

## THIRTEENTH DIVISION

[ CA-G.R. CV NO. 101220, November 19, 2014 ]

**BELEN SEVA, PETITIONER-APPELLEE, VS. ABNER MANGUBAT,  
RESPONDENT-APPELLANT.**

### **D E C I S I O N**

**DIAMANTE, J.:**

On appeal is the Decision dated January 15, 2013<sup>[1]</sup> of Pili, Camarines Sur Regional Trial Court (RTC), Branch 32, in Special Proceedings Case No. P-1831 for "Other Special Proceeding (Surrender of TCT No. RT-11977 [6337]) pursuant to PD 1529."

In view of the Judicial Records Division (JRD) Verification Report dated August 14, 2014<sup>[2]</sup> that no Reply Brief had been filed as per docket book entry, this case is submitted for Decision *sans* reply brief.

The facts, as culled from the records, are as follows:

On February 22, 2001, Spouses Gaudencio and Aurelia Mangubat, parents of respondent-appellant Abner Mangubat ("Abner" for brevity) entered into a Compromise Agreement,<sup>[3]</sup> in Civil Case No. P-2145 then pending before the Pili, Camarines Sur RTC, Branch 31, with one of the defending parties therein, among whom is petitioner-appellee Belen Morga-Seva ("Belen" for brevity). The RTC, Branch 31, approved the said agreement and a Decision based on the same was rendered on February 23, 2001<sup>[4]</sup> wherein petitioner-appellee Belen was ordered to pay the spouses the amount of Php72,600.00 plus Php5,000.00 as attorney's fees. Upon payment of said amount, Gaudencio Mangubat shall transfer the ownership and title over the property under TCT No. 6337 to petitioner-appellee Belen.<sup>[5]</sup>

The Compromise Agreement, however, was not implemented within the stipulated time and the period within which to make the said payment had already elapsed.

Meanwhile, Gaudencio Mangubat died and herein respondent-appellant Abner Mangubat purportedly inherited the subject property.

Subsequently, or on December 18, 2003, Silvestre M. Seva, Jr., son of petitioner-appellee Belen, deposited the amount of Php91,280.00<sup>[6]</sup> before the RTC, Branch 31.<sup>[7]</sup> The heirs of Spouses Mangubat, however, failed to transfer the property in the name of petitioner-appellee Belen, hence, the filing of a "Motion for Execution of Specific Acts"<sup>[8]</sup> by the latter on July 11, 2006. The RTC, Branch 31, later issued an Order dated September 25, 2006,<sup>[9]</sup> wherein Spouses Mangubat, thru respondent-appellant Abner, were divested of the ownership of the subject property and the same was vested in favor of petitioner-appellee Belen. Said Order became final and

executory and an Entry of Final Judgment was issued on November 19, 2006.<sup>[10]</sup>

On July 18, 2008<sup>[11]</sup> an Order was issued by the RTC, Branch 31, directing the Register of Deeds of Camarines Sur to transfer the subject property to petitioner-appellee Belen's name.

In the meantime, respondent-appellant Abner caused the reconstitution of TCT No. RT-11977 (6337) and received the owner's copy of the reconstituted title dated December 15, 2008 from the Register of Deeds of Camarines Sur.

To consolidate her ownership over the property, the aforesaid owner's duplicate title is needed by the petitioner-appellee Belen but respondent-appellant Abner failed to surrender the same which prompted the former to file a Petition for the Surrender of the Owner's Duplicate Certificate of Title<sup>[12]</sup> before the Pili, Camarines Sur RTC, Branch 32. Respondent-appellant Abner filed thereto his Opposition with Special and Affirmative Defenses and Counterclaim.<sup>[13]</sup>

Thereafter, the pre-trial of the case was set and the parties submitted their pre-trial briefs. An "Omnibus Motion to Expunge from the Records the Pre-Trial Brief of Petitioner, to Expunge from the Records the Petition and to Dismiss the Case"<sup>[14]</sup> was filed by respondent-appellant Abner due to lack of MCLE compliance of petitioner-appellee Belen's counsel. An Opposition dated August 2, 2010 was later filed by petitioner-appellee Belen.<sup>[15]</sup> In an Order dated August 11, 2010 issued by RTC, Branch 32, the Omnibus Motion was denied.<sup>[16]</sup>

After petitioner-appellee Belen had presented her evidence, the hearing dates for the presentation of evidence of respondent-appellant were set. There were series of resetting of the hearing until the RTC, Branch 32, issued an Order dated September 26, 2012<sup>[17]</sup> with a warning that if in the next scheduled hearing respondent-appellant Abner will again fail to adduce evidence, the defense will be deemed to have waived further presentation of evidence. On October 17, 2012, said court issued an Order<sup>[18]</sup> declaring respondent-appellant Abner to have waived further presentation of evidence for his and his counsel's failure to appear in court.

