable length of time.

Anent the first ground, it should be stressed that the Order of 10 August 1989 only states that "[t]he parties are given a period of fifteen (15) days from today within which to submit a Compromise Agreement." The Order did not even require the submission of a compromise agreement; nor did it warn the parties that should they fail to submit the same within the period therein given their case would be dismissed. As We view the Order, it only meant that should they fail in their negotiations the proceedings would continue from where they left off. For sure, there was never any agreement that should the parties fail to settle their differences in fifteen (15) days their case would be dismissed. Nor did the parties ever expect that in the event of their failure to submit the contemplated compromise agreement their case would be dismissed. Since there is nothing in the Rules that imposes the sanction of dismissal for failing to submit a compromise agreement, then it is obvious that the dismissal of the complaint on the basis thereof amounts no less to a gross procedural infirmity assailable by certiorari. For such submission could at most be directory and could not result in throwing out the case for failure to effect a compromise. While a compromise is encouraged, very strongly in fact, failure to consummate one does not warrant any procedural sanction, much less an authority to jettison a civil complaint worth P4,000,000.00.

It may be worth repeating that the Order of 10 August 1989 does not carry any sanction for failure to submit a compromise agreement. Neither does it contain a forewarning that failure to amicably settle would result in the dismissal of the suit. Plainly, submission of a compromise agreement is never mandatory, nor is it required by any rule. Upon manifestation of the parties of their willingness to discuss a compromise, the trial court should have

ordered the suspension of the proceedings to allow them reasonable time to discuss and conclude an amicable settlement, pursuant to Sec. 1, Rule 21, which states:

"Section 1. Grounds for suspension. - Any party to an action may, at any time before the date set for pre-trial, file a petition with the court for the suspension of the proceedings with a view of securing a possible compromise if (1) it appears that any one or both of the parties have expressed at any time willingness to discuss a possible compromise, or (2) it is alleged under oath that one of the parties, before commencement of the action or proceeding, offered to discuss a possible compromise but the other party refused the offer."

If despite all efforts exerted by the trial court and the parties the settlement conference still fails, then the action should have continued as if no suspension had taken place. This is laid down in Sec. 4, Rule 21, which reads -

"Section 4. Period of suspension. - No suspension for a period longer than sixty (60) days from notice of the order of suspension shall be allowed except upon justifiable grounds. If no compromise is arrived at within the period provided, the case shall continue as if no suspension of the proceeding had take place." (underscoring ours).

Although the Rule allows the trial court to suspend the proceedings up to sixty (60) days, in the instant case, the trial court only gave the parties fifteen (15) days to come up with an amicable settlement. Indeed, it should not have dismissed the action on its own motion because the parties, specifically respondent-spouses, were anxious to pursue their case as manifested in their motion for reconsideration. Their inadvertent omission in setting their motion for reconsideration for hearing under Rule 15 of the Rules of Court should not deprive them of their judicial recourse. At the very least, such motion should have been treated by the trial court as a manifestation that the negotiation was still ongoing on the settlement of their case. Even assuming *arguendo* that a dismissal was warranted, still it should have been without prejudice considering its extinctive effect on the spouses' cause of action.

While We can perceive of a dismissal *motu proprio* by the court for a litigant's inaction, yet there must be sufficient basis on which to anchor a dismissal with prejudice. Unfortunately, We perceive none in the instant case. In fact, there is every reason to hold that if dismissal should be decreed, it be without prejudice considering the worth of the claim, the earnest efforts of the respondent-spouses to settle, and their manifestation of interest in pursuing their claim as may be gleaned from their motion for reconsideration. Where it operates as an adjudication on the merits, as in the case at bar, dismissal of an action for failure to submit a compromise agreement, which is not even required by any rule, is definitely a harsh action. Dismissal of suits should be resorted to only in extreme circumstances where the actions of the party show deliberate and contumacious disregard of the trial court's authority, or in instances where a party has been duly forewarned of the drastic consequences should there be failure to comply. There must be, in all cases, a scrupulous regard for the rights of the parties to the action.

No such unmindfulness, much less deliberate disregard of the court's authority, can be inferred from the actuations of respondent-spouses. On the contrary, the fact that negotiations for a compromise agreement persisted even up to the time of the dismissal of the case strongly demonstrates their earnest efforts to abide by the trial court's order to settle their dispute amicably.

Indeed, to uphold the questioned order to submit a compromise agreement within fifteen (15) days and, sans any warning, dismissing an action on account of the failure of the parties to compromise, would be to render nugatory the pronounced policy of the law to encourage compromises, and thus open the floodgates to parties refusing to agree upon an amicable settlement by simply railroading their opposing parties' position, or even defeating the latter's claim by the expedient of an outright dismissal.

On the issue of whether there was indeed failure to prosecute for an unreasonable length of time, it is well settled that what constitutes "unreasonable length of time" is properly left to the discretion of the trial court. In *Montejo v. Urotia*,^[12] We ruled:

"As to what constitutes an 'unreasonable length of time,' within the purview of the quoted provision, it has been ruled that it 'depends upon the circumstances of each particular case;' that "the sound discretion of the court" in the determination of said question 'will not be disturbed, in the absence of patent abuse;' and that 'the burden of showing abuse of judicial discretion is upon appellant since every presumption is in favor of the correctness of the court's action.' Thus, this Court refused to disturb orders of dismissal for failure to prosecute for a period of four (4) years, about three (3) years, over a year, less than a year, and even less than three (3) months x x x x"

But in the instances above contemplated when the Court considered "less than a year" and "even less than three months" as "unreasonable length of time" to justify dismissal of a complaint, there was repeated failure of plaintiffs to appear and prosecute their complaint, or to resist a motion to dismiss by defendant. None of the circumstances therein contemplated are present in the case before Us.

More importantly, the power of the trial court to dismiss an action on the ground of non-prosecutor is not unbounded. The real test for the exercise of such power is whether, under the facts and circumstances, the plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude.^[13] With the manifestation of respondent-spouses that they were still in the process of negotiating, it is indubitable that their failure to submit their compromise agreement with reasonable dispatch was not brought about by their want of due diligence. Prudence would have dictated the trial court to have determined first the cause of the delay or require the parties to comment whether they were still interested in the case, particularly respondent-spouses who stand to lose their real property worth no less than P4,0000,000.00.

Amicable settlements have been encouraged to avoid lawsuits or put an end to those already commenced. This is the reason why courts endeavor to persuade litigants in civil suits to agree upon some fair compromise. An action should never be dismissed on a non-suit for want of prosecution when the delay was caused by the parties looking towards a settlement.^[14] This finds more meaning in the instant case considering that the action had not yet reached even the pre-trial stage. As a matter of fact, the trial court was still in the midst of evaluating the propriety of the issuance of a writ of preliminary injunction. Dismissing the action without even allowing the parties to present evidence in their behalf and after ordering them to compromise would, therefore, be tantamount to deprivation of due process. As appropriately characterized by respondent Court of Appeals, the dismissal was indeed "precipitate".

In fine, We hold that the Court of Appeals in its questioned Decision of 27 November 1990 did not err in annulling the Order of 25 October 1989 of the Regional Trial Court in Civil Case No. 58027 for having been issued with grave abuse of discretion amounting to lack or want of jurisdiction and in derogation of the fundamental right of respondent-spouses to due process.

WHEREFORE, for lack of merit, the Petition for Review on Certiorari is DENIED. Costs against petitioner.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.

[1] Penned by Justice Pedro A. Ramirez, concurred in by then Presiding Justice Rodolfo A. Nocon and Justice Fernando A. Santiago.

- [2] Annex "E", Petition, Rollo, p. 55.
- [3] Decision, CA-G.R. SP No. 22893, Rollo, p. 41.
- [4] Concepcion v. Payatas Estate Improvement Company, Inc., 103 Phil 1016 (1958).
- [5] Traders Royal Bank v. Court of Appeals, G.R. No. 60222, 21 April 1992.
- [6] See also Villanueva v. Court of Appeals, G.R. No. 99357, 27 January 1992.
- [7] Legarda v. Court of Appeals, G.R. No. 94457, 18 March 1991; 195 SCRA 418.
- [8] See Balangcad v. Justices of the Court of Appeals, G.R. No. 84888, 12 February 1992.
- [9] Ruiz v. Court of Appeals, G.R. No. 93454, 13 September 1991; 201 SCRA 577.
- [10] Gerardo v. De la Pena, G.R. No. 61527, 26 December 1990; 192 SCRA 691.
- [11] Ramirez v. Court of Appeals, G.R. No. 76366, 3 July 1990, 187 SCRA 153; see also Mercado v. Ubay, No. L-35830, 24 July 1990, 187 SCRA 719.
- [12] No. L-27187, 22 July 1971; 40 SCRA 41, 51-52.
- [13] Marahay v. Melicor, G.R. No. 44980, 6 February 1990; 181 SCRA 811.
- [14] Republic v. Villarosa, 103 Phil 631 [1958]).

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