

FIRST DIVISION

[G.R. No. 187640, June 15, 2011]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE SPS.
ANGELITO PEREZ AND JOCELYN PEREZ, RESPONDENTS.**

[G.R. NO. 187687]

**SPS. ANGELITO PEREZ AND JOCELYN PEREZ, PETITIONERS, VS.
PHILIPPINE NATIONAL BANK, RESPONDENT.**

D E C I S I O N

VELASCO JR., J.:

Before Us are two Petitions for Review on Certiorari under Rule 45 docketed as **G.R. No. 187640** and **G.R. No. 187687**, seeking the review of the Decision and Resolution of the Court of Appeals (CA) dated October 23, 2008 and April 28, 2009, respectively, in CA-G.R. SP No. 96534. We consolidated the two cases as they involve identical parties, arose from the same facts, and raise interrelated issues.

The Facts

In 1988, spouses Angelito Perez and Jocelyn Perez (Spouses Perez) obtained a revolving credit line from Philippine National Bank's (PNB's) branch in Cauayan City, Province of Isabela. The credit line was secured by several chattel mortgages over *palay* stocks inventory and real estate mortgages over real properties.

Sometime in 2001, Spouses Perez defaulted on their financial obligations, prompting PNB to institute extra-judicial foreclosure proceedings over the aforementioned securities on November 13 of that year. On November 19, 2001, the sheriff instituted a Notice of Extra-Judicial Sale for the mortgaged properties by public auction on December 20, 2001.

Meanwhile, on November 26, 2001, Spouses Perez filed an Amended Complaint for Release or Discharge of Mortgaged Properties, Breach of Contract, Declaration of Correct Amount of Obligation, Injunction, Damages, Annulment of Sheriff's Notice of Extra-Judicial Sale, with a Prayer for the Issuance of a Preliminary Mandatory Injunctive Writ and a Temporary Restraining Order docketed as Civil Case No. 20-1155. ^[1]

At the hearing of the application for the issuance of a writ of preliminary mandatory injunction on April 19, 2002, Spouses Perez and their counsel failed to appear. As a result, the prayer for injunctive relief was denied.

Similarly, at the pre-trial conference scheduled on September 19, 2002, Spouses Perez and their counsel again failed to appear. Spouses Perez alleged that they

previously filed a Motion for Postponement dated August 28, 2002. On the same date, the trial court issued an Order denying the Motion for Postponement and, accordingly, dismissed the case.

Spouses Perez then filed a Motion for Reconsideration which was subsequently denied. They also filed a Second Motion for Reconsideration dated January 16, 2003 which was also denied by the trial court.

After this, Spouses Perez filed a Notice of Appeal. It was also denied by the trial court in an Order dated April 11, 2003 for being filed out of time. Spouses Perez then filed a *Motion for Reconsideration* dated April 29, 2003 seeking the reconsideration of the *Order* dismissing the appeal.

The *Motion for Reconsideration* dated April 29, 2003 was originally set for hearing on July 30, 2003. However, Spouses Perez filed five (5) motions to postpone the hearing. The trial court granted the first four (4) motions but denied the fifth one. Spouses Perez filed a *Motion for Reconsideration* of the Order denying the fifth *Motion for Postponement* which was also subsequently denied.

Consequently, Spouses Perez appealed the denial of their *Motion for Reconsideration* to the CA. The petition was docketed as CA-G.R. SP No. 85491. On January 25, 2005, the CA rendered a *Decision* denying the petition filed by Spouses Perez. It reasoned:

Neither did respondent court gravely abuse its discretion in resolving to dismiss Civil Case No. 20-1155 for failure of the plaintiffs and their time, allegedly because their counsel had to attend a pre-trial hearing in another case. True is it that procedural rules may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his noncompliance with the procedure required. But equally true is it that the law mandates that the appearance of parties at the pre-trial conference is mandatory. Here, as borne out by the records of this case, counsel for petitioners received the notice of pre-trial conference in another case a long while before they were notified of the pre-trial conference in the case at bench. As shown in the notice dated August 15, 2002, counsel already knew that the pre-trial conference in the present case was set for September 19, 2002. By the time he received the notice of pre-trial hearing in the case at bench on August 22, 2002, counsel thus must have seen and realized the obvious conflict in schedules between the two cases. However, instead of taking timely measures to prevent an impending snafu, it took counsel more than a week to file a motion for postponement of the pre-trial conference in Civil Case No. 20-1155. Worse, although received by respondent court on September 3, 2002, that motion did not contain any request that said motion be scheduled for hearing. Equally distressing, it is not clearly shown that the requirement on notice to the other party was likewise complied with. Counsel evidently failed to take into account the fact that, just like him, the court must need also to calendar its own cases. Further, as stressed by respondent court in its challenged order of September 19, 2002, petitioners' counsel works for a law firm staffed by several lawyers, and any of these lawyers could have represented petitioners at the pre-trial

conference in this case. That counsel had to allegedly appear in another case (which purportedly explained his inability to appear in the present case) is a stale, banal, and prosaic excuse. Some such flimsy ratiocination, added to counsel's filing of an erroneous pleading (the second motion for reconsideration), which because it is a prohibited pleading, unfortunately did not toll the running of the prescriptive period for filing a notice of appeal, did prove fatal to petitioner's cause. Settled is the rule that parties are bound by the action or inaction of their counsel; this rule extends even to the mistakes and simple negligence committed by their counsel.

Simply put, petitioners trifled with the mandatory character of a pre-trial conference in the speedy disposition of cases. Petitioners should have known that pre-trial in civil actions has been peremptorily required these many years. It is a procedural device intended to clarify and limit the basic issues between the parties and paves the way for a less cluttered trial and resolution of the case. Its main objective is to simplify, abbreviate and expedite the trial, or, propitious circumstance permitting (as when the parties can compound or compromise their differences), even to totally dispense with it altogether. Thus, it should never be taken lightly - or for granted! A party trifles with it at his peril.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition at bench must be, as it hereby, is DENIED and consequently DISMISSED, for lack of merit. Costs shall be assessed against the petitioners.

SO ORDERED. [2]

Spouses Perez filed a *Motion for Reconsideration* of the aforementioned decision. Surprisingly, on April 14, 2005, the CA issued an *Amended Decision* [3] granting the Motion for Reconsideration citing that the higher interest of substantial justice should prevail and not mere technicality. The dispositive part of the *Amended Decision* reads:

WHEREFORE, finding merit in the motion for reconsideration, we hereby resolve, to wit:

- (1) To SET ASIDE and VACATE our Decision of January 25, 2005;
- (2) To GRANT this petition. Consequently we hereby direct the annulment or invalidation of the following orders issued by the respondent court, to wit:
 1. The April 11, 2003 order, denying petitioners' notice of appeal; and the March 17, 2004 order, denying petitioners' motion for reconsideration thereon;
 2. The September 19, 2002 order, denying petitioners' motion for postponement in Civil Case No. 20-1155 entitled "Sps. Angelito A. Perez v. Philippine National Bank, et al." thereby resulting in the dismissal of the said case;
 3. The January 6, 2003 order, denying petitioners' motion

- for reconsideration in the above mentioned case; and
4. The February 7, 2003 order, denying petitioners' second motion for reconsideration in the above stated case.
- (3) To REINSTATE Civil Case No. 20-1155 in the docket of respondent court, the Regional Trial Court of Cauayan City, Branch 20, which is now hereby ordered to conduct the pre-trial therein, and thereafter to proceed to try the case on the merits.

Without costs.

SO ORDERED. [4]

Accordingly, the case was remanded to the trial court. On January 20, 2006, the trial court issued an *Order* setting the case for hearing on March 8, 2006. The said *Order* reads in full:

On October 20, 2005, [Spouses Perez] filed their motion to require [PNB] to submit [its] statement of account for the period beginning 1995 to 2000.

The motion was heard on November 7, 2005 but only the counsel for [Spouses Perez] appeared. On December 9, 2005, [PNB] also filed a motion for the production or inspection of books of accounts regarding payments in the years 1997 to 2000 and thereafter, if any. The same motion was heard on December 15, 2005 but again, despite due notice, only the counsel for [Spouses Perez] appeared and reiterated his motions.

WHEREFORE, there being no opposition to the twin motion of [Spouses Perez], the same are hereby granted. Accordingly, let this case be set for hearing on March 8, 2006 at 8:30 o'clock in the morning. [PNB] is hereby directed to prepare and complete within thirty (30) days from receipt of this order a statement of account for [Spouses Perez] covering payments made for the period beginning 1995 to 2000, allowing [Spouses Perez] or their duly authorized representatives to inspect the same at the bank premises during regular banking hours.

SO ORDERED. [5]

PNB, however, failed to receive a copy of the aforementioned order and was, thus, unable to attend the hearing on March 8, 2006. Questionably, on said date, the trial court issued an *Order* allowing Spouses Perez to adduce evidence and considered the hearing as a pre-trial conference, *to wit*:

WHEREFORE, for failure to appear in today's pre-trial and for failure to comply with the order of this Court dated January 20, 2006, [Spouses Perez] are hereby allowed to adduce evidence before the Branch Clerk of Court and the Branch Clerk of Court is ordered to submit her report

within ten (10) days.

SO ORDERED. [6]

On March 15, 2006, PNB filed a *Motion for Reconsideration*[7] of the said Order.

Nevertheless, on July 5, 2006, the trial court decided in favor of Spouses Perez. In its *Decision*, the trial court denied PNB's *Motion for Reconsideration* but failed to mention such denial in the dispositive portion of the *Decision*, viz:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring that due and full payments were made by [Spouses Perez] on their principal obligation to [PNB] including interest and directing the release and discharge of all the properties covered by the real estate mortgages executed by [Spouses Perez];

2. Declaring the Sheriff's Notice of Extrajudicial Sale as null and void, and enjoining defendant from foreclosing any and all of the properties mortgaged by [Spouses Perez] as collateral for the said loan obligations;

3. Ordering [PNB] to pay [Spouses Perez] the sum of:

a. ONE HUNDRED FORTY FIVE MILLION ONE HUNDRED SEVENTEEN THOUSAND THREE HUNDRED SIX PESOS AND SIXTY SEVEN CENTAVOS (PHP145,117,306.67) representing the amount overpaid by [Spouses Perez] under the revolving credit loan facility and promissory notes executed between the parties;

b. TWO MILLION PESOS (PHP2,000,000.00) as moral damages;

c. ONE MILLION FIVE HUNDRED THOUSAND PESOS as Exemplary damages;

[d.] ONE MILLION PESOS (PHP1,000,000.00) as Attorney's Fees and

[e.] Costs of suit.

SO ORDERED. [8]

PNB again filed a *Motion for Reconsideration* dated July 24, 2006 but due to certain reasons, the counsel for PNB failed to send a copy of the said motion to the trial court. As a result, the trial court denied the *Motion for Reconsideration* for having been filed outside the reglementary period and concluded that the *Decision* already became "final and executory by operation of law." [9] Accordingly, the trial court issued an *Order of Execution* dated August 14, 2006. [10] The very next day, a *Writ of Execution* was issued to implement the aforesaid order and to demand payment from PNB.