On January 15, 2013,<sup>[19]</sup> the RTC, Branch 32, issued the assailed Decision, the dispositive portion of which provides:

"WHEREFORE, above premises considered, judgment is hereby rendered in favor of petitioner Belen Seva and defendant Abner Mangubat is ordered to surrender the owner's duplicate copy of TCT No. RT-11977 (6337) registered under the name of Spouses Gaudencio and Abner Mangubat for the purpose of consolidating her ownership over the property. Further, in the event of defendant's refusal or failure to deliver the aforesaid owner's duplicate of title upon finality of this decision, the Register of Deeds of Camarines Sur is hereby ordered to nullify the same and issue a new one in lieu of the annulled title with a memorandum of said annulment.

xxx xxx"

Respondent-appellant Abner filed his Motion for Reconsideration with Motion for Inhibition<sup>[20]</sup> in which petitioner-appellee Belen filed her Comment/Opposition thereto dated February 13, 2012.<sup>[21]</sup> The Motion for Inhibition was granted in the Order dated February 15, 2013 issued by the RTC, Branch 32<sup>[22]</sup> and the case was re-raffled to Pili, Camarines Sur RTC, Branch 33. On July 15, 2013, the Motion for Reconsideration was denied by the said court.<sup>[23]</sup>

Respondent-appellant Abner then filed a Notice of Appeal dated August 5, 2013<sup>[24]</sup> which was given due course by the RTC, Branch 33, in its Order dated August 12, 2013.<sup>[25]</sup>

Respondent-appellant Abner comes now before Us with the following assignment of errors:

### **ASSIGNMENT OF ERRORS**

**I. It is error for the trial court a quo not to have expunged from the records the Petition and Pre-trial brief of the Petitioner despite clear failure of the petitioner-appellee through counsel to disclose MCLE compliance in said pleadings.**

**II. It is error for the trial court a quo to Order on October 17, 2012 that respondent-appellant was deemed to have waived his right to present evidence for his alleged failure to appear despite notice when such notice of the setting contained in the Order of 26 September 2012 was received by the respondent-appellant's counsel only on October 23, 2012.**

**III. It is error for the trial court a quo to grant the petition based on an Order dated September 25, 2006 by RTC Branch 31 of Pili, Camarines Sur when such Order is subject of a pending case for Annulment of Final Order before the Court of Appeals and now pending determination before the Supreme Court.<sup>[26]</sup>**

Respondent-appellant Abner argued that petitioner-appellee Belen's Pre-Trial Brief and Petition should be ordered expunged from the records and the case dismissed for failure of petitioner-appellee's counsel to disclose the required MCLE compliance in the said pleadings.<sup>[27]</sup> Also, it was truly erroneous for the RTC, Branch 32 to consider respondent-appellant Abner to have waived his right to present evidence for his alleged failure to appear despite receiving late the notice of the rescheduled hearing.<sup>[28]</sup> Lastly, respondent-appellant Abner claimed that the court *a quo* erred in granting the petition based on the September 25, 2006 Order of Pili Camarines Sur RTC, Branch 31, when said Order is subject of a pending case for Annulment of Final Order before the Court of Appeals and now pending determination before the High Court, hence, a prejudicial question exists.<sup>[29]</sup>

On the other hand, petitioner-appellee Belen contended that her counsel fully

complied with the required earned units at the time of the filing of the pleadings sought to be expunged.<sup>[30]</sup> Also, it was not an error for the RTC, Branch 32 to declare that respondent-appellant Abner waived his right to present his evidence in as much as he was given the right to be heard.<sup>[31]</sup> It cannot likewise be said that there is a prejudicial question since the petition for surrender of title is not only based on the September 25, 2006 Order by the RTC, Branch 31, but based mainly on the Decision based on a Compromise Agreement issued by the said court on February 23, 2001.<sup>[32]</sup>

After a judicious scrutiny of the position taken by respondent-appellant Abner, We find the appeal devoid of merit.

Bar Matter No. 1922 required practicing members of the bar to indicate in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.<sup>[33]</sup>

Records reveal that the aforementioned requirement has been fully observed by petitioner-appellee's counsel. It can be plainly seen from the "Opposition to the Omnibus Motion"<sup>[34]</sup> filed by counsel for petitioner-appellee Belen that there was a subsequent compliance with the said rule. Albeit the fact that petitioner-appellee's counsel, through inadvertence, was not able to indicate his MCLE Compliance Number although he had already complied under MCLE Compliance Number II-0013982, and that as regards the Pre-Trial Brief, he was not as yet in receipt of his Compliance Number<sup>[35]</sup> when he filed said pleading in court although he had fully complied with the required units for the third compliance, this reason proffered by petitioner-appellee's counsel was accepted by the RTC, Branch 32, in the interest of justice and in the exercise of its sound discretion.<sup>[36]</sup> This Court, therefore, does not see any further necessity in delving into the issue raised by respondent-appellant, especially so when the Order denying the Omnibus Motion had already become final and executory due to failure of respondent-appellee to seek reconsideration thereof.<sup>[37]</sup> Verily, the issue as regards the MCLE Compliance of petitioner-appellee's counsel is of no moment in the present case.

With respect to the issue that respondent-appellant Abner had waived his right to present evidence, We do not agree with his argument that he was effectively denied due process.<sup>[38]</sup> In the case of *Milwaukee Industries Corporation vs. Court Of Tax Appeals, et al.*,<sup>[39]</sup> the High Court reminded litigants that due process is simply an opportunity to be heard. The requirement of due process is satisfactorily met as long as the parties are given the opportunity to present their side.<sup>[40]</sup> To quote from the Order dated July 15, 2013 of the RTC, Branch 33, respondent-appellant Abner had agreed on the four settings for the presentation of his evidence.<sup>[41]</sup> In fact, in the Order dated May 16, 2012 of the RTC, Branch 32, respondent-appellant Abner and his counsel were both duly informed in open court of the hearing dates for the presentation of defense evidence including the October 17, 2012 hearing which counsel for respondent-appellant claimed that he was not notified of.<sup>[42]</sup> Clearly, the claim of denial of due process is without basis. To reiterate, what the fundamental