

SPECIAL SEVENTH DIVISION

[CA-G.R. CV NO. 99407, May 16, 2014]

**SPOUSES CESAR AND TERESITA PANTALEON, PLAINTIFFS-
APPELLANTS, VS. LORENZO MONTEVERDE, HON. JUAN BERMEJO
JR. PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH
3, AND SHERIFF LARRY SALUMBIDES,^[*] DEFENDANTS-
APPELLEES.**

D E C I S I O N

BALTAZAR-PADILLA, J.:

Before US is an appeal from the Order^[1] dated June 7, 2012 of the Regional Trial Court (RTC), Branch 49, Manila which dismissed herein appellants-spouses Pantaleon's complaint for Annulment of Deed of Sale on the ground of their repeated failure to adduce their evidence-in-chief. Likewise assailed is the Order²^[2] dated August 2, 2012 which denied the motion for reconsideration thereof.

As gathered from the records, the factual antecedents are as follows:

Cesar and Teresita Pantaleon (appellants-spouses for brevity) are the registered owners of a parcel of land situated at 1230 Mindoro Street, Paco, Manila covered by Transfer Certificate of Title (TCT) No. 234192. In January, 2000, appellants-spouses Pantaleon obtained a loan from herein appellee Lorenzo Monteverde (appellee for brevity) in the amount of P480,000.00 payable on or before December 31, 2000. As a security for the said loan, appellants-spouses allegedly executed a blank Deed of Absolute Sale^[3] over the disputed property in favor of appellee.

On July 5, 2001, appellee filed a complaint^[4] for collection of sum of money against appellants-spouses for the latter's failure to pay their obligation. However, the said complaint was dismissed for failure to comply with the required prior barangay conciliation proceeding. Thereafter, the questioned property was transferred to and registered in the name of appellee under TCT No. 256177^[5]. Consequently, on October 21, 2002, appellee through his counsel, made a demand letter^[6] to appellants-spouses requesting them to vacate the subject property until July 30, 2002 and that should they fail to vacate the said lot on the aforesaid date, they have to pay a reasonable amount of P5,000.00 a month starting August 1, 2002. Nonetheless, appellants-spouses did not vacate the property in question despite the demand.

On March 31, 2003, appellee instituted an ejectment case against appellants-spouses docketed as Civil Case No. 174961. It was raffled off to Branch 3, Metropolitan Trial Court (MeTC) of Manila. On June 28, 2004, the said court ruled in favor of appellee. It ordered appellants-spouses to vacate the disputed lot and to surrender the possession thereof to appellee. Likewise, appellants-spouses were

ordered to pay appellee the monthly sum of P5,000.00 from the time of the filing of the complaint until they vacate the subject lot, and P10,000.00 as attorney's fees.^[7]

Thereafter, a complaint for falsification of public document was lodged by appellants-spouses against appellee before the Office of the City Prosecutor of Manila. The complaint avers that appellee supposedly forged spouses-appellants' signatures in the Certification^[8] dated May 27, 1999 which declared that appellants-spouses signed in favor of appellee a deed of absolute sale. A Resolution^[9] dated February 16, 2005 was issued by the Office of the City Prosecutor of Manila holding that no probable cause was found to warrant the indictment of appellee for the offense charged.

Subsequently, the instant case was lodged by appellants-spouses against appellee before the Regional Trial Court of Manila and was later on assigned to Branch 14. In the meanwhile, a writ of execution^[10] and notice to pay and vacate^[11] were issued against appellants-spouses on April 29, 2005 and May 27, 2005, respectively, by Branch 3, MeTC, Manila involving the ejectment case between the parties. Consequently, appellants-spouses filed an urgent ex-parte motion to issue temporary restraining order before the court a quo to maintain the status quo and to restrain the implementation of the aforesaid writ of execution. In an Order dated June 1, 2005, the RTC granted the motion and accordingly directed appellee, the Presiding Judge of Branch 3, MeTC, Manila and the latter court's sheriff, Larry Salumbides to cease and desist from enforcing the writ of execution and the notice to pay and to vacate for a period of 20 days. A writ of preliminary injunction was later granted in an Order dated June 23, 2005.

Barely two months after the pre-trial conference, the parties agreed to settle this case.^[12] However, the trial court in an Order^[13] dated November 29, 2011 dismissed the extant complaint without prejudice for the failure of the parties to submit a compromise agreement. A motion for reconsideration^[14] of the above-mentioned Order was then filed by appellants-spouses. Accordingly, the trial court set aside its November 29, 2011 Order and directed the presentation of appellants-spouses' evidence on April 17, 2012.^[15] At the said scheduled hearing, appellants-spouses' counsel requested to reset the trial to June 7, 2012. On the latter date, appellants-spouses again failed to present their evidence. Thus, the RTC issued an Order on even date dismissing this case due to the repeated failure of appellants-spouses to adduce their evidence. The relevant portions of the aforementioned June 7, 2012 Order states, viz:

"x x x x

Counsel for defendants moved that the case be dismissed due to the repeated failure of plaintiff[s] to adduce their evidence.

Taking into consideration the oral arguments of said counsel for the defendants, the comment of the counsel for the plaintiff[s], and the explanation given by co-plaintiff herself Teresita Pantaloon (sic), it is the view of the Court that the said motion is impressed with merit.

It is the sense of the Court that the plaintiffs have been given sufficient opportunity to present their evidence and/or to offer a reasonable compromise. It is likewise the sense of the Court that the suggested compromise involving an alleged sale of land

in Bulacan has very little prospect of coming to fruition. Even before the first dismissal of this case in November 2011, there was already ample opportunity given to the plaintiffs to settle the case or to adduce their evidence.

