

SPECIAL FOURTEENTH DIVISION

[CA-G.R. SP No. 132923, May 02, 2014]

WATERFRONT PHILIPPINES, INC., WELLEX INDUSTRIES, INC., AND THE WELLEX GROUP, INC., PETITIONERS, V. JUDGE GENIE G. GAPAS-AGBADA, IN HER CAPACITY AS ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 100 OF QUEZON CITY AND SOCIAL SECURITY SYSTEM (SSS), RESPONDENTS.

D E C I S I O N

DIAMANTE, F. N., J.:

We are tasked to resolve the present Petition for Certiorari^[1] under Rule 65 of the 1997 Revised Rules of Civil Procedure filed by petitioners which seeks to annul the Orders dated August 2, 2013^[2] and September 30, 2013^[3] of the Quezon City Regional Trial Court (RTC), Branch 100, in Civil Case No. Q-04-52629. The dispositive portion of the August 2, 2013 Order reads, thus:

“WHEREFORE, the defendants are considered to have waived their rights to present further evidence. They are given ten (10) days from receipt hereof to submit their formal offer of evidence. Plaintiff is likewise given ten (10) days from receipt of defendants' formal offer of evidence to comment thereto after which, the incident shall be deemed submitted for resolution.

“**SO ORDERED.**”^[4]

The instant controversy arose from the Complaint^[5] filed by respondent Social Security System (SSS) “For Sum of Money with Damages, With Prayer For Issuance Of A Writ Of Preliminary Attachment” against petitioners Waterfront Philippines, Inc. (WPI), Wellex Industries, Inc. (WII) and Wellex Group, Inc. (WGI) before the RTC. In its Complaint, SSS alleged that on October 28, 1999, it entered into a Three Hundred Seventy Five Million Peso (P375,000,000.00)-“Contract of Loan with Real Estate Mortgage and Assignment of Shares with Option to Convert to Shares of Stock,”^[6] with the petitioners. The said amount will finance the completion, renovation and upgrading of WPI's hotel facilities. SSS' prayer for the issuance of a writ of preliminary attachment was granted^[7] by the RTC (through then Presiding Judge Marie Christine A. Jacob^[8]) on June 18, 2004.

On September 16, 2004, petitioners filed a “Motion to Set Aside Order of Attachment”. The following day, they filed an “Amended Motion to Set Aside Order of Attachment”, praying for the setting aside or discharge of the writ of preliminary attachment for being improperly issued as there is no valid ground to support the same. On October 4, 2004, SSS filed its comment/opposition thereto to which a Reply dated October 21, 2004 was filed by the petitioners. However, on January 10,

2005, the RTC denied^[9] the petitioners' "Amended Motion to Set Aside Order of Attachment" and consequently granted SSS a period of fifteen (15) days within which to post a bond.

Meanwhile, petitioners WGI^[10] and WII^[11] filed two separate motions to dismiss SSS' Complaint since according to them, the same states no cause of action, which were both denied^[12] by the RTC on July 18, 2005.

Dissatisfied with the RTC's January 10, 2005 Order, SSS filed a Motion for Partial Reconsideration and prayed that it be allowed: 1) to post a real property bond in lieu of a cash/surety bond; and, 2) an extension of thirty (30) days within which to file the same. Petitioners filed their Comment/Opposition thereto dated March 7, 2005, to which SSS filed its Reply on March 31, 2005 and, thereafter, petitioners' Rejoinder dated April 15, 2005. The RTC granted^[13] SSS' motion for partial reconsideration to which the petitioners filed a Motion for Reconsideration dated August 25, 2005. In turn, SSS filed its Comment/Opposition (dated October 3, 2005) to the reconsideration pleas of the petitioners.

During the intervening time, SSS filed its Compliance (dated September 9, 2005) with the July 18, 2005 Order of the RTC and attached therein a list of "Identified SSS-Owned Properties to be Used as Property Bond" with copies of certificates of title duly registered under its name and their corresponding valuation, prepared by the SSS Asset Management Department. A few days after or on September 12, 2005, the RTC issued an Order^[14] approving SSS' property bond as secured by the real properties listed in the aforesaid Compliance and accordingly directed the issuance of a writ of preliminary attachment. An "Urgent Joint Motion for Reconsideration" was filed by the petitioners to the said Order, but the same was withdrawn through their "Manifestation of Withdrawal" dated October 28, 2005.

The RTC's approval of the property bond and the subsequent issuance of a writ of preliminary attachment were brought before this Court by the petitioners *via* a petition for certiorari with urgent application for issuance of a temporary restraining order and/or writ of preliminary injunction entitled "Waterfront Phils., Inc., et al. vs. Judge Marie Christine Jacob and SSS" docketed as CA-G.R. SP No. 91928. On March 28, 2006, this Court issued a Resolution granting petitioners' application for issuance of a Writ of Preliminary Injunction. On August 24, 2006,^[15] this Court's Former Fourth Division rendered a Decision granting petitioners' petition for certiorari thus nullifying and setting aside the assailed RTC Orders dated June 18, 2004, January 10, 2005, July 18, 2005 and September 12, 2005. SSS appealed this Court's pronouncement to the Supreme Court but to no avail,^[16] hence, an entry of judgment^[17] was accordingly issued by the High Court on January 3, 2007.

Consequently, the case was set for hearing before the RTC. A Pre-Trial Order^[18] was issued by the RTC on August 8, 2008 after petitioners were able to file their respective answers to the complaint and the parties, their respective Pre-Trial Briefs. ^[19] Following the presentation of its three witnesses, SSS filed its Formal Offer of Evidence dated August 27, 2010. As stated in the RTC's August 3, 2010 Order, the hearing for the presentation of petitioner's evidence was set on October 26, 2010. On October 14, 2010, SSS received a copy of petitioners' Urgent Ex-Parte Motion for Extension of Time to Submit Judicial Affidavits asking the RTC for an extension of fifteen (15) days or until October 15, 2010 within which to submit the judicial

affidavits of their witnesses and the RTC gave the petitioners up to October 30, 2010 to comply thereto.

Another Urgent Ex-Parte Motion for Extension of Time to Submit Judicial Affidavits and Motion for Postponement of Hearing^[20] dated October 14, 2010 was received by SSS from the petitioners, praying for an extension of fifteen days from October 5, 2010 or until October 30, 2010 within which to submit the required judicial affidavits. Again, another Urgent Ex-Parte Motion for Last Extension to Submit Judicial Affidavits^[21] dated October 29, 2010 praying for a last extension of twenty days from October 30, 2010 or until November 19, 2010 within which to submit the judicial affidavits was received by SSS from petitioners. From that time on or on November 8, 2010, the RTC granted^[22] petitioners' Motion dated October 14, 2010 allowing a last extension of time or until November 19, 2010 to file the required judicial affidavits of their witnesses and setting the presentation of their evidence on January 28, 2011, March 29, 2011 and May 17, 2011. On December 6, 2010, the RTC simply noted^[23] the filing of petitioners' judicial affidavits for witnesses Elvira A. Ting and Lauraine San Roque.

The moment that: 1) the presentation of petitioners' lone witness Elvira Ting was terminated; and, 2) the Judicial Affidavit of their first witness Lauraine San Roque was declared inadmissible (per motion of respondent SSS), petitioners were ordered^[24] to submit the judicial affidavit of their second witness on or before September 28, 2012.

On September 26, 2012, SSS received a copy of petitioners' Urgent Ex-Parte Motion for Postponement of Hearing and Motion for Extension to Submit Judicial Affidavit^[25] begging that the hearing set on October 05, 2012 be reset to November 23, 2012. They also pleaded that they be given an extension of up to November 16, 2010, (instead of the September 28, 2012 deadline previously advanced by the RTC), to submit the judicial affidavit of their witness.

In the meantime, the hearing for the continuation of petitioners' evidence was reset on April 26, 2013 and May 31, 2013. Conspicuously however, the judicial affidavit of petitioners' second witness has been nonexistent yet.

On May 28, 2013, SSS got hold of petitioners' Urgent Ex-Parte Motion for Postponement of Hearing dated May 28, 2013 requesting that the hearing be reset to July 5, 2013 or August 2, 2013 for the presentation of their second witness.

Come the August 2, 2013 at 8:30 (in the morning) hearing, SSS' counsel appeared but without knowledge that there was an Urgent Ex-Parte Motion for Postponement of Hearing dated July 22, 2013^[26] to postpone the August 2, 2013 to September 27, 2013. Impatient with the absence of petitioners' counsel coupled with her continuous failure to submit the required judicial affidavit, not to mention petitioners' successive motions for postponement of hearing, SSS' counsel (who extremely disapproved the postponement of the August 2, 2013 hearing), moved that the right of petitioners to present additional evidence be considered waived, which was granted by the the RTC in its Order dated August 2, 2013. With the denial of petitioners' Motion for Reconsideration,^[27] they are now before Us via the present recourse and basically wanted Us to rule on ***whether the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in declaring them to have waived their right to present evidence.***^[28]

We agree with the petitioners' assertion that due process was not accorded upon them since they were unjustly deprived of their right to present evidence to support their cause.

It is the policy of the Court to afford party-litigants the amplest opportunity to enable them to have their cases justly determined, free from the constraints of technicalities. Since rules of procedure are mere tools designed to facilitate the attainment of justice, it is well recognized that this Court is empowered to suspend its operation, or except a particular case from its operation, when the rigid application thereof tends to frustrate rather than promote the ends of justice. Oft-cited is the rule that it is a far better and more prudent course of action for a court to excuse a technical lapse and afford the parties a review of the case on the merits to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.^[29]

Matter of factly, the High Court in *Go v. Tan*,^[30] relaxed the application of the Rules and gave a chance to the movant to present evidence, viz:

"The fundamental purpose of procedural rules is to afford each litigant every opportunity to present evidence on his behalf in order that substantial justice is achieved. Court litigations are primarily for the search of truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth. The dispensation of justice and vindication of legitimate grievances should not be barred by technicalities.

"If petitioner will not be given a chance to air his side or raise his defenses *vis-a-vis* respondents' claims for damages which were awarded to them by the trial court *ex parte*, the same may result in injustice to him. We are, therefore, convinced that setting aside the order of default and the judgment by default of the lower court is in order. Although respondents Michael Tan and his mother have been evicted in the premises, there still remains a controversy regarding damages allegedly sustained by them by reason of petitioner's alleged illegal acts. By conducting a full blown trial, both parties will be able to present their evidence, thus affording them the opportunity to enforce and protect their respective rights."

In the case at bench, We find acceptable the petitioners' justification why they failed to present their evidence, thus:

"61. While petitioners have previously asked for postponements, these postponements were granted by the former Judge precisely since they were anchored on meritorious grounds. The Urgent Ex-Parte Motion to Postpone the 02 August 2013 hearing is likewise founded on meritorious ground—the unavailability of petitioners' last witness who was still in the USA for medical treatment and who was not given ample notice. In the case at bar, there are circumstances that justify postponement but such notwithstanding, petitioners' Motion was denied.

"62. It is worth pointing out that the 02 August 2013 hearing was set by the Court without conferring with the parties after the appointment of