

SECOND DIVISION

[G.R. No. 194638, July 02, 2014]

**PARAÑAQUE KINGS ENTERPRISES, INC., PETITIONER, VS.
CATALINA L. SANTOS, REPRESENTED BY HER ATTORNEY-IN-
FACT, LUZ B. PROTACIO, AND DAVID R. RAYMUNDO,
RESPONDENTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated September 22, 2010 and the Resolution^[3] dated November 23, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 92522, which affirmed the following Orders of the Regional Trial Court of Makati City, Branch 57 (RTC), rendered in Civil Case No. 91-786 for breach of contract with damages: (a) **First Order**^[4] **dated July 7, 1998** denying petitioner Parañaque Kings Enterprises, Inc.'s (petitioner) motion to cancel pre-trial and ordering the parties "to go into pre-trial"; (b) **Second Order**^[5] **dated July 7, 1998** declaring petitioner non-suited for refusing "to go into pre-trial despite the Order of the [c]ourt to do so," and dismissing the complaint; and (c) **Order dated September 21, 1998**^[6] denying petitioner's motion for reconsideration of the First and Second Orders.^[7]

The Facts

Respondent Catalina L. Santos (Santos) entered into a Contract of Lease^[8] with Frederick O. Chua (Chua) over eight (8) parcels of land^[9] located in Parañaque City (leased premises), specifically giving the latter the "**first option or priority to buy**" the same in case of sale.^[10] Chua then caused the construction of a 6-door commercial complex^[11] on the leased premises but, by reason of business reverses, he was constrained to assign^[12] his rights thereon to Lee Ching Bing (Lee), who likewise assumed all obligations under the lease contract with Santos. Lee, in turn, executed a Deed of Assignment^[13] over the leased premises, including all improvements thereon, in favor of petitioner.

On March 19, 1991, petitioner filed a Complaint^[14] before the RTC (docketed as Civil Case No. 91-786) against Santos and respondent David A. Raymundo (Raymundo) to whom Santos allegedly sold the leased premises on September 21, 1988 for a consideration of P5,000,000.00,^[15] without giving petitioner the opportunity to exercise its priority to buy the same. Petitioner claimed that, when it objected to the sale, Santos repurchased the subject properties for the same price,^[16] and offered them to petitioner for P15,000,000.00. The latter made a counter-offer of P5,000,000.00 but, before replying thereto, Santos sold the subject

properties again to Raymundo on May 15, 1989 for P9,000,000.00.^[17] Petitioner argued that the sale was simulated and that there was collusion between Santos and Raymundo (respondents).

Respondents respectively moved^[18] for the dismissal of the Complaint on the main ground that it stated no cause of action. Raymundo alleged that there were, in fact, previous offers made to petitioner that the latter simply ignored.^[19] Santos, on the other hand, maintained that petitioner had already recognized and respected Raymundo's status as the new owner-lessor of the subject properties due to its payment of lease rentals to Raymundo, and, as such, is now estopped from challenging Raymundo's title.^[20] In addition, Santos claimed that the deed of assignment executed in favor of petitioner did not include the "first option" clause provided in the lease contract.^[21]

On September 2, 1991, the RTC dismissed^[22] petitioner's Complaint on the ground that it "does not contain any valid cause of action."^[23] Petitioner then filed a motion for reconsideration^[24] which was, however, denied by the RTC in an Order^[25] dated October 11, 1991.

Aggrieved, petitioner elevated the case on appeal before the CA (docketed as CA-G.R. CV No. 34987) which rendered a Decision^[26] dated March 29, 1993 affirming the dismissal of the Complaint.

Eventually, the foregoing CA Decision was reversed^[27] on petition for review before the Court (docketed as G.R. No. 111538) in a Decision dated February 26, 1997 (February 26, 1997 Decision), upon a finding that the Complaint "sufficiently alleges an actionable contractual breach"^[28] on the part of respondents. The Court explained that the trial and appellate courts based their decision on the allegation that Santos had actually offered the subject properties for sale to petitioner prior to the final sale in favor of Raymundo, but that the offer was rejected. However, the Court held that in order to have full compliance with the contractual right granting petitioner the first option to purchase, the sale of the subject properties for the amount of P9,000,000.00, the price for which it was finally sold to Raymundo, should have likewise been first offered to petitioner.^[29] Necessarily, the Court remanded the case to the trial court for further proceedings.