In the interest of justice and in the exercise of sound discretion, and for the reasons stated therein, the above-captioned case is hereby ordered DISMISSED."

A motion for reconsideration of the above-quoted Order was filed by appellants-spouses. An opposition thereof was thereafter filed by appellee. The lower court issued an Order^[16] dated August 2, 2012 denying the motion for reconsideration and ruled that the failure of appellants-spouses to adduce evidence leads to the conclusion that they either purposely delay the resolution of this case or they have no substantial evidence to prove their cause of action.

Hence, appellants-spouses Pantaleon elevated this case before US via the extant appeal wherein they raise this lone issue:

THE TRIAL COURT GRAVELY ERRED IN DISMISSING THE PLAINTIFFS- APPELLANTS' COMPLAINT FOR ANNULMENT OF DEED OF SALE AND TCT NO. 256177 FOR FAILURE TO PROSECUTE IN VIEW OF THEIR ALLEGED NON-PRESENTATION OF EVIDENCE.

Appellants-spouses aver that there is no truth to appellee's claim that they did not actively participate in the trial of the instant case. They prosecuted their action with utmost diligence and with reasonable dispatch since the filing of the complaint. They did not manifest any pattern or scheme to delay the disposition of the present case. Neither did they wantonly fail to observe the mandatory requirements of the rules. They have the sincere desire to settle this case amicably as demonstrated by their efforts to raise money in buying back the subject lot when they obtained a loan from PAG-IBIG. Thus, the trial court manifestly erred when it dismissed this case on the ground of their failure to comply with its orders to present their evidence.^[17]

Appellants-spouses further maintain that the pre-trial of this case had already been conducted wherein the parties marked their respective exhibits. Therefore, the extreme sanction of dismissal is not warranted as no substantial prejudice is caused to appellee. The ends of justice and fairness would best be served if the parties are given the full opportunity to litigate their claims and the real issues involved in the instant case are threshed out in a full-blown trial.^[18]

Appellants-spouses likewise avow that they obtained the loan from appellee in January, 2000. Initially, the same was secured by a deed of sale involving the disputed property with only the signatures of appellants-spouses appearing therein. They also had an agreement that should appellants-spouses fail to pay their obligation on or before December 31, 2000, appellee is free to register the aforesaid deed. Later on, however, another deed of absolute sale dated July 19, 2002 was executed by appellee which has the same contents as the first one. This clearly means that when the latter deed was made and notarized, the signatures of appellants-spouses were forged making it a spurious document. Consequently, TCT No. 256177 which was issued under appellee's name by virtue of the second deed of absolute sale is necessarily fraudulent as well.^[19]

The certification which they supposedly signed as an acknowledgment of the purported sale of the contested lot to appellee was made on May 27, 1999 but the

deed of absolute sale involving the same subject property was executed only on July 19, 2002. The interval of time upon which these two documents were executed warrants a suspicion as to their authenticity. What they really executed is merely a real estate mortgage. In fact, in the June 23, 2005 Order of the trial court which granted appellants-spouses' application for writ of preliminary injunction, the RTC considered the pertinent deed as an equitable mortgage since appellants-spouses remain in possession of the disputed lot and they still pay its real property tax. Inasmuch as the parties truly intended the same to be just a mortgage, appellee's automatic registration of the said deed upon failure of appellants-spouses to pay their loan obligation is tantamount to pactum commissorium which is prohibited under the Civil Code. Therefore, TCT No. 256177 which sprung from a void deed of sale is likewise a nullity.^[20]

Appellee, on the other hand, asseverates that since the Court of Appeals is not a trier of facts, it cannot determine whether appellants-spouses can be considered as indigent litigants using the standards set forth in Rule 3, Section 21 of the Rules of Court. Records disclose that when appellants-spouses appealed the extant case before this Court, they were represented by the Public Attorney's Office (PAO) Special and Appealed Cases Service. Later, the appellate court granted the PAO's manifestation/motion for withdrawal of appearance as counsel for appellants-spouses since the latter opted to just represent themselves. However, it turned out that appellants-spouses who filed their Brief with motion to litigate as pauper litigants were actually represented by a private counsel but did not disclose the counsel's identity and merely made themselves the signatories of their Brief. Appellants-spouses' claim that they are pauper litigants, and therefore should be exempted to pay the docket and other legal fees relative to the filing of pleadings with this Court, is highly questionable.^[21]

Appellee also argues that the dismissal of the extant case for appellants-spouses' failure to prosecute for an unreasonable length of time is proper. Appellants-spouses had been given numerous chances by the court a quo to present their evidence-in-chief but they failed to do so. It is a settled rule that the failure of the plaintiff to prosecute the action without any justifiable cause within a reasonable time will give rise to the presumption that he is no longer interested to obtain from the court the relief prayed for in the complaint. Hence, the court is authorized to order the dismissal of the complaint on its own motion or on motion of the defendant. Likewise, the burden to show that there are compelling reasons that would make the dismissal of the case unjustified is on the plaintiff. Concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain its failure to comply with the rules. Appellants-spouses failed to show that there are persuasive reasons for the procedural rules to be relaxed in their favor.^[22]

The appeal lacks merit.

WE find that the dismissal of the extant case by the lower court is warranted under Section 3, Rule 17 of the Revised Rules of Court. The said provision reads:

“SEC. 3. Dismissal due to fault of plaintiff. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon