

SIXTEENTH DIVISION

[CA-G.R. SP NO. 71713, August 18, 2006]

DANILO BELENO, RODRIGO SICAT Y PANGALINAN AND TRIBEL TOURS, PETITIONERS, VS. DANILO ARGANOZA, EDGAR CURAMENG, ROOSEVELT MALONZO, JOHN BORROMEO AND TEDDY CADIENTE REPRESENTED BY NARITO P. SAGUITAN, RESPONDENTS.

DECISION

DIMARANAN-VIDAL, J.:

In this Petition for Certiorari under Rule 65 of the Revised Rules of Court, Petitioner DANILO BELENO (hereinafter Petitioner) is seeking the reversal of the Order^[1] dated 20 June 2002 of the Regional Trial Court (RTC), National Capital Judicial Region (NCJR), Branch 26, Manila, in Civil Case No. 99-92546.

THE FACTS

On 1 February 1999, Respondents DANILO ARGANOZA, EDGAR CURAMENG, ROOSEVELT MALONZO, JOHN BORROMEO and TEDDY CADIENTE represented by NARDITO P. SAGUITAN filed a complaint for *Sum of Money and Damages* docketed as Civil Case No. 99-92546.^[2] They filed an amended complaint with prayer for preliminary attachment on 22 February 1999.^[3]

Summons and a copy of the complaint was served on the Petitioner on 11 November 1999.^[4] Under the Rules, Petitioner was supposed to file his answer within 15 days from the date notice was received, ergo, until 26 November 1999. Alleging that he may not be able to secure services of counsel soon considering that he had to attend to the discharge and release of his bus with Plate No. PXS 270, which was attached pursuant to the amended complaint with prayer for preliminary attachment filed by the Respondents, the Petitioner filed a motion for extension of time to file answer. He specifically prayed for a 15-day extension from 26 November 1999 to 11 December 1999 within which to file his answer. Aside from the Motion for Extension to File Answer (*sic*), Petitioner also filed a Motion to lift Preliminary Attachment.

On 25 November 1999, the court *a quo* ordered the Respondents to comment on the motions of the Petitioner.^[5]

On 24 January 2000, Respondents filed a *Motion to Declare Defendants in Default* which the court *a quo* granted on 4 February 2000.^[6] In the Order of Default, Respondents were allowed to present evidence *ex parte*.^[7]

On 14 February 2000, Atty. MACARIO T. ESPEJO, JR. entered his appearance as counsel for the Petitioner. On 21 February 2000, Petitioner filed his *Motion for*

Reconsideration with Answer Attached. This was denied by the court *a quo* on 9 March 2001.^[8] Petitioner filed a second Motion for Reconsideration on 2 May 2001.

Meanwhile, despite the pending incident, initial trial was conducted with both parties and their respective counsels in attendance.^[9] The Respondents presented their first witness, ROOSEVELT MALONZO during the initial trial.^[10]

Finally, on 20 June 2002, the court *a quo* denied Petitioner's second Motion for Reconsideration. The dispositive portion of the assailed Order dated 20 June 2002 states:

IN THE LIGHT OF THE FOREGOING , defendants (*sic*) 2nd Motion for Reconsideration is hereby DENIED for utter lack of merit.^[11]

Aggrieved, the Petitioner comes now before Us raising the following issues:

I

THAT THE LOWER COURT ERRED IN AFFIRMING THE PETITIONER TO BE IN DEFAULT IN ITS "ORDER" OF JUNE 20, 2002, FOR THE REASON THAT PETITIONER SHOULD HAVE FILED A MOTION TO LIFT AND SET ASIDE ORDER OF DEFAULT, INSTEAD OF A MOTION FOR RECONSIDERATION

II

THAT THE LOWER COURT ERRED IN ALLOWING THE PETITIONER TO PARTICIPATE IN THE TRIAL OF THE CSE ON THE MERITS, THEN DECLARING HIM TO BE IN DEFAULT, IN VIOLATION OF THE RULE OF "RES INTER ALIOS ACTA," AND THE OPPORTUNITY OF THE PETITIONER TO HAVE HIS DAY IN COURT.^[12]

OUR RULING

The Petition is bereft of merit.

Anent the **first issue**, a careful and judicious study of the assailed Order shows that the court *a quo* denied the Petitioner's second Motion for Reconsideration on the following grounds:

- (1) Respondents duly file a motion to declare defendants in default on 24 January 2000;
- (2) An order of default was issued by the court *a quo* on 4 February 2000;
- (3) Although there was a typographical error in the assignment of case number of the aforecited motion and order, which referred to case number 91-5711, the body of both the motion and order clearly referred to Civil Case No. 99-92546;
- (4) The typographical error pertaining to the case number was corrected by the court *a quo* in its order dated 27 July 2001;
- (5) Petitioner cannot deny the existence of the motion and the order because they filed a motion for reconsideration dated 14 February 2000 of the 4 February 2000 order.