390 Phil. 863

THIRD DIVISION

[G.R. No. 132598, July 13, 2000]

NIMFA TUBIANO, PETITIONER, VS. LEONARDO C. RAZO, RESPONDENT.

D E C I S I O N

PURISIMA, J.:

At bar is an appeal from the Decision of the Court of Appeals[1] dated November 25, 1997, in CA-G.R. SP No. 42047, affirming *in toto* the judgment[2] of the Regional Trial Court of Kalookan, Branch 130, in Civil Case No. C-17056 which, in turn, affirmed in its entirety the Decision[3] of Branch 52, Metropolitan Trial Court of Kalookan City in Civil Case No. 21569.

Synthesized by the Court of Appeals, the facts of the case are as follows:

> "It appears that private respondent is the owner of the subject premises located at No. 124-C Kampupot Street, 10th Avenue, Kalookan City. The same had been leased to the petitioner on a month-to-month basis. Their month-to-month contract was terminated when the lessor notified the lessee of his intention not to renew such contract sometime in August 1994. The same was reiterated in the final letter of September 7, 1994 which was sent to the lessee (defendant-petitioner) and duly received by the latter. On October 25, 1994, a complaint for ejectment was filed by the private respondent as plaintiff before the Metropolitan Trial Court of Kalookan City. The case was treated as a summary case falling under the Revised Rules on Summary Procedure.
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> Summons was issued to and duly served upon the defendant (petitioner) on November 16, 1994. Instead of filing an answer within the ten-day reglementary period, the defendant (petitioner) filed a Motion for Extension of Time to File an Answer which was granted by Judge Armando de Asa, Presiding Judge of Branch 51 of the Metropolitan Trial Court of Kalookan City, to whom the case was originally assigned. (The case was later transferred to branch 52 for consolidation with a case for consignation earlier filed by the defendant petitioner). Upon Learning of the grant of such motion, the private respondent plaintiff filed a Motion To Strike Out Answer and Submit the case for Decision Based on the Complaint. The same, however, was denied. Instead the answer was admitted and the case was transferred to Branch 52 for consolidation.
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> The case was set for preliminary conference on February 17, 1995 but the same was cancelled and deferred upon request therein of the defendant-petitioner to enable her to get a counsel. At the next setting of the preliminary conference on April 20, 1995, it was the plaintiff-

private respondent, who filed a motion for postponement, and the same was reset to May 25, 1995. On the latter date, the defendant-petitioner again filed a motion for postponement on the ground that she suffered from hypertension on May 24, 1995, as attested by a medical certificate attached thereto. The trial court, however, now acting through Delfina Hernandez Santiago of Branch 52, denied the motion in view of the objections of the plaintiff's counsel, for the reason that the medical certificate indicates the defendant's treatment for hypertension on May 24, 1995 without any showing that she was ordered by the doctor to take a rest until the following day; and the further fact that there was no mention that the plaintiff was furnished a copy thereof. Hence, through its order of May 25, 1995, the trial court considered the case submitted for decision on the basis of the allegations of the Complaint.

On June 26, 1995, Judge Santiago rendered judgment in favor of the plaintiff. A notice of appeal was seasonably filed by the defendant on August 7, 1995. However, the case was returned to the trial court by the Regional Trial Court on the ground that the decision did not contain a statement of facts and the law pursuant to constitutional requirements. Hence, on May 2, 1996, Judge Santiago promulgated an amended decision with findings of facts and conclusions of law. The same was again appealed to the Regional Trial Court.

On July 30, 1996, Judge Jaime T. Hamoy of the respondent court, issued an order directing the parties to submit their respective memoranda within fifteen (15) days from receipt thereof, copy furnished both parties and their respective counsel. However, only the plaintiff-private respondent complied. Hence, on September 6, 1996, the respondent court rendered judgment affirming the decision of the Metropolitan Trial Court. Four days after the release of said judgment, Atty. Antonio E. Seludo, the erstwhile counsel of record of the defendant-petitioner, filed a withdrawal of appearance. On the same day, a notice of appearance was filed by a new counsel for the defendant, Atty. Emmanuel M. Basa. The respondent court, however, instead of acting thereon immediately, directed Atty. Seluudo (sic) to forward his copy of the decision to the new counsel. Upon receipt of Atty. Seludo's compliance therewith, the respondent court acted on the notice of withdrawal and entry of appearance of a new counsel for the defendant-appellant."[4]

On November 25, 1997, the Court of Appeals handed down the decision under attack.

With the denial of her motion for reconsideration, petitioner found her way to this Court via the present Petition, theorizing that:

FIRST

THE COURT OF APPEALS ERRED IN FINDING THAT THE RTC AND MTC WERE CORRECT IN DECLARING THE EJECTMENT CASE AS SUBMITTED FOR DECISION BASED SOLELY ON THE FACTS ALLEGED IN THE COMPLAINT UPON FAILURE OF PETITIONER TO APPEAR IN THE

PRELIMINARY CONFERENCE ON MAY 25, 1995, THEREBY DEPRIVING PETITIONER OF HER RIGHT TO DUE PROCESS.

SECOND

THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER'S LEASE CONTRACT WAS VALIDLY TERMINATED.

THIRD

THE COURT OF APPEALS ERRED IN FINDING THAT THE RTC WAS CORRECT IN DECIDING THE CASE ON APPEAL, WITHOUT GIVING A CHANCE TO PETITIONER TO FILE HER MEMORANDUM.[5]

The Petition is devoid of merit.

Pertinent provisions of the Rules on Summary Procedure, provide:

"Sec. 6. Effect of failure to answer. - Should the defendant fail to answer the complaint within the period above provided, the court, motu propio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein xxx"

"SEC. 7 Preliminary conference; appearance of parties. - Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counter-claim in accordance with Section 6 hereof, all cross-claims shall be dismissed.

If the sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference." (emphasis supplied)

Applying the foregoing applicable provisions in point, the Court is of the opinion, and so holds, that the Court of Appeals erred not in holding that both the RTC and MTC were correct in declaring the ejectment case submitted for decision based solely on the complaint of private respondent, upon failure of petitioner to appear at the preliminary conference on May 25, 1995. It must be stressed that forcible entry and unlawful detainer cases are summary proceedings designed to provide for an expeditious means of protecting actual possession or the right to possession of the property involved. It does not admit of delay in the determination thereof. It is a "time procedure" designed to remedy the situation.[6]