



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DIANA YAP-CO,

Petitioner,

G.R. No. 209295

- versus -

Present:

SPOUSES WILLIAM T. UY and
ESTER GO-UY,

Respondents.

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

FEB 11 2015

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RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated January 23, 2013 and the Resolution³ dated September 27, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 124674, setting aside the dismissal of Civil Case No. 09-122374 and, consequently, directing the conduct of a full-blown trial of the case.

The Facts

On February 28, 2007, respondents-spouses William T. Uy and Ester Go-Uy (respondents) had secured a favorable Decision⁴ rendered by the

¹ Rollo, pp. 26-48.

² Id. at 54-64. Penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Vicente S. E. Veloso and Eduardo B. Peralta, Jr. concurring.

³ Id. at 66-67.

⁴ Id. at 137-143. Penned by Judge Bernabe B. Mendoza.

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Regional Trial Court of Roxas, Isabela, Branch 23 in Civil Case No. 23-831 for collection of sum of money and damages against one Joseph Chung (Chung). With the said Decision becoming final and executory, respondents filed a motion for the issuance of a writ of execution thereof, which the said court granted in an Order⁵ dated January 18, 2008.⁶ Subsequently, respondents were the sole bidders of Chung's property, covered by Transfer Certificate of Title (TCT) No. 267949,⁷ sold at public auction in order to satisfy the judgment.⁸

After the lapse of the allowable period for redemption, respondents were issued a Final Deed of Sale,⁹ which they registered with the Registry of Deeds of Manila on June 17, 2009.¹⁰ Respondents, however, were unable to secure their new title after being informed that one had already been issued¹¹ in favor of herein petitioner Diana Yap-Co (petitioner) who supposedly acquired the property through an execution sale¹² conducted in implementation of a judgment rendered in Civil Case No. 23-820 entitled "*Spouses Henry Hatol and Isabelita Hatol v. Joseph Chung*."¹³

On October 27, 2009, respondents filed a Complaint¹⁴ for annulment of title and damages with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order (subject complaint) against petitioner before the Regional Trial Court of Manila, Branch 50 (RTC), docketed as Civil Case No. 09-122374, alleging that the latter's title over the subject property was procured through fraud given that **while respondents' documentary requirements were complete at the time of registration on June 17, 2009, the documents necessary for the registration of petitioner's title were secured only much later.**¹⁵

On November 27, 2009, petitioner filed a Motion to Dismiss¹⁶ on the ground that the complaint allegedly stated no cause of action. In an Order¹⁷ dated April 5, 2010, the RTC held that it cannot as yet dwell on the issues raised in said motion and directed petitioner to file her Answer instead.

⁵ Id. at 144.

⁶ See id. at 55.

⁷ See Certificate of Sale (Execution Sale of Real Property under Rule 39, Section 19 of the New Rules of Court in the Philippines) dated May 7, 2008 signed by Sheriff IV Augusto J. Felicidadario. Id. at 154. See also id. at 76-79.

⁸ As reflected in the Sheriff's Proceedings and Minutes of Sale dated May 7, 2008. Id. at 153.

⁹ Id. at 80-81.

¹⁰ See id. at 55 and 70.

¹¹ Referring to TCT No. 288213 issued on June 10, 2009. Id. at 88.

¹² See Certificate of Sale (Execution Sale of Real Property under Rule 39, Section 19 of the New Rules of Court in the Philippines) dated December 4, 2007 signed by Sheriff IV Luis A. Alina; id. at 168-169.

¹³ Id. at 88 and 107-108.

¹⁴ Id. at 69-91.

¹⁵ Id. at 71.

¹⁶ Id. at 92-98.

¹⁷ Id. at 104. Penned by Presiding Judge William Simon P. Peralta.

On October 7, 2010, or after the hearing on the application for a writ of preliminary injunction, the RTC issued the writ prayed for against the sale or transfer of the property subject of the complaint, conditioned upon respondents' posting of an injunction bond in the amount of ₱3,792,760.20.¹⁸ With the RTC's subsequent denial of her motion for reconsideration¹⁹ in an Order²⁰ dated January 6, 2011, petitioner sought to set aside the injunctive writ through a petition for *certiorari* before the CA, docketed as CA-G.R. SP No. 118831. The petition was, however, subsequently denied by the appellate court in a Decision²¹ dated October 14, 2011.

In the meantime, trial proceeded in due course. However, at the initial presentation of their evidence on November 10, 2011, respondents, as well as their counsel, failed to appear in court. The presiding judge gave them another chance to present evidence with a warning that failure to appear at the next hearing would result in the dismissal of the case.²² Respondent Ester Go-Uy was able to present her testimony on February 2, 2012²³ but respondents repeatedly asked the court for continuance²⁴ and, thereafter, failed to appear at the third setting of their direct testimony on March 1, 2012.²⁵ Respondents likewise did not attend the next scheduled hearing on March 22, 2012 but instead filed a motion to pre-mark their documentary exhibits.²⁶

The RTC Proceedings

On account of their absence in the hearing of March 1, 2012, the RTC issued the first assailed Order directing that Ester Go-Uy's testimony be stricken off the record of the case.²⁷ Later, or on March 22, 2012, after respondents failed to appear once again, the RTC issued the second assailed Order denying their motion to pre-mark documentary exhibits and dismissing the case, *viz.*:

At today's scheduled continuation of presentation of plaintiff's evidence, only the counsel for the defendants is in court.

In an Order dated 01 March 2012, this Court already ordered the striking off from the record of the initial direct testimony of plaintiff Ester Go-Uy.

¹⁸ See Order dated October 7, 2010; *id.* at 159-162.

¹⁹ Dated November 8, 2010; *id.* at 163-166.

²⁰ *Id.* at 180-181.

²¹ *Id.* at 185-194. Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Mariflor P. Punzalan Castillo and Franchito N. Diamante concurring.

²² See Order dated November 10, 2011 issued by Acting Presiding Judge Rosalyn D. Mislos-Loja; *id.* at 195-196.

²³ See Order dated February 2, 2012; *id.* at 204.

²⁴ See Order dated February 16, 2012; *id.* at 205.

²⁵ *Id.* at 204-205.

²⁶ *Id.* at 32.

²⁷ *Id.* at 58.

In view thereof, and there being no other evidence adduced by the plaintiff, considering further the continued absence of the plaintiffs despite notice, this Court hereby grants the standing motion of the defendants to dismiss this case.

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SO ORDERED.²⁸

Respondents sought to set aside the dismissal of their case through an Omnibus Motion, which the RTC eventually denied in an Order²⁹ dated April 30, 2012. Thereafter, they elevated the matter to the CA through a petition for *certiorari* with a prayer for an injunctive writ, docketed as CA-G.R. SP No. 124674.

The CA Ruling

In a Decision³⁰ dated January 23, 2013, the CA granted respondents' petition and annulled the RTC's dismissal of Civil Case No. 09-122374. It further directed that the testimony of Ester Go-Uy be reinstated into the records and a full-blown trial of the case be conducted.

It held that the failure of respondents' counsel to attend the court hearings scheduled on March 1 and 22, 2012, as well as to notify his clients of said hearing dates to enable them to travel all the way from Aurora, Isabela to Manila in order to attend the same, should not bind respondents because they appear to have legitimate grievances in the action for annulment of title filed with the RTC. To this end, the CA set aside the rules of technicalities and ruled that the ends of justice will be better served through the conduct of a full blown trial in the main case to resolve the conflicting claims of the parties over the subject property.³¹

Dissatisfied, petitioner filed a motion for reconsideration, which the CA denied in a Resolution³² dated September 27, 2013, hence, this petition.

The Issue Before The Court

The issue for the Court's resolution is whether or not the CA erred in reinstating Civil Case No. 09-122374 on considerations of equity, notwithstanding the rule on failure to prosecute a case diligently under Section 3, Rule 17 of the Rules of Court.

²⁸ Id. at 58-59.

²⁹ Id. at 207-208.

³⁰ Id. at 54-64.

³¹ Id. at 62-63.

³² Id. at 66-67.

The Court's Ruling

The petition lacks merit.

Petitioner failed to show that the CA committed reversible error in setting aside the dismissal of Civil Case No. 09-122374 and directing the RTC to conduct a full-blown trial of the case.

Section 3, Rule 17 of the Rules of Court provides that “[i]f 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 the court.” However, the application of the foregoing rule is not, to the Court’s mind, warranted in this case since, as correctly found by the CA, respondents’ counsel acted negligently in failing to attend the scheduled hearing dates and even notify respondents of the same so as to enable them to travel all the way from Aurora, Isabela to Manila and attend said hearings. ***Verily, relief is accorded to the client who suffered by reason of the lawyer’s palpable mistake or negligence and where the interest of justice so requires.***³³ Concurring with the CA, the Court finds that respondents would be deprived of the opportunity to prove the legitimacy of their claims if the RTC’s dismissal of the case – on a procedural technicality at that, which was clearly caused by the palpable negligence of their counsel – is sustained. Considering that respondents appear to have legal and factual bases for their grievance, it would better serve the higher interest of substantial justice to allow the parties’ conflicting claims to be resolved on the merits. As the CA aptly observed:

