SECOND DIVISION

[G.R. No. 218731, February 13, 2019]

NICOMEDES AUGUSTO, GOMERCINDO JIMENEZ, MARCELINO PAQUIBOT, AND ROBERTA SILAWAN, PETITIONERS, VS. ANTONIO CARLOTA DY AND MARIO DY, RESPONDENTS.

DECISION

REYES, J. JR., J.:

The Facts

Subject of the present controversy is a parcel of land designated as Lot No. 4277, consisting of 5,327[1] square meters (sq m), located in Lapu-Lapu City, originally registered in the name of spouses Sixto Silawan and Marcosa Igoy (Sixto and Marcosa) under Original Certificate of Title (OCT) No. RO-3456.[2] The spouses Sixto and Marcosa had only one child, petitioner Roberta Silawan (Roberta).

On July 16, 2002, respondent Antonio Carlota Dy (Antonio) filed a Complaint for Declaration of Nullity of Deeds, Titles, Tax Declaration with Partition and/or Recovery of Shares, Attorney's Fees, Damages and Costs against petitioners Nicomedes Augusto (Nicomedes), Gomercindo Jimenez (Gomercindo), Marcelino Paquibot (Marcelino), Roberta (collectively, the petitioners) and the Register of Deeds of Lapu-Lapu City. He claimed to own a portion of Lot No. 4277 pursuant to a purchase he made on November 25, 1989. Allegedly, his acquisition of the said property can be traced as follows:

1) On March 31, 1965, Sixto sold Lot No. 4277 with an area of 5,327 sq m to Severino Silawan (Severino), married to Cornelia Gungob;

2) On May 7, 1965, Severino sold one-half portion of the property, or 2,663.5 sq m to Isnani Maut (Isnani) and Lily Silawan (Lily);

3) On September 16, 1966, Isnani and Lily sold the 2,663.5 sq m which they acquired to Filomeno Augusto (Filomeno) and Lourdes Igot (Lourdes);

4) On November 25, 1989, Filomeno and Lourdes sold the 2,363-sq m portion of which they acquired to Antonio and disposed the remaining 300 sq m to Nicomedes Augusto (Nicomedes) and Gaudencia Augusto (Gaudencia).

While initiating the paperworks to secure a certificate of title in his name sometime in January 2002, he discovered that Transfer Certificates of Title (TCTs)[3] over Lot No. 4277 were already issued in petitioners' names, as follows:

Lot No.	TCT No.	Registered Owner	Area

Lot No. 4277-A	48562	Sps. Nicomedes Augusto & Gaudencia Augusto	300 sq m
Lot No. 4277-B	48563	Gomercindo Jimenez married to Estela Jimenez	1,331 sq m
Lot No. 4277-C	48564	Marcelino Paquibot married to Elena Paquibot	1,332.50 sq m
Lot No. 4277-D	48565	Roberta Silawan, widow	2,363.50 sq m

The aforesaid TCTs replaced OCT No. RO-3456. It appears that the issuance of the said TCTs were effected by virtue of a document entitled "Extrajudicial Settlement By Sole and Only Heir with Confirmation of the Deed of Absolute Sale[s]"[4] executed by Sixto and Marcosa's only heir, Roberta, on June 27, 2001 and which was annotated in OCT No. RO-3456 on December 14, 2001.[5] In the said document, Roberta declared that she was the only heir of Sixto and Marcosa who died on December 29, 1968 and October 5, 1931, respectively. She adjudicated unto herself the ownership of the entire Lot No. 4277 and confirmed the disposition and subsequent transfers made by her father, Sixto, to quote:

> Deed of Sale per [D]oc. [N]o. 130 in favor of Severino Silawan m/t Cornelia Gungob; Deed of Sale [D]oc. [N]o. 343 in favor of Mariano Silawan and Consorcia Ocomen; Deed of Sale [D]oc. [N]o. 46 in favor of Marcelino Paquibot[,] married; Deed of Sale [D]oc. [N]o. 113 in favor of Sps. Nicolas Aying and Maura Augusto; Deed of Sale [D]oc. [No.] 486 in favor of Gomercindo [Jimenez], married; Deed of Sale [D]oc. [N]o. 288 in favor of Nicomedes Augusto and Gaudencia Augusto, of the parcel of land herein described subject to all terms and conditions, set forth [in] the document on file acknowledged before Notary Public Alfredo S. Pancho as per [D]oc. [N]o. 141; [P]age [N]o. 28; [B]ook [N]o. 1; [S]eries of 2001.[6]

