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THIRD DIVISION

[G.R. No. 134998, July 19, 1999]

SILVESTRE TIU, PETITIONER, VS. DANIEL MIDDLETON AND REMEDIOS P. MIDDLETON, RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

Pre-trial* is an essential device for the speedy disposition of disputes. Hence, parties cannot brush it aside as a mere technicality. Where the pre-trial brief does not contain the names of witnesses and the synopses of their testimonies as required by the Rules of Court, the trial court, through its pre-trial order, may bar the witnesses from testifying. However, an order allowing the presentation of unnamed witnesses may no longer be modified during the trial, without the consent of the parties affected.

The Case

Silvestre Tiu assails two Orders, both dated August 3, 1998,[1] rendered by the Regional Trial Court of Oroquieta City (Branch 14)[2] in Civil Case No. 4516-14-28. The first Order, which was issued in open court, reads:

> "Considering the written arguments of both parties herein, the Court finds that the witness of defendant Silvestre Tiu, Ms. Antonia Tiu, who is the aunt of the defendant, whose name was not disclosed in the pre-trial brief is ordered excluded pursuant to the provisions of the 1997 Rules of Civil Procedure wherein it is required that all names of witnesses must be stated in the Pre-Trial Brief."[3]

The second Order denied reconsideration.

The Facts

The facts are undisputed. The present Petition arose from a Complaint for recovery of ownership and possession of real property, accounting and damages filed against herein petitioner before the Regional Trial Court of Oroquieta City.

Before the commencement of trial, the court *a quo* sent a Notice of Pre-trial Conference, stating in part: "The parties are WARNED that witnesses whose names and addresses are not submitted at the pre-trial *may* not be allowed to testify at the trial, and documents not marked as exhibits at the pre-trial, except those not then available or existing, *may* be barred admission in evidence."[4] (Italics supplied.)

In his Pre-trial Brief, petitioner averred that he would be presenting six witnesses, but he did not name them. After the pre-trial conference, the court *a quo* issued a

Pre-trial Order stating that the petitioner would present six witnesses and specifying the hearing dates for the said purpose.[5]

Trial ensued, and herein respondents, as plaintiffs in the case below, presented their witnesses in due course. When his turn came, petitioner called Antonia Tiu as his first witness. Citing Section 6, Rule 18 of the 1997 Rules of Court, respondents objected, arguing that the witness could not be allowed to testify because petitioner had failed to name her in his Pre-trial Brief. Sustaining respondents, the lower court then issued its assailed Orders.

Hence, this recourse to this Court on pure questions of law.[6] On petitioner's Motion, this Court issued a Temporary Restraining Order enjoining the lower court from proceeding with the case until further notice.[7]

Ruling of the Trial Court

In ruling that Antonia Tiu could not be presented as a witness, the trial court ratiocinated:

> "x x x [T]he plaintiff's counsels, Atty. Ricardo Lumantas and Atty. Benjamin Galindo, had cited authorities that said witness, Ms. Antonia Tiu, must be barred as a witness because her name was not included in the pre-trial brief. The plaintiffs cited Sec. 6 of Rule 18, of the 1997 Rules of Civil Procedure x x x
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> "Said provision is supported by corresponding jurisprudence taken by plaintiff's counsel from the book, Effective Pre-Trial Technique, of Hon. Justice Josue N. Bellosillo, 1990 ed., p 134) which states that `this requirement that if a party does not place the name of a witness on such a list of witnesses, the court may refuse to permit him to place the witness on the witness stand (Globe Cereal Mills v. Scrivener, 240 F. 2nd 330 (1956); Tuggart v. Vesmont Transportation Co., 32 F.R.D. 587 (1063). `Where both parties agreed to a pre-trial order requiring each to give the other the names of witnesses to be called at the trial, and no request was made to amend that order, the trial court did not err in refusing to allow the defendant to call on witness' 2 (King v. Partride, 9 Mich. App. 540, 157, NW., 2nd 417 (1969), OP. cit. p. 135)."[8]

Issues

In his Memorandum,[9] petitioner raised the following issues:

> "1. Whether or not it is still proper to question the deficiency of one's pre-trial brief on a technical matter after the pre-trial conference ha[s] long been terminated, the Pre-Trial Order issued, and the question interposed for the first time in the middle of a trial on the merits[.]
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> "2. Whether or not the trial court could with propriety inhibit a witness from assuming the witness stand purely on the basis that his name is not listed where there is neither warning nor injunction in its Pre-Trial Order[.]

"3. Whether or not the trial court may ban with propriety an unlisted witness in the absence of a specific law supporting such order[.]

"4. Whether or not the higher consideration of due process should yield to a procedural technicality[.]"[10]

Respondents, on the other hand, formulated only one issue as follows:[11]

"The issue in this petition is whether the Honorable Lower Court committed xxx grave abuse of discretion in barring and disqualifying petitioner's witness, Antonia Tiu, as well as his other witnesses for that matter, from testifying in court on the particular ground that her name and the substance of her testimony were not disclosed in petitioner's (defendant therein) pre-trial brief."

In the main, the question before us is whether a judge can exclude a witness whose name and synopsis of testimony were not included in the pre-trial brief.

This Court's Ruling

We rule for petitioner.

Main Issue:
Can Petitioner's Unnamed Witnesses Testify?

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," [12] pre-trial seeks to achieve the following:[13]

"(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." (Italics supplied)

In light of these objectives, the parties are also required to submit a pre-trial brief, which must contain the following:[14]

"(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."* (Italics supplied)

Petitioner argues that the Rules of Court merely requires that witnesses be named in the pre-trial brief, but it does not authorize a judge to exclude a witness who was not identified. Furthermore, he maintains that neither the trial court nor the respondents required during the pre-trial that unnamed witnesses be barred from testifying. Finally, he urges this Court to brush "aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure."

Respondent, on the other hand, argues that the assailed Orders were not capricious or whimsical, because the Notice of Pre-trial Conference contained a warning that witnesses whose names were not listed might not be allowed to testify. They also contend that the rule enumerating the contents of a pre-trial brief was not a mere technicality, but "a salutary provision intended to avoid surprise and entrapment of the contending parties."

At the outset, the Court emphasizes that pre-trial and its governing rules are not technicalities which the parties may ignore or trifle with. As earlier stated, pre-trial is essential in the simplification and the speedy disposition of disputes. Thus, the Court has observed:[15]

"Everyone knows that a pre-trial in civil actions is mandatory, and has been so since January 1, 1964. Yet to this day its place in the scheme of things is not fully appreciated, and it receives but perfunctory treatment in many courts. Some courts consider it a mere technicality, serving no useful purpose save perhaps, occasionally to furnish ground for non-suiting the plaintiff, or declaring a defendant in default, or, wistfully, to bring about a compromise. The pre-trial device is not thus put to full use. Hence it has failed in the main to accomplish the chief objective for it: the simplification, abbreviation and expedition of the trial, if not indeed its dispensation. This is a great pity, because the objective is attainable,