

## NINETEENTH DIVISION

[ CA-G.R. S.P. No. 07691, January 15, 2015 ]

**BARTOLOME A. PASTOR, JR., PETITIONER, VS. HON. FRISCO T. LILAGAN, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF TACLOBAN CITY, BRANCH 34, AND SUSAN CHAPMAN-LEE. RESPONDENTS.**

### D E C I S I O N

**LAGURA-YAP, J.:**

Before Us is a *Petition for Certiorari*<sup>[1]</sup> under Rule 65 of the 1997 Rules of Civil Procedure assailing the Orders dated March 8, 2013<sup>[2]</sup> and April 22, 2013<sup>[3]</sup> issued by the Regional Trial Court (RTC), Branch 34, Tacloban City.

The facts of this case are not complicated:

On November 4, 2002, a *Complaint*<sup>[4]</sup> for Annulment of Deed of Sale, Partition, Reconveyance, Recovery of Ownership and Possession with Damages and Injunction with Prayer for the Issuance of a Temporary Restraining Order was filed by the heirs of the late Louies Chapman and Hipolita Chapman, all represented by Susan Chapman-Lee (private respondent), against Bartolome Pastor Jr. (petitioner) and Foundational Center Inc., before the RTC of Tacloban City. The disputed property is covered by Transfer Certificate of Title (TCT) No. T-81. In the main, private respondent alleged that the Deed of Absolute Sale<sup>[5]</sup> dated November 12, 1977, which was the basis of TCT No. T-81, is void because Hipolita Chapman's signature thereon was forged.<sup>[6]</sup> The case was docketed as Civil Case No. 2002-11-232, raffled to the RTC of Tacloban City.

It appears, however, that private respondent's co-heirs refused to be included in the case. Accordingly, private respondent filed an *Amended Complaint*<sup>[7]</sup> dated September 3, 2004, impleading them as party-defendants.

On July 19, 2012, or about eleven years after the case was initially instituted, private respondent (plaintiff therein) rested her case and filed a formal offer of exhibits. Thereafter, petitioner's presentation of evidence was set on December 4, 2012. Unfortunately, petitioner failed to appear in court on that date and the lower court issued an *Order*<sup>[8]</sup> resetting the hearing of the case on March 8, 2013, with a warning that failure on the part of defendant (petitioner herein) to adduce evidence on the next setting would amount to a waiver on his part to present evidence and that the case will be deemed submitted for decision upon filing of the parties' memoranda.

On March 7, 2013, petitioner's counsel appeared in court and verbally moved for another resetting on the ground that their witnesses are not available and that their

respective judicial affidavits are not yet ready. In its *Order*<sup>[9]</sup> dated March 8, 2013, the lower court denied petitioner's motion for postponement, *viz.*:

"WHEREFORE, premises considered, the oral motion to postpone is denied, and consequently, the defendants have lost their opportunity/right to adduce evidence.

The above-entitled case is hereby ordered submitted for DECISION after the plaintiffs and defendants shall have filed their respective MEMORANDA. Parties are hereby given twenty (20) days to submit said memorandum from receipt of this Order. After the expiration of the period, with or without the memorandum, the case shall be deemed submitted for DECISION.

SO ORDERED."

Petitioner moved for the reconsideration<sup>[10]</sup> of the above Order but it was denied on April 22, 2013.<sup>[11]</sup>

Aggrieved, petitioner now comes before Us raising the lone assignment of error:

I. WHETHER OR NOT THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION WHEN IT STRICTLY ADHERED TO ITS IMPRESSION THAT THE FAILURE OF PETITIONER TO PRESENT AND ADDUCE EVIDENCE WAS A WAIVER OF SUCH RIGHT.

Petitioner argues that while procedural rules are prescribed to insure an orderly and speedy administration of justice, litigation is not merely a game of technicalities. Law and jurisprudence grant the 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.<sup>[12]</sup> Considering, too, that the Judicial Affidavit Rule (Administrative Memorandum No. 12-8-8-SC) took effect only recently, the trial court should have acted with leniency. Thus, public respondent committed grave abuse of discretion when it issued the assailed Order which considered him to have waived his right to present evidence.

