

THIRD DIVISION

[G.R. No. 170540, October 28, 2009]

**EUFEMIA BALATICO VDA. DE AGATEP, PETITIONER, VS.
ROBERTA* L. RODRIGUEZ AND NATALIA AGUINALDO VDA. DE
LIM, RESPONDENTS.**

DECISION

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision^[1] of the Court of Appeals (CA) dated September 9, 2005 in CA-G.R. CV No. 83163 which affirmed the May 12, 2004 Decision of the Regional Trial Court (RTC) of Aparri, Cagayan, Branch 8, in Civil Case No. 08-298. Petitioner also assails the CA Resolution^[2] dated November 16, 2005 denying her motion for reconsideration.

The factual and procedural antecedents of the case are as follows:

The present case arose from a dispute involving a parcel of land located at Zinundungan, Lasam, Cagayan with an area of 1,377 square meters and covered by Transfer Certificate of Title (TCT) No. T-10759 of the Register of Deeds of the Province of Cagayan.^[3]

The subject property was previously owned by herein respondent Natalia Aguinaldo Vda. de Lim. On July 18, 1975, Lim mortgaged the lot to the Philippine National Bank (PNB), Tuguegarao Branch, to secure a loan of P30,000.00 which she obtained from the said bank. The mortgage contract was duly annotated on TCT No. T-10759. Lim was not able to pay her loan prompting PNB to foreclose the property. On April 13, 1983, the subject parcel of land was sold at public auction to PNB as the highest bidder.^[4] Lim failed to redeem the property. After the expiration of the one-year redemption period allowed by law, PNB consolidated its ownership over the disputed land.^[5] As a consequence, TCT No. T-10759 in the name of Lim was canceled and a new certificate of title (TCT No. T-65894) was issued in the name of PNB on November 8, 1985.^[6]

Meanwhile, on August 18, 1976, while the mortgage was still in effect, Lim sold the subject property to herein petitioner's husband, Isaac Agatep (Agatep), for a sum of P18,000.00.^[7] However, the sale was not registered. Neither did Lim deliver the title to petitioner or her husband. Nonetheless, Agatep took possession of the same, fenced it with barbed wire and introduced improvements thereon. Subsequently, Agatep died in 1978. Despite his death, his heirs, including herein petitioner, continued to possess the property.

In July 1992, the subject lot was included among PNB's acquired assets for sale.

Later on, an invitation to bid was duly published. On April 20, 1993, the disputed parcel of land was sold to herein respondent Roberta L. Rodriguez (Rodriguez), who is the daughter of respondent Lim.^[8] Subsequently, TCT No. T-65894, in the name of PNB, was canceled and a new title (TCT No. T-89400) was issued in the name of Rodriguez.^[9]

On January 27, 1995, herein petitioner filed a Complaint^[10] for "reconveyance and/or damages" with the RTC of Aparri, Cagayan against herein respondents.

Later, the complaint was amended to implead PNB as a party-defendant.^[11]

On January 20, 2000, the RTC dismissed the amended complaint for failure of herein petitioner (then plaintiff) to file her Pre-Trial Brief.^[12] Petitioner filed a motion for reconsideration but the RTC denied it. Thereafter, trial ensued.

On May 12, 2004, the RTC rendered judgment in favor of herein respondents.^[13] The dispositive portion of the Decision reads as follows:

WHEREFORE, the Court hereby renders judgment to wit:

1. Dismiss the instant complaint for reconveyance for lack of merit;
2. Sustain the legality of TCT No. 10559^[14] in the name of defendant Roberta Rodriguez; and
3. Award actual damages in favor of plaintiff Eufemia Balatico Vda. de Agatep against defendant Natalia Aguinaldo Vda. de Lim in the amount of Php18,000.00 with legal interest to be computed from the filing of the instant case up to the full completion of its payment.

SO DECIDED.^[15]

In awarding damages in favor of herein petitioner, the RTC ruled that Lim enriched herself at the expense of petitioner and her husband by benefiting from the proceeds of the sale but failing to deliver the object of such sale. Hence, on grounds of justice and equity, petitioner should be awarded an adequate compensation for the value of the loss suffered.

Herein petitioner filed an appeal with the CA contending that the RTC erred in not considering the merit of the evidence and arguments proven and submitted by petitioner on the issues defined and agreed upon by the parties. Petitioner also averred that the RTC erred in deciding the case on issues different from those defined and agreed upon by the parties during the pre-trial conference and that the trial court further erred in dismissing the amended complaint.

On September 9, 2005, the CA rendered its Decision dismissing herein petitioner's appeal for lack of merit and affirming the assailed Decision of the RTC.

Petitioner filed a motion for reconsideration, but the CA denied it in its Resolution

dated November 16, 2005.