At bench, if We sustain the ruling of the court *a quo* to strike out from the records the testimony of Petitioner [hereinafter respondent] ESTER GO-UY and dismiss the case, the Petitioners [hereinafter respondents] would lose any opportunity to prove the legitimacy of their claims. We rule that the failure of the [respondents’] former counsel, Atty. AGUINALDO, to attend the court hearings scheduled on 01 and 22 March 2012 and to notify the [respondents] of said hearing dates for them to travel all the way from Aurora, Isabela to Manila in order to attend the same should not bind [respondents] because the latter appear to have legitimate grievances in the action for annulment of title they filed with the court *a quo*. From the record, it remains undisputed that a Decision dated 28 February 2007 was rendered in favor of herein [respondents] against one JOSEPH CHUNG (hereinafter CHUNG) by the RTC, Branch 23 of Roxas, Isabela in Civil Case No. 23-831 for Sum of Money entitled “Spouses William T. Uy and Ester Uy vs. Joseph Chung.” After said decision became final and executory, [respondents] filed with the said court a motion for the issuance of a Writ of Execution and was granted through an Order dated 18 January 2008. The implementation of the said

³³ See *Multi-Trans Agency Phils., Inc. v. Oriental Assurance Corp.*, 608 Phil. 478, 493-494 (2009).

writ was coursed through the Office of the Clerk of Court of RTC, Manila and assigned to Sheriff AUGUSTO J. FELICIDARIO (hereinafter Sheriff FELICIDARIO). Thereafter, Sheriff FELICIDARIO caused the auction of the property covered by TCT No. T-267949 registered in the name of CHING. During the scheduled auction sale on 07 May 2008, [respondents], as the sole bidder, submitted a bid of Php3,792,760.20, hence, a Certificate of Sale was issued to them by Sheriff FELICIDARIO. On account of CHUNG's failure to redeem the property with the period granted by law, the Sheriff's Final Deed of Sale dated 21 May 2009, Certificate Authorizing Registration dated 05 June 2009 and other relevant documents were registered with the Registry of Deeds of Manila on 17 June 2009. It was only on 08 September 2009 that Petitioners discovered that the property covered by TCT No. T-267949 was transferred in the name of Private Respondent [herein petitioner] CO under TCT No. 288213.³⁴

Further, it bears pointing out that while the RTC dismissed the case impliedly by reason of respondents' repeated failure to appear in court and prosecute their case, it also inaccurately expressed the view that such dismissal may properly be taken as its favorable action on petitioner's standing motion to dismiss. The Court takes note, however, that the cited motion to dismiss was not premised on the respondents' failure to prosecute their case *but on the alleged failure of the complaint to state a cause of action*.³⁵ Fundamental is the rule that a motion to dismiss grounded on failure to state a cause of action refers only to the insufficiency of the pleading. A complaint states a cause of action if it avers the existence of the three essential elements of a cause of action, namely: (a) the legal right of the plaintiff; (b) the correlative obligation of the defendant; and (c) the act or omission of the defendant in violation of said right.³⁶ If these elements are present such that the allegations furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed.³⁷ In this case, the Court finds that the subject complaint sufficiently averred actual fraud on the part of petitioner in procuring her title to the subject property to the prejudice of respondents who claim to have acquired it first. Thus, outright dismissal for failure to state a cause of action was improper.

In fine, the CA correctly ordered the reinstatement and full blown trial of Civil Case No. 09-122374.

WHEREFORE, the petition is **DENIED**. The Decision dated January 23, 2013 and the Resolution dated September 27, 2013 of the Court of Appeals in CA-G.R. SP No. 124674 are hereby **AFFIRMED**.

³⁴ *Rollo*, p. 62; citations omitted.

³⁵ See *id.* at 92.

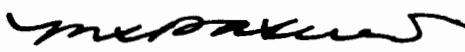
³⁶ *Heirs of Faustino Mesina v. Heirs of Domingo Fian, Sr.*, G.R. No. 201816, April 8, 2013, 695 SCRA 345, 352.

³⁷ See *Heirs of Magdalena Ypon v. Ricaforte*, G.R. No. 198680, July 8, 2013, 700 SCRA 778, 783-784.

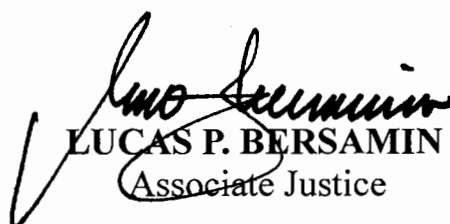
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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