

EIGHTH DIVISION

[CA-G.R. CV NO. 100864, May 27, 2014]

**ANNALYN S. MANALO AND BABYLYN V. BELLO, PLAINTIFFS,
ANNALYN S. MANALO, PLAINTIFF-APPELLANT, VS. JOCELYN B.
MITCHELL, DEFENDANT-APPELLEE. D E C I S I O N**

REYES, JR., J.C., J.:

This resolves the appeal filed by plaintiff-appellant Annalyn S. Manalo seeking to set aside the February 7, 2013 (Rollo, p. 7) and the May 17, 2013 (Records, 334-336) Orders issued by the Regional Trial Court (RTC) of Parañaque City, Branch 196, which dismissed the instant case and which denied the Motion for Reconsideration, respectively, in Civil Case No. 11-0366.

The instant case arose from a Complaint for Injunction, Specific Performance, Quieting of Title and Enforcement of Implied Trust, with prayer for Consignation of Payments and Damages (Records, pp. 4-16) filed by plaintiff-appellant Annalyn S. Manalo (Manalo), together with her co-plaintiff Babylyn V. Bello (Bello) against defendant-appellee Jocelyn B. Mitchell (Mitchell).

On December 14, 2011, defendant-appellee Mitchell filed an Answer with Counterclaim (Records, pp. 160-169). Plaintiff-appellant Manalo and her co-plaintiff Bello moved to dismiss the counterclaim for lack of jurisdiction and later on, they also filed a Reply Ad Cautelam to the Answer.

In February 2012, both parties submitted their respective Pre-Trial Brief. Meanwhile, plaintiffs' Motion to Dismiss the Counterclaim was denied for lack of merit in an Order dated February 28, 2012.

Mediation efforts having failed, pre-trial conference was conducted on April 12, 2012 wherein the parties entered into Stipulation of Facts. The continuation of the pre-trial conference was held on May 15, 2012 where both parties were present. However, during the pre-trial conference held on September 6, 2012, plaintiff-appellant Manalo and her co-plaintiff Bello as well as their counsel failed to appear. Upon manifestation of defendant-appellee's counsel, the continuation of the pre-trial conference was set on October 25, 2012.

Considering the withdrawal of plaintiffs' counsel (as per his Notice of Withdrawal of Appearance dated July 30, 2012), the RTC on October 25, 2012 issued an Order setting the continuation of pre-trial conference on November 29, 2012. On November 29, 2012, plaintiff-appellant Manalo failed to appear despite notice while her co-plaintiff Bello appeared (without counsel) and manifested that she has yet to secure the counsel of her own choice over the objection of defendant-appellee's counsel. As such, the RTC issued an Order dated November 29, 2012 setting anew the pre-trial conference on February 7, 2013.

On February 7, 2013, plaintiff-appellant Manalo and her co-plaintiff Bello, as well as their respective counsels again failed to appear. For this reason, defendant-

appellee's counsel moved to dismiss the instant complaint. The RTC, in the appealed Order dated February 7, 2013 granted defendant-appellee's Motion to Dismiss, pertinent portion of the said Order reads as follows:

"WHEREFORE, premises considered, the complaint dated July 22, 2011 by Annalyn S. Manalo and Babylyn V. Bello is herewith DISMISSED for lack of interest to pursue a cause and for failure to comply with an order of this Court."

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SO ORDERED" (Rollo, p. 7).

On March 14, 2013, plaintiff-appellant Manalo filed a Motion for Reconsideration (Records, pp. 314-319) of the aforesaid February 7, 2013 Order arguing that even prior to February 7, 2013, she was already beset by depression and she was advised by her doctor to take a rest. A medical certificate to that effect was issued but she has misplaced it and she can no longer find it despite diligent efforts exerted to locate it. She added that since she was physically and emotionally indisposed, she was unable to engage the services of a new lawyer.

An Opposition (Records, pp. 322-324) to the said Motion for Reconsideration was filed by defendant-appellee Mitchell pointing-out the absence of medical certificate as well as the flimsiness of the reason offered. According to defendant-appellee Mitchel, such condition does not excuse her from attending hearings otherwise the parties would just absent themselves on hearings on the pre-text of state of low mood, sadness, anxiety, depression, etc.

On May 16, 2013, plaintiff-appellant Manalo, through counsel, filed a Reply to defendant-appellee Mitchell's Opposition stating that depression is not a flimsy reason as it can cause a person to have problems concentrating, remembering details and making decisions or may even cause suicidal tendencies. She again invoked the liberality of this Court to give both parties a chance to litigate their cause fairly. She also stressed that from the pleadings submitted, she has a very good and meritorious claim against defendant-appellee Mitchell.

On May 17, 2013, the RTC of Parañaque City, Branch 196 issued the now appealed Order (Records, pp. 334-336) denying for lack of merit plaintiff-appellant Manalo's Motion for Reconsideration, thereby affirming its earlier ruling dismissing the instant case for lack of interest to pursue a cause and for failure to comply with an order of this Court.

Dissatisfied with the Orders of the RTC, plaintiff-appellant filed an appeal with this Court, raising the following errors to have been committed by the RTC, to wit:

I.

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT AT THE STAGE OF PRE-TRIAL FOR FAILURE OF THE COMPLAINANT AND HIS (SIC) COUNSEL TO APPEAR DESPITE NOTICE NOTWITHSTANDING THE VALID REASON WHY PLAINTIFF WAS NOT ABLE TO APPEAR BEFORE THE COURT.

II.