



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MARYLOU CABRERA,
Petitioner,

G.R. No. 201601

Present:

- versus -

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

FELIX NG,
Respondent.

Promulgated:

MAR 12 2014

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DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Decision² dated October 21, 2009 and the Resolution³ dated March 26, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 03392. The CA denied the petition for *certiorari* filed by Marylou Cabrera (petitioner), which assailed the Order⁴ dated December 19, 2007 of the Regional Trial Court (RTC) of Mandaue City, Branch 56, in Civil Case No. MAN-4773.

¹ Rollo, pp. 3-13.

² Penned by Associate Justice Manuel M. Barrios, with Associate Justices Florito S. Macalino and Samuel H. Gaerlan, concurring; id. at 19-23.

³ Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino, concurring; id. at 79-81.

⁴ Issued by Acting Presiding Judge Teresita Abarquez-Galanida; id. at 115-116.

1

The Facts

On February 14, 2004, Felix Ng (respondent) filed a complaint for sum of money with the RTC against the petitioner and her husband Marionilo Cabrera (spouses Cabrera), alleging that the latter issued to him the following: (1) Metrobank Check No. 0244694 dated June 30, 2002 for the amount of Thirty-One Thousand Pesos (₱31,000.00); (2) Metrobank Check No. 0244674 dated August 9, 2002 for the amount of Thirty-Eight Thousand Seventy-Four Pesos and Seventy-Six Centavos (₱38,074.76); and (3) Metrobank Check No. 0244745 dated August 15, 2005 for Two Million Five Hundred Thousand Pesos (₱2,500,000.00). That when presented for payment, the said checks were all dishonored as the accounts from which they had been drawn were already closed.

The spouses Cabrera admitted that they issued Metrobank Check No. 0244694 and Metrobank Check No. 0244674 to the respondent and that the same were dishonored when presented for payment. However, they claimed that they paid the respondent the amount represented by the said checks through the latter's son Richard Ng. Further, they deny having issued Metrobank Check No. 0244745 to the respondent, alleging that the said check was forcibly taken from them by Richard Ng.

On August 7, 2007, the RTC rendered a Decision,⁵ which ordered the spouses Cabrera to pay the respondent the following: (1) Two Million Five Hundred Sixty-Nine Thousand Seventy-Four Pesos (₱2,569,074.00) plus legal interest from inception of the obligation until fully paid; (2) moral damages in the amount of Fifty Thousand Pesos (₱50,000.00); (3) attorney's fees of Twenty Thousand Pesos (₱20,000.00); and (4) litigation expenses in the amount of Ten Thousand Pesos (₱10,000.00).

On August 8, 2007, the spouses Cabrera received a copy of the RTC Decision dated August 7, 2007. On August 14, 2007, the spouses Cabrera filed with the RTC a motion for reconsideration,⁶ which they set for hearing on August 17, 2007. On even date, the spouses Cabrera sent a copy of their motion for reconsideration to the respondent thru registered mail; it was actually received by the respondent on August 21, 2007.

The said motion for reconsideration, however, was not heard on August 17, 2007 as the new acting presiding judge of the said court had just assumed office. On August 28, 2007, the RTC issued a notice,⁷ which set the said motion for reconsideration for hearing on September 25, 2007.

⁵ Id. at 34-38.

⁶ Id. at 40-50.

⁷ Id. at 98.

On September 20, 2007, the respondent filed an opposition⁸ to the motion for reconsideration filed by the spouses Cabrera. The respondent alleged that the said motion for reconsideration is a mere scrap of paper since it violated the three-day notice requirement. The respondent pointed out that the spouses Cabrera sent to him a copy of their motion for reconsideration, which was set for hearing on August 17, 2007, *via* registered mail on August 14, 2007; that he actually received a copy thereof only on August 21, 2007 – four days after the scheduled hearing thereon.

It appears that the scheduled hearing of the spouses Cabrera's motion for reconsideration on September 25, 2007 did not push through. Consequently, on September 26, 2007, the RTC issued another notice,⁹ which set the said motion for reconsideration for hearing on October 26, 2007.

On October 26, 2007, the RTC issued an Order,¹⁰ which directed the parties to file their additional pleadings, after which the motion for reconsideration filed by the spouses Cabrera would be deemed submitted for resolution.

On December 19, 2007, the RTC issued an Order¹¹ which denied the motion for reconsideration filed by the spouses Cabrera. The RTC pointed out that the spouses Cabrera violated Section 4, Rule 15 of the Rules of Court, which mandates that every motion required to be heard should be served by the movant in such a manner as to ensure its receipt by the other party at least three days before the date of hearing. Thus:

After a meticulous scrutiny of the records of this case, the court opines that the motion was filed beyond the reglementary three (3)[-]day period.

As the records bear out, the instant motion was mailed to the plaintiff's counsel on August 14[, 2007] and was set for hearing on August 17, 2007. However, the copy of said motion had reached plaintiff's side and a copy of which was received by plaintiff's counsel only on August 17, 2007[,] four (4) days late after it was supposed to be heard. Hence, a clear blatant violations [sic] of the rule on notice and hearing.¹²

The RTC further opined that a motion, which fails to comply with the three-day notice requirement is a mere scrap of paper; it is not entitled to judicial cognizance and would not toll the running of the reglementary period for filing the requisite pleadings. Accordingly, the RTC held, its

⁸ Id. at 99-102.

⁹ Id. at 106.

¹⁰ Id. at 107.

¹¹ Id. at 115-116.

¹² Id. at 115.

Decision dated August 7, 2007 had already become final for failure of the spouses Cabrera to comply with the three-day notice requirement.

The petitioner then filed a petition for *certiorari*¹³ with the CA, alleging that the RTC gravely abused its discretion in denying her motion for reconsideration. The petitioner pointed out that the RTC did not actually conduct a hearing on her motion for reconsideration on August 17, 2007; that her motion for reconsideration was actually heard on October 26, 2007, after the respondent had already filed his opposition thereto. Thus, the petitioner claimed, the issue of her failure to comply with the three-day notice requirement had already been rendered moot. In any case, the petitioner asserted, the RTC should have resolved her motion for reconsideration on its merits rather than simply denying it on mere technicality.

On October 21, 2009, the CA, by way of the assailed Decision,¹⁴ denied the petition for *certiorari* filed by the petitioner. The CA opined that the RTC did not abuse its discretion in denying the motion for reconsideration filed by the spouses Cabrera since it merely applied the three-day notice requirement under Section 4, Rule 15 of the Rules of Court. Thus:

It appears that petitioner's Motion for Reconsideration was set for hearing on 17 August 2007. A copy thereof was mailed to private respondent on 14 August 2007, and private respondent actually received his copy only on 21 August 2007 or four (4) days after the set date of hearing; and thus, depriving him of the opportunity to oppose the motion. Respondent court, therefore, correctly held that such motion violated the three (3)-day notice rule; the essence of due process. Respondent court had applied said rule to the given situation, and of no doubt, mere adherence to the rules cannot be considered grave abuse of discretion on the part of the respondent court. x x x.¹⁵ (Citation omitted)

The petitioner sought a reconsideration of the Decision dated October 21, 2009 but it was denied by the CA in its Resolution¹⁶ dated March 26, 2012.

Hence, the instant petition.

¹³ Id. at 24-32.

¹⁴ Id. at 19-23.

¹⁵ Id. at 21-22.

¹⁶ Id. at 115-116.

The Issue

The sole issue to be resolved by the Court is whether the CA erred in affirming the RTC Order dated December 19, 2007, which denied the motion for reconsideration filed by the spouses Cabrera.

The Court's Ruling

The petition is meritorious.

Sections 4 and 5, Rule 15 of the Rules of Court provide that:

Sec. 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof **shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing**, unless the court for good cause sets the hearing on shorter notice.

Sec. 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion. (Emphasis ours)

The general rule is that the three-day notice requirement in motions under Sections 4 and 5 of the Rules of Court is mandatory. It is an integral component of procedural due process.¹⁷ “The purpose of the three-day notice requirement, which was established not for the benefit of the movant but rather for the adverse party, is to avoid surprises upon the latter and to grant it sufficient time to study the motion and to enable it to meet the arguments interposed therein.”¹⁸

“A motion that does not comply with the requirements of Sections 4 and 5 of Rule 15 of the Rules of Court is a worthless piece of paper which the clerk of court has no right to receive and which the court has no authority to act upon.”¹⁹ “Being a fatal defect, in cases of motions to reconsider a decision, the running of the period to appeal is not tolled by their filing or pendency.”²⁰

¹⁷ *Jehan Shipping Corporation v. National Food Authority*, 514 Phil. 166, 173 (2005).

¹⁸ *United Pulp and Paper Co. Inc. v. Acropolis Central Guaranty Corporation*, G.R. No. 171750, January 25, 2012, 664 SCRA 65, 78.