Hence, the present petition with the following assignment of errors:

IV.1. IN AFFIRMING THE DECISION OF THE TRIAL COURT IN DISMISSING THE AMENDED COMPLAINT AGAINST THE PNB, THE APPELLATE COURT COMMITTED A REVERSIBLE ERROR;

IV.2. IN HOLDING THAT "NOTWITHSTANDING THE DISMISSAL OF THE AMENDED COMPLAINT AS AGAINST PNB, THE TRIAL COURT IN ITS DECISION NONETHELESS FULLY PASSED UPON THE MERITS OF APPELLANT'S CAUSE OF ACTION AGAINST THE SAID MORTGAGEE BANK," THE APPELLATE COURT COMMITTED A REVERSIBLE ERROR;

IV.3. AS A NECESSARY CONSEQUENCE OF THE ERROR IV.2, THE RULING OF THE APPELLATE COURT THAT PNB IS A MORTGAGEE, BUYER AND LATER SELLER IN GOOD FAITH, IS A REVERSIBLE ERROR;

IV.4. THE DECISION, ANNEX A, ERRED IN REJECTING PETITIONER'S ARGUMENTS THAT PNB DID NOT ACQUIRE OWNERSHIP OVER THE PROPERTY IN QUESTION;

IV.5. THE DECISION, ANNEX A, ERRED IN RULING THAT PETITIONER'S CONTENTION THAT THE TRIAL COURT DECIDED THE CASE UPON SUCH ISSUES DIFFERENT FROM THOSE AGREED UPON DURING THE PRE-TRIAL CONFERENCE DESERVES SCANT CONSIDERATION; AND

IV.6. THE DECISION, ANNEX A, ERRED IN RULING THAT PETITIONER IS NOT ENTITLED TO HER CAUSE OF ACTION OF RECONVEYANCE.^[16]

In her first assigned error, petitioner contends that Section 6, Rule 18 of the Rules of Court does not require another pre-trial, as well as the filing of another pre-trial brief, when the complaint is amended to implead another defendant.

The Court does not agree.

In *Tiu v. Middleton*,^[17] the Court, giving emphasis on the importance of a pre-trial, held that:

Pre-trial is an answer to the clarion call for the speedy disposition of cases. Although it was discretionary under the 1940 Rules of Court, it was made mandatory under the 1964 Rules and the subsequent amendments in 1997. Hailed as "the most important procedural innovation in Anglo-Saxon justice in the nineteenth century, pre-trial seeks to achieve the following:

- (a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;
- (b) The simplification of the issues;

- (c) The necessity or desirability of amendments to the pleadings;
- (d) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
- (e) The limitation of the number of witnesses;
- (f) The advisability of a preliminary reference of issues to a commissioner;
- (g) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist;
- (h) The advisability or necessity of suspending the proceedings; and
- (i) Such other matters as may aid in the prompt disposition of the action.^[18]

In consonance with these objectives, Section 6, Rule 18 of the Rules of Court, as amended, provides:

SEC. 6. Pre-trial brief. - The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

- (a) A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;
- (b) A summary of admitted facts and proposed stipulation of facts;
- (c) The issues to be tried or resolved;
- (d) The documents or exhibits to be presented, stating the purpose thereof;
- (e) A manifestation of their having availed, or their intention to avail, themselves of discovery procedures or referral to commissioners; and
- (f) The number and names of the witnesses, and the substance of their respective testimonies.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

The pre-trial brief serves as a guide during the pre-trial conference so as to simplify, abbreviate and expedite the trial if not to dispense with it. It is a device essential to the speedy disposition of disputes, and parties cannot brush it aside as a mere technicality.^[19] In addition, pre-trial rules are not to be belittled or dismissed, because their non-observance may result in prejudice to a party's substantive rights. Like all rules, they should be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thought[less]ness in not complying with the

procedure.^[20]

Petitioner posits that even if an amended complaint is filed for the purpose of impleading another party as defendant, where no additional cause of action was alleged and the amount of prayer for damages in the original complaint was the same, another pre-trial is not required and a second pre-trial brief need not be filed.

It must be pointed out, however, that in the cases^[21] cited by petitioner to support her argument, the Court found no need for a second pre-trial precisely because there are no additional causes of action alleged and the impleaded defendants merely adopted and repleaded all the pleadings of the original defendants. Petitioner's reliance on the above-cited cases is misplaced because, in the present case, the RTC correctly found that petitioner had a separate cause of action against PNB. A separate cause of action necessarily means additional cause of action. Moreover, the defenses adopted by PNB are completely different from the defenses of Lim and Rodriguez, necessitating a separate determination of the matters enumerated under Section 6, Rule 18 of the Rules of Court insofar as PNB and petitioner are concerned. On these bases, we find no error in the ruling of the CA which sustained the trial court's dismissal of the amended complaint against PNB for failure of petitioner to file her pre-trial brief.

Corollarily, Sections 4 and 5 of the same Rule state:

Sec. 4. Appearance of parties. - It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents.

Sec. 5. Effect of failure to appear. - The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. x x x

In the present case, the Court observes that in the Order of the RTC dated June 6, 2000,^[22] the trial court noted the absence of both the petitioner and her counsel during the scheduled pre-trial conference with respect to the amended complaint impleading PNB. Under the above-quoted Rules, such absence is an additional ground to dismiss the action against PNB.

Whether an order of dismissal should be maintained under the circumstances of a particular case or whether it should be set aside depends on the sound discretion of the trial court.^[23] Considering the circumstances established on record in the instant case, the Court finds no cogent reason to set aside the order of the RTC dismissing the complaint of petitioner against PNB.

With respect to the second and third assignment of errors, petitioner argues that the CA erred in sustaining the RTC when it passed upon the merits of petitioner's cause