

SECOND DIVISION

[G.R. NO. 160753, June 28, 2005]

**JIMMY L. BARNES, A.K.A. JAMES L. BARNES, PETITIONER, VS.
HON. MA. LUISA C. QUIJANO PADILLA, PRESIDING JUDGE, BR.
215, REGIONAL TRIAL COURT, QUEZON CITY AND TERESITA C.
REYES, ELIZABETH C. PASION, MA. ELSA C. GARCIA, IMELDA C.
TRILLO, MA. ELENA C. DINGLASAN AND RICARDO P.
CRISOSTOMO, RESPONDENTS.**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is private respondents' motion for reconsideration^[1] seeking a referral to the Court *en banc* and reversal of the Decision^[2] of the Second Division of this Court, dated September 30, 2004.

For a proper perspective of the issues on hand, it is necessary that the Court reiterates the factual backdrop of the case.

A complaint for ejectment for non-payment of rentals was filed by private respondents against petitioner before the Metropolitan Trial Court (MeTC), Branch 34, Quezon City. After trial, the MeTC rendered judgment, finding that: petitioner entered into a Contract of Lease with private respondents' late mother, Natividad Crisostomo, whereby the latter leased to the former the subject property from January 1, 1995 to December 31, 1997 at P60,000.00 per month; in a Memorandum of Agreement (MOA) dated December 5, 1995, petitioner and Natividad extended the term of lease until December 31, 2007, whereby the petitioner has the obligation to pay lease rentals and at the same time, he is given the option to purchase a portion of the disputed property; petitioner has not been paying rentals since September 1996. As a result, the MeTC ordered petitioner to vacate the disputed premises. Petitioner appealed to the Regional Trial Court, Branch 227, Quezon City (Branch 227 for brevity).

In the interim, petitioner filed before the Regional Trial Court, Branch 215, Quezon City (Branch 215 for brevity) a complaint for specific performance with damages. He prayed that judgment be rendered in his favor ordering private respondents to abide with the MOA executed on December 5, 1995 between him and the late Natividad with respect to all the terms and conditions of the contract to sell a 403.41-square meter portion of the subject property, the payment of P60,000.00 a month as lease and P80,000.00 as amortization payment for the sale.

Later, Branch 227 set aside the MeTC decision and dismissed the case without prejudice on the ground that the MeTC had no jurisdiction over the case since it is not for ejectment but for specific performance of contract, cognizable by the Regional Trial Court in its original and exclusive jurisdiction. When their motion for

reconsideration was denied, private respondents filed a petition for review with the Court of Appeals (CA) docketed as CA-G.R. SP No. 55949.

Private respondents, in Branch 215, moved for outright dismissal of the complaint for specific performance on the ground of forum-shopping in view of the pendency of the appeal on the ejectment case with the CA. Branch 215 dismissed the complaint for specific performance.

When his motion for reconsideration was denied by Branch 215, petitioner filed a petition for *certiorari*, docketed as CA-G.R. SP No. 69573 with the CA. The CA in its Resolution, dated August 18, 2003, dismissed the petition for *certiorari*, ruling that petitioner committed forum-shopping in view of the pendency of the appeal on the ejectment case. Petitioner filed a Motion for Extension of Time to File Motion for Reconsideration but the CA, in its Resolution dated September 25, 2003, denied the motion on the ground that the period for filing a motion for reconsideration is non-extendible. Petitioner filed a Manifestation and Motion to Admit Petitioner's Motion for Reconsideration with Leave of Court but the CA, in its Resolution dated November 17, 2003, also denied it on the ground that the motion for reconsideration was filed beyond the reglementary period.

Thus, petitioner filed the present petition for review on *certiorari*.

On September 30, 2004, the Court, through the Second Division, promulgated herein assailed decision setting aside the Resolution, dated November 17, 2003, of the CA in CA-G.R. SP No. 69573 which denied petitioner's manifestation and motion to admit his motion for reconsideration; and reversing and setting aside the Resolution dated August 18, 2003 of the CA which affirmed the Resolution dated April 20, 2001 of Branch 215, dismissing the complaint for specific performance on the ground of forum-shopping. The Court remanded the case to Branch 215 with instructions that the trial court shall proceed with the case with all deliberate dispatch.

Private respondents assail the decision of the Court arguing that while the Court had categorically declared that the CA's resolutions had attained finality; yet, despite their finality, the Court proceeded to set aside the same in violation of its own rules and the law of the land. They claim that the Court erroneously decided to relax procedural rules and the relaxation of the rules run afoul of the doctrine of immutability of judgments. Moreover, they posit that the Court failed to realize that its power to suspend or even disregard rules of procedure can only be exercised if it is within its jurisdiction to act. They submit that the decision in this case modified or reversed doctrines rendered by this Court, which can only be done by the Court *en banc*.

On January 24, 2005, the Court required the parties to submit a report on the present status of CA-G.R. SP No. 55949 (Teresita C. Reyes, Elizabeth C. Pasion, Ma. Elsa C. Garcia, Imelda C. Trillo, Ricardo P. Crisostomo, and Ma. Elena C. Dinglasan vs. Jimmy L. Barnes) and to discuss their respective positions on the significance of said case on the issues raised before the Court.^[3]

In his Compliance, petitioner manifests that he is awaiting the order of the CA in CA-G.R. SP No. 55949 requiring him to comment on private respondents' petition for review therein after this Court in G.R. No. 144533 (Jimmy L. Barnes a.k.a. James L.

Barnes, Petitioner, versus Teresita Reyes, et al., Respondents) denied petitioner's petition for review of the Resolution of the CA dated May 25, 2000 giving due course to the private respondents' petition for review, docketed as CA-G.R. SP No. 55949.

[4] As to the significance of the said case on the issue of forum-shopping, petitioner submits that there is none since said case involves the ejectment case anchored on non-payment of rentals based on a pure lease agreement only; that the ejectment suit calls for *de facto* possession, while the specific performance case involves issues of ownership and enforcement of a right or a *de jure* possession.

In their Compliance Memorandum, private respondents manifest that they are awaiting the comment of the petitioner in CA-G.R. SP No. 55949. As to the significance of the said case on the issue of forum-shopping presently before the Court, private respondents submit that the principal issue before CA-G.R. SP No. 55949 is whether or not the MOA is valid. They contend that until said issue is resolved, the action for specific performance on the provisions of the MOA is premature. They emphasize that the action for specific performance is a mere off-shoot of the decision rendered by Branch 227.

We are not persuaded by the arguments of private respondents.

Private respondents harp on the fact that the Court applied procedural rules liberally in favor of the petitioner which they consider an injustice. They, however, must realize that the Rules of Court itself calls for its liberal construction, with the view of promoting their objective of securing a just, speedy and inexpensive disposition of every action and proceeding.^[5] The Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.^[6] In numerous cases, the Court has allowed liberal construction of the Rules of Court with respect to the rules on the manner and periods for perfecting appeals, when to do so would serve the demands of substantial justice and in the exercise of equity jurisdiction of the Supreme Court.^[7] As the Court has expounded in Aguam vs. Court of Appeals:^[8]

...The court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." **Litigations must be decided on their merits and not on technicality.** Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal