

## SEVENTEENTH DIVISION

[ CA-G.R. CV No. 102211, February 23, 2015 ]

**SPOUSES BENJAMIN T. LABAO AND ZENAIDA A. LABAO,  
PLAINTIFFS-APPELLEES, VS. FLORINDA DELA CRUZ,  
DEFENDANT-APPELLANT.**

### DECISION

**GARCIA, R. R. J.:**

Before Us is an appeal from the Decision<sup>[1]</sup> dated February 3, 2014 of the Regional Trial Court (RTC), Branch 75, Valenzuela City in Civil Case No. 191-V-04 which ordered the cancellation of Transfer Certificate of Title (TCT) No. V-64318 in the name of defendant-appellant Florinda dela Cruz; the restoration of TCT No. V-29211 in the name of plaintiff-appellee Benjamin T. Labao; and for appellant to pay appellees P200,000.00 as moral damages, P100,000.00 as exemplary damages, P136,285.50 as attorney's fees and P10,407.00 as filing fees, less the unpaid loan of P200,000.00 and the remaining agreed interest thereon, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiffs and against defendant Florinda dela Cruz, ordering:

1. the cancellation of TCT No. V-64318 in the name of defendant Florinda dela Cruz;
2. the restoration of TCT No. V-29211 in the name of plaintiff Benjamin T. Labao;
3. defendant Florinda dela Cruz to pay Php 200,000.00 as moral damages, Php 100,000.00 as exemplary damages, Php 136,285.50 as attorney's fees and other expenses or litigation, Php10,407.00 as filing fees, less the unpaid loan of Php 200,000.00 and the unpaid agreed interest thereon.

SO ORDERED.<sup>[2]</sup>

### THE FACTS

The instant case stemmed from the complaint<sup>[3]</sup> dated August 12, 2004 for Declaration of Nullity of Transfer Certificate of Title, Reconveyance and Damages filed by plaintiffs-appellees spouses Benjamin T. Labao and Zenaida A. Labao against appellant Florinda dela Cruz.

The complaint alleged that appellee Benjamin is the registered owner of a parcel of land located along Peter Street, Luis Francisco Subdivision, Brgy. Veinte Reales, Valenzuela City containing an area of 240 square meters and covered by TCT No. V-29211<sup>[4]</sup>. A three-door apartment stands on the subject lot. Sometime in April of 1999, appellee Benjamin needed a capital of P200,000.00 to start his leather

business. He approached appellant Florinda Dela Cruz who represented that she could lend to him the said amount provided he mortgages the subject property to her as security. Appellant also told appellee Benjamin that the loan will be for a term of six (6) months with interest of P10,000.00 per month. As appellee Benjamin was badly in need of money, he agreed to the conditions and signed a Real Estate Mortgage<sup>[5]</sup> dated April 27, 1999 using his Community Tax Certificate (CTC) No. 06466517<sup>[6]</sup> dated March 17, 1999 issued at Mecauyan, Bulacan as his identification card in the contract. He then gave to appellant his owner's duplicate copy of TCT No. V-29211. Thereafter, appellee Benjamin deposited P10,000.00 twice to appellant's Solidbank Account No. 1026-0138-16 as interest payment for the months of May<sup>[7]</sup> and June 1999<sup>[8]</sup>. However, he failed to deposit the remaining monthly interest nor was he able to pay the principal amount of the loan.

On May 11, 2004, appellant visited appellee Benjamin at their apartment on the subject property and informed him that he and his wife will have to leave the place on or before June 30, 2004. Appellant claimed that she had already transferred the title over the property in her name. On May 17, 2004, appellee Benjamin inquired at the Register of Deeds of Valenzuela City and found out that TCT No. V-29211 issued in his name had been indeed canceled by reason of a Deed of Absolute of Sale<sup>[9]</sup> dated January 30, 2002 that was purportedly executed by him in favor of appellant. However, the deed of sale was a forged document because he has never signed nor agreed to sell his property to appellant. His CTC No. 06466517 issued on March 17, 1999 was also obviously tampered with and made to appear to have been issued on January 17, 2002. He never appeared before Notary Public Atty. Restituto B. Viernes of Valenzuela City to subscribe, attest or acknowledge the deed of sale. He likewise discovered that the Real Estate Mortgage was never annotated as an encumbrance in his TCT No. V-29211 before the Register of Deeds. On July 20, 2004, appellees received a demand letter<sup>[10]</sup> from appellant's lawyer asking them to deliver the possession of the subject property to appellant. Appellees thus pray that the Deed of Absolute Sale dated January 30, 2002 be declared null and void; to cancel TCT No. V-64318 issued in the name of appellant; to restore TCT No. V-29211 in the name of appellee Benjamin; and for appellant to pay actual, moral and exemplary damages.

In her Answer<sup>[11]</sup> dated September 1, 2004, appellant denied that she forged the Deed of Absolute Sale dated January 30, 2002. She averred that appellee Benjamin previously mortgaged the subject property in her favor to secure the loan of P200,000.00. For failure to settle his obligation, appellee Benjamin proposed to sell the subject property to her in order that the same may not be foreclosed and that he can still ask for additional money from appellant as consideration for the sale. However, instead of placing the true and actual consideration of the sale, appellee Benjamin suggested to undervalue the sale to only P100,000.00 since it was their agreement that the payment of the corresponding capital gains tax and documentary stamps be deducted from the consideration of the sale. The deed of conveyance was executed more than two (2) years after the execution of the mortgage contract.

In an Order<sup>[12]</sup> dated February 24, 2010, the court a quo set the case for pre-trial on May 18, 2010 and directed the parties to file their respective pre-trial briefs. The same was served upon appellant which was received<sup>[13]</sup> by one Dennis dela Cruz on

April 8, 2010 while counsel for appellant, Atty. Edgardo V. Cruz, was likewise furnished<sup>[14]</sup> a copy of the said order on February 24, 2010.

On May 18, 2010, only appellees filed their pre-trial brief<sup>[15]</sup>. Instead of submitting their pre-trial brief, appellant filed a Motion to Change Date of Pre-Trial<sup>[16]</sup>. The ensuing scheduled hearings were also canceled<sup>[17]</sup> and reset due to the unavailability of appellant's counsel. Pre-trial proper was then set on April 17, 2012. On the said date, it was discovered that no pre-trial brief was filed by appellant. Appellant thus immediately filed an Urgent Motion to Admit Pre-trial Brief<sup>[18]</sup> stating that the failure to file the required pre-trial brief was a result of an honest oversight. Appellees filed a Comment and Opposition With Motion to Declare the Defendant in Default for Failure to File Pre-Trial Brief<sup>[19]</sup> emphasizing that such pleading is mandatory and the rules can be relaxed only for the most persuasive of reasons. In an Order<sup>[20]</sup> dated October 12, 2012, the court *a quo* denied appellant's Motion to Admit Pre-trial Brief.

Thereafter, in an Order<sup>[21]</sup> dated February 21, 2013, the court *a quo* declared appellant in default for failure to file her pre-trial brief ratiocinating that the case has been pending for several years and counsel for appellant filed a number of motions to cancel and reset hearing due to his unavailability. Besides, not every invocation of substantial justice and liberality may be the basis for the lifting of a rule of procedure. Appellees were then directed to present their evidence *ex-parte*.

In a Decision<sup>[22]</sup> dated February 3, 2014, the court *a quo* granted appellees' complaint and ordered the cancellation of TCT No. V-64318 in the name of appellant and to restore TCT No. V-29211 in the name of appellee Benjamin. It ruled that instead of foreclosing the subject property pursuant to the Real Estate Mortgage signed by both parties, appellant presented a Deed of Absolute Sale that resulted in the cancellation of appellee Benjamin's title and the issuance of a new one in appellant's name. The deed of sale reflected appellee Benjamin's CTC but the date of issuance thereof was altered visibly to make it appear that the same was issued on another date which is falsification *per se*. Moreover, appellee Benjamin's claim that he never appeared before the notary public on January 30, 2002 was well supported by the corroborating testimony of Mr. Ignacio F. Fruelda, Jr. The pertinent portions of the assailed Decision are quoted:

x x x

After due consideration, the Court is of the view and so holds that the complaint has to be sustained.

Indeed, a Real Estate Mortgage was really executed by herein plaintiff Mr. Labao to secure payment of a loan of sum of money which was never paid. However, instead of foreclosing the same, defendant presented a Deed of Absolute Sale that was silent on the existing/unpaid loan/Real Estate Mortgage that resulted in the cancellation of Mr. Labao's title and the issuance of a new one in defendant's name.

The Deed of Absolute Sale reflected Mr. Labao's admitted CTC as appearing in the Real Estate Mortgage but the date of issuance thereof

was altered visibly to make it appear that the same was issued on another date. This is falsification per se.

Mr. Labao's claim that he never appeared before the notary public on January 30, 2002 is well supported by the corroborating testimony of Mr. Fruelda, Jr.

Taken altogether, there is more than sufficient reason to conclude that the Deed of Absolute Sale is a falsified document and that defendant is responsible for it she being the one to benefit therefrom. Thus, the title in defendant's name that was issued pursuant thereto must be cancelled and Mr. Labao's title to the land must be restored.

Damages must also be awarded to Mr. Labao, including documented attorney's fees in the amount of Php136,285.50 x x x and filing fee in the amount of Php 10,407.00 x x x, excluding the amount spent for the trip for his mother-in-law to the Philippines as there was no clear showing that he spent for the expenses of her trip. In the computation of damages, however, the unpaid loan of Php 200,000.00 plus the unpaid agreed interest must be deducted.<sup>[23]</sup>

Hence, this appeal in which the appellant raised the following **assignment of errors**<sup>[24]</sup>, to wit:

I.

THE COURT *A QUO* ERRED IN DENYING APPELLANT'S MOTION TO ADMIT PRE-TRIAL BRIEF WHICH WAS FILED ON THE SAME DATE WHEN THE PRE-TRIAL CONFERENCE WAS HELD.

II.

THE COURT *A QUO* ERRED IN DECLARING APPELLANT IN DEFAULT AND ALLOWING APPELLEES TO PRESENT EVIDENCE EX-PARTE DESPITE SINCERE ATTEMPT ON THE PART OF APPELLANT TO RECTIFY THE ERROR OF FAILING TO FILE A PRE-TRIAL BRIEF;

III.

THE COURT *A QUO* ERRED IN IGNORING ESTABLISHED JUDICIAL PRECEPTS THAT FROWN UPON THE RIGID APPLICATION OF THE RULES SO AS NOT TO OVERRIDE SUBSTANTIAL JUSTICE.

IV.

THE COURT *A QUO* ERRED IN HOLDING THAT APPELLEES HAVE PROVEN BY WAY OF PREPONDERANCE OF EVIDENCE THEIR CAUSES OF ACTION.

V.

THE COURT *A QUO* ERRED IN AWARDING MORAL, EXEMPLARY DAMAGES, COSTS AND ATTORNEY'S FEES.

## THE ISSUE

The sole issue in the instant case is whether or not the court *a quo* correctly ordered the cancellation of TCT No. V-64318 in the name of appellant and to restore TCT No. V-29211 in the name of appellee Benjamin.

## THE COURT'S RULING

The appeal is bereft of merit.

Appellant contends that the failure to file her pre-trial brief was due to inadvertence and there was no obvious irreparable injury on the part of appellees. The dismissal purely on technical grounds is frowned upon since the policy of the court is to encourage hearings on their merits. Further, the conclusion that there was falsification was merely based on the self-serving testimony of appellee Benjamin and his witnesses.

We disagree.

The court *a quo* correctly granted appellees' complaint and ordered the cancellation of TCT No. V-64318 in the name of appellant and to restore TCT No. V-29211 in the name of appellee Benjamin.

In *Suico Industrial Corp. vs. Lagura-Yap*<sup>[25]</sup>, the Supreme Court held that failure to file a pre-trial brief within the time prescribed by the Rules of Court constitutes sufficient ground for dismissal of an action pursuant to Section 6 in relation to Section 5, Rule 18 of the Rules on Civil Procedure. We quote:

*Sec. 6. Pre-trial brief.* — The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

x x x

**Failure to file the pre-trial brief** shall have the same effect as **failure to appear at the pre-trial.**

x x x

*Sec. 5. Effect of failure to appear.* — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for **dismissal of the action**. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof. (Emphasis supplied)

In the case at bench, the court *a quo* clearly had a valid reason when it declared appellant in default. A review of the factual antecedents indicates that appellant and her counsel, Atty. Edgardo V. Cruz, were informed<sup>[26]</sup> in advance of the scheduled pre-trial hearing on May 18, 2010 and to file their pre-trial brief pursuant to the