¹⁹ *Pallada v. RTC of Kalibo, Aklan, Br. I*, 364 Phil. 81, 89 (1999).

²⁰ *Nuñez v. GSIS Family Bank*, 511 Phil. 735, 747-748 (2005).

Nevertheless, the three-day notice requirement is not a hard and fast rule. When the adverse party had been afforded the opportunity to be heard, and has been indeed heard through the pleadings filed in opposition to the motion, the purpose behind the three-day notice requirement is deemed realized. In such case, the requirements of procedural due process are substantially complied with. Thus, in *Preysler, Jr. v. Manila Southcoast Development Corporation*,²¹ the Court ruled that:

The three-day notice rule is not absolute. A liberal construction of the procedural rules is proper where the lapse in the literal observance of a rule of procedure has not prejudiced the adverse party and has not deprived the court of its authority. Indeed, Section 6, Rule 1 of the Rules of Court provides that the Rules should be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Rules of procedure are tools designed to facilitate the attainment of justice, and courts must avoid their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice.

In *Somera Vda. De Navarro v. Navarro*, the Court held that there was substantial compliance of the rule on notice of motions even if the first notice was irregular because no prejudice was caused the adverse party since the motion was not considered and resolved until after several postponements of which the parties were duly notified.

Likewise, in *Jehan Shipping Corporation v. National Food Authority*, the Court held that despite the lack of notice of hearing in a Motion for Reconsideration, there was substantial compliance with the requirements of due process where the adverse party actually had the opportunity to be heard and had filed pleadings in opposition to the motion. The Court held:

This Court has indeed held time and again, that under Sections 4 and 5 of Rule 15 of the Rules of Court, mandatory is the requirement in a motion, which is rendered defective by failure to comply with the requirement. As a rule, a motion without a notice of hearing is considered *pro forma* and does not affect the reglementary period for the appeal or the filing of the requisite pleading.

As an integral component of the procedural due process, the three-day notice required by the Rules is not intended for the benefit of the movant. Rather, the requirement is for the purpose of avoiding surprises that may be sprung upon the adverse party, who must be given time to study and meet the arguments in the motion before a resolution of the court. Principles of natural justice demand that the right of a party should not be affected without giving it an opportunity to be heard.

²¹ G.R. No. 171872, June 28, 2010, 621 SCRA 636.

The test is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based. x x x²² (Emphasis supplied and citations omitted)

It is undisputed that the hearing on the motion for reconsideration filed by the spouses Cabrera was reset by the RTC twice with due notice to the parties; it was only on October 26, 2007 that the motion was actually heard by the RTC. At that time, more than two months had passed since the respondent received a copy of the said motion for reconsideration on August 21, 2007. The respondent was thus given sufficient time to study the motion and to enable him to meet the arguments interposed therein. Indeed, the respondent was able to file his opposition thereto on September 20, 2007.

Notwithstanding that the respondent received a copy of the said motion for reconsideration four days after the date set by the spouses Cabrera for the hearing thereof, his right to due process was not impinged as he was afforded the chance to argue his position. Thus, the RTC erred in denying the spouses Cabrera's motion for reconsideration based merely on their failure to comply with the three-day notice requirement.

WHEREFORE, in consideration of the foregoing disquisitions, the instant petition is **GRANTED**. The Decision dated October 21, 2009 and the Resolution dated March 26, 2012 of the Court of Appeals in CA-G.R. SP No. 03392, are hereby **REVERSED** and **SET ASIDE**. The case is hereby **REMANDED** to the Regional Trial Court of Mandaue City, Branch 56, to resolve the Motion for Reconsideration filed by the spouses Cabrera on the merits within five (5) days from the finality of this Decision.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

²²

Id. at 642-643.

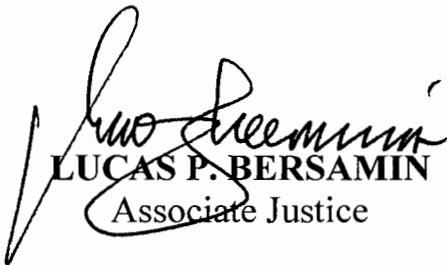
WE CONCUR:



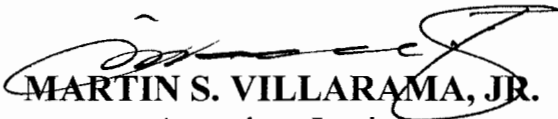
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court’s Division.



MARIA LOURDES P. A. SERENO
Chief Justice