In her *Comment*,<sup>[13]</sup> private respondent refutes all the material allegations in the petition. Private respondent maintains that petitioner was given numerous opportunities to present himself and his witnesses but he simply refused to avail of those opportunities. Petitioner did not file any written motion for postponement in gross disregard of the Rules. Further, private respondent maintains that the non-inclusion of the Foundational Center Inc., which is one of the defendants in Civil Case No. 2002-11-232, is fatal to the case as it is an indispensable party. Lastly, petitioner failed to file a motion for reconsideration with respect to the non-admission of the judicial affidavits in the April 22, 2013 Order, which is a condition *sine qua non* before the present petition for certiorari can be filed.

In his *Reply to Private Respondent's Comment*,<sup>[14]</sup> petitioner counters that he did not drag the case for eleven years and that contrary to private respondent's assertion, he had only one missed opportunity to present his evidence under the Judicial Affidavit Rule. The public respondent committed grave abuse of discretion

when he failed to apply the requirements of Section 10 of the Judicial Affidavit Rule. Public respondent failed to discuss and rule whether petitioner had a valid reason to delay the submission of his witnesses' judicial affidavits based on the first violation of the rule. Corollarily, public respondent violated petitioner's constitutional right to equal protection of the laws when he unfairly granted private respondent all her chances, a total of six times, but denied petitioner his first chance under the Judicial Affidavit Rule.

On November 13, 2013, this Court issued a *Resolution*<sup>[15]</sup> denying petitioner's *Very Urgent Motion for the Immediate Issuance of a Temporary Restraining Order*,<sup>[16]</sup> and directing the parties to file their respective memoranda. Both parties promptly complied with the aforesaid resolution and submitted their memoranda<sup>[17]</sup> and thereafter, the instant petition was deemed submitted for decision.

### **THE COURT'S RULING**

We resolve to grant the petition.

At first blush, it would seem that the Order declaring petitioner to have waived his right to present evidence and the Order denying petitioner's motion for reconsideration thereto were regular and that the trial court did not commit grave abuse of discretion when it issued the assailed Orders. However, a closer look into the facts and a deeper understanding of pertinent laws and relevant jurisprudence would show that there are peculiar circumstances which sway Us into reversing, *pro hac vice*, the March 8, 2013 and April 22, 2013 Orders.

*First*, the subject properties serve an important public function, having been devoted to religious (Catholic Charismatic Center) and educational (St. Therese Christian Charismatic Center) purposes, housing 1,000 general members and 800 students. At present, the subject properties, including the improvements constructed thereon, are valued at around sixty million pesos (P60,000,000.00).<sup>[18]</sup> To decide the case based on mere technicalities would subvert, rather than promote, justice. While it is desirable that the Rules of Court be faithfully observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. If the rules are intended to ensure the proper and orderly conduct of litigation, it is because of the higher objective they seek which is the attainment of justice and the protection of substantive rights of the parties. Thus, the relaxation of procedural rules, or saving a particular case from the operation of technicalities when substantial justice requires it, as in the instant case, should no longer be subject to cavil.<sup>[19]</sup>

*Second*, a perusal of petitioner's judicial affidavits, which public respondent conveniently refused to admit, reveals that petitioner has a meritorious case. It must be stressed that private respondent instituted the complaint on the ground that the deed of sale is void since Hipolita's signature thereon was forged. Petitioner has procured witnesses to controvert this claim, one of whom served as a witness to the said deed of sale. Petitioner's judicial affidavit, too, discussed in detail how Hipolita offered to sell, and in fact sold, the properties to the petitioner because the former was about to leave the country for good. These allegations are better ventilated in a full-blown trial. To decide the case based solely on the evidence of private respondent (plaintiff therein) would effectively be a default judgment in her