When respondents filed their Answer with Compulsory Counterclaims^[30] (Answer), they claimed that the first offer of P5,000,000.00 was declined by petitioner "because it could not afford the price."^[31] After Raymundo reconveyed the subject properties to Santos, the latter offered it again to petitioner at the price of P15,000,000.00, which it found to be "ridiculous," insisting that P5,000,000.00 is the "true and reasonable value" of the subject properties and that it is willing to buy the same only for said amount.^[32] Nevertheless, the reduced price of P9,000,000.00 was allegedly^[33] offered to petitioner, but the latter refused and maintained its stance on the value of the said properties.

Protesting that certain allegations in the Answer tended to vary, contradict, and falsify the findings of the Court in the February 26, 1997 Decision, petitioner filed a Motion to Strike out from the Answer with Compulsory Counterclaims Certain

Allegations or Matters^[34] (Motion to Strike Out), arguing that respondents are bound by the following conclusive findings of the Court and, hence, may no longer detract therefrom:

A careful examination of the complaint reveals that it sufficiently alleges an actionable contractual breach on the part of private respondents. Under paragraph 9 of the contract of lease between respondent Santos and petitioner, the latter was granted the "first option or priority" to purchase the leased properties in case Santos decided to sell. If Santos never decided to sell at all, there can never be a breach, much less an enforcement of such "right." But on September 21, 1988, Santos sold said properties to Respondent Raymundo without first offering these to petitioner. Santos indeed realized her error, since she repurchased the properties after petitioner complained. Thereafter, she offered to sell the properties to petitioner for P15 million, which petitioner, however, rejected because of the "ridiculous" price. But Santos again appeared to have violated the same provision of the lease contract when she finally resold the properties to respondent Raymundo for only P9 million without first offering them to petitioner at *such price*. Whether there was actual breach which entitled petitioner to damages and/or other just or equitable relief, is a question which can better be resolved after trial on the merits where each party can present evidence to prove their respective allegations and defenses.^[35]

Petitioner wanted to strike out, in particular, the allegations in the Answer that the subject properties were offered to it first at P5,000,000.00, and subsequently at P9,000,000.00.^[36]

However, petitioner's Motion to Strike Out was denied by the RTC in an Order^[37] dated May 18, 1998, emphasizing the inapplicability of the principle of *res judicata* with respect to the afore-quoted February 26, 1997 Decision. As indicated in the dispositive portion of the said Decision, the trial court was to conduct "further proceedings" which meant that respondents could not be deprived of the right to submit their own case and to proffer evidence to rebut the allegations in the Complaint.^[38]

Petitioner moved^[39] for the reconsideration of the said Order, as well as the voluntary inhibition of the presiding judge for alleged acts of "undue deference for and haste in granting all the motions and wishes of [respondents] and his consistent denial of the motions of [petitioner]."^[40] The motion was, however, denied by the RTC, in an Order^[41] dated June 11, 1998, and the case was set for pre-trial on July 7, 1998.

On July 2, 1998, petitioner filed a Motion to Cancel Pre-Trial,^[42] claiming that it was preparing a petition for *certiorari* and prohibition which (a) **was to be filed with the CA before the scheduled pre-trial on July 7, 1998**, and (b) was intended to challenge the validity of the RTC's Orders dated May 18, 1998 and June 11, 1998 by raising alleged prejudicial questions that must be resolved first before the pre-trial and trial on the merits of the case could proceed.

Incidentally, the **petition for certiorari and prohibition**^[43] (docketed as CA-G.R. SP No. 48214) that **was actually filed at 2:17**^[44] **in the afternoon of July 7, 1998, (contrary to petitioner's assertion in its Motion to Cancel Pre-Trial that it was to be filed before the July 7, 1998 pre-trial)** was resolved by the CA in favor of petitioner in a Decision^[45] dated December 6, 1999 (December 6, 1999 CA Decision), where it was determined that the Motion to Strike Out was denied prematurely. On the other hand, the CA declared the petition for voluntary inhibition moot and academic with the appointment of a regular judge for Branch 57. Thus, **the Motion to Strike Out was ordered to be resolved by the regular judge**. Subsequently, the petition for review on *certiorari*^[46] filed by respondents before the Court (docketed as G.R. No. 143562) to question the December 6, 1999 CA Decision was dismissed by the Court in a Decision^[47] dated October 23, 2006.

Meanwhile, on July 7, 1998, the day of the pre-trial sought to be cancelled, the RTC denied petitioner's Motion to Cancel Pre-Trial in its **First Order**^[48] of even date. Accordingly, the RTC **directed the parties to proceed to pre-trial as scheduled**.

The trial court then required petitioner to start the pre-trial with the statement of its cause. However, counsel for petitioner, Atty. Nelson Santos, refused to do so saying he would just furnish the court the following day with a copy of the petition for *certiorari* and prohibition filed with the CA.^[49] Consequently, upon motion of the opposing counsel, the RTC (a) **declared petitioner non-suited**, and (b) **dismissed the Complaint** in its **Second Order**^[50] of the same day.

Again, petitioner filed a motion for reconsideration,^[51] which was denied by the RTC in an **Order**^[52] **dated September 21, 1998**, holding that the dismissal of the Complaint was due to **petitioner's defiance of the order to proceed with the pre-trial**. Section 3, Rule 17 of the Rules of Court authorizes the court to dismiss the complaint, upon motion or *motu proprio*, for failure of the plaintiff to comply with any of its orders.

Petitioner then filed a Notice of Appeal^[53] with the RTC from the First and Second Orders both dated July 7, 1998 and the Order dated September 21, 1998. The same was, however, **denied due course for being filed out of time** in an Order^[54] dated November 27, 1998. The trial court held that the motion for reconsideration filed by petitioner on August 12, 1998 was *pro forma* and did not toll the running of the period to appeal. Petitioner had 15 days from July 29, 1998, the date of receipt of copies of the First and Second Orders both dated July 7, 1998, or until August 13, 1998, to perfect its appeal but it failed to do so. Petitioner filed its Notice of Appeal only on September 30, 1998, which was about 48 days late.^[55]

Unperturbed, petitioner went up to the CA, for the third time, on a petition for *certiorari*, mandamus, and prohibition^[56] (docketed as CA-G.R. SP No. 50570), insisting that its motion for reconsideration substantially complied with the rules and, thus, effectively tolled the reglementary period to appeal. Nearly a decade after, or on May 23, 2008, the appellate court **granted** the petition, **annulled** the questioned orders of the trial court, and directed the lower court to **give due course** to petitioner's appeal.^[57] Upon motion for execution^[58] of petitioner, the

trial court issued an Order^[59] dated November 11, 2008 elevating the entire records of the case to the CA. The appeal, which was the **fourth time petitioner was before the CA**, was docketed as CA-G.R. CV No. 92522.

On September 22, 2010, the appellate court rendered the assailed Decision^[60] **affirming** the First and Second Orders both dated July 7, 1998, as well as the Order dated September 21, 1998. The same court further denied^[61] petitioner's motion for reconsideration^[62] of said Decision, hence, the instant petition.

The Issue Before the Court

The threshold issue for the Court's resolution is whether or not the CA correctly upheld (a) the RTC's denial of petitioner's Motion to Cancel Pre-Trial, and (b) the dismissal of the Complaint for failure of petitioner to proceed to pre-trial as directed by the trial court.

The Court's Ruling

At the outset, it should be emphasized that the trial court has the discretion on whether to grant or deny a motion to postpone and/or reschedule the pre-trial conference in accordance with the circumstances obtaining in the case. This must be so as it is the trial court which is able to witness firsthand the events as they unfold during the trial of a case. Postponements, while permissible, must not be countenanced except for clearly meritorious grounds and in light of the attendant circumstances.^[63]

In this case, the RTC was able to explain to the satisfaction of the Court that the postponement of the pre-trial scheduled on July 7, 1998 was not warranted under the circumstances detailed below, viz.:

As far as the Court could gather, the sought postponement of the pre-trial on July 7 was **dilatory**, if movant was not trifling with this court, **because at the pre-trial scheduled on March 26, 1998 it was plaintiff-movant through counsel, Justice Emilio Gangcayco, who asked for time and was given 10 days to file motion for contempt and to strike out averments in defendants answer. Thus, pre-trial was reset to May 21, 1998.**

But **on May 21, 1998 the pre-trial was again reset to June 11, 1998 to enable movant's counsel, Atty. Nelson Santos, to prepare for pre-trial as he was not ready for pre-trial.**

The scheduled pre-trial on June 11, 1998 was blocked by plaintiff's Motion for Inhibition and to vacate and/or reconsider the order of May 18, 1998. Both counsel submitted the matter for resolution and agreed that the pre-trial likewise be scheduled in that resolution, considering that Atty. Tomacruz (counsel for defendants) may oppose the postponement of the pre-trial of the June 11 pre-trial if no date is fixed therein. (Order dated June 11, 1998) The June 11 pre-trial