The mentioned Deeds of Absolute Sale were all annotated in the OCT No. RO-3456 on December 14, 2001.[7]

Also annotated in the same OCT were: (a) the aforesaid Deeds of Sale as mentioned by Roberta in her Extrajudicial Settlement; (b) the Letter-Request[8] made by petitioners requesting the Register of Deeds to cancel OCT No. RO-3456 and in lieu thereof, to issue certificates of title in their names for the portions which they acquired; and (c) the Deed of Partition[9] executed by petitioners. Incidentally, the Register of Deeds favorably acted on petitioners' letter-request and issued TCTs in their respective names on December 14, 2001.

Antonio asserted that Roberta's act of executing the Extrajudicial Settlement, which apparently paved the way for the succeeding sales to the other petitioners, had no basis because when she executed said document, the property was already previously sold by the spouses Sixto and Marcosa to Antonio's predecessor-in-interest. He, thus, prayed for the nullity of the said Deed of Extrajudicial Settlement together with the resulting titles arising from such documents and for repartition of the property in order for the area corresponding to what he bought be delivered to him.

On September 6, 2002, Roberta filed her Answer. The other petitioners also filed their Answer.

Meanwhile, respondent Mario Dy (Mario) filed a Motion for Intervention. Mario also claimed ownership of the portion of Lot No. 4277 which allegedly can be traced as follows:

1) On March 31, 1965, Sixto sold the entire 5,327 sq m of Lot No. 4277 to Severino;

2) On September 15, 1965, Severino sold half of the portion (2,663.5 sq m) of Lot No. 4277 to Mariano Silawan (Mariano) married to Consorcia Ocomen (Consorcia);

3) On May 12, 1990, Mariano and Consorcia sold a portion of their acquisition specifically 1,332.5 sq m to Rodulfo Augusto (Rodulfo) and Gloria Pinote (Gloria);

4) On May 23, 1994, Rodulfo and Gloria sold such portion to him (Mario).

At the pre-trial, petitioners and their counsel did not appear. Thus, the RTC declared them in default and allowed Antonio to present evidence *ex parte*. Petitioners' counsel moved to lift the order of default citing as reason that his 2009 calendar was lost. Unfortunately, the motion was denied in an Order dated September 14, 2010.

The Decision of the RTC

On November 9, 2012, the RTC rendered a Decision[10] granting the complaint and ordered the new partition of the property. The RTC declared as null and void the following: (a) the Extrajudicial Settlement by Sole and Only Heir with confirmation of the Deed of Absolute Sale executed by Roberta; (b) the Affidavit of Loss executed by Marcelino; (c) the Letter-Request of the petitioners to cancel OCT No. RO-3456; (d) the Deed of Partition executed by the petitioners; and (e) the Deed of Sale between spouses Mariano and Consorcia in favor of Marcelino. Consequently, the RTC also ordered the cancellation of all the TCTs issued in favor of the petitioners.

In so ruling, the RTC reasoned out that the sale in favor of Nicomedes cannot be traced back to the original owner (Sixto). From among the series of transfers of the property from Sixto all the way to Nicomedes, the RTC found an irregularity in the sale in favor of Marcelino. At that point, it was alleged that the tracing cloth of the approved subdivision plan for Lot No. 4277 was lost. But the fact is, said tracing cloth was all along in possession of Antonio. The RTC then doubted how Marcelino was able to obtain the 1,332-sq m lot in 1997 when the same had been sold to a certain Rodulfo and Gloria. Marcelino cannot, therefore, be considered as buyer in good faith and for value because of his prior knowledge of the existence cff a previous purchaser who had the tracing cloth.

Thus, the RTC ordered a new partition of Lot No. 4277 as follows:

1. To spouses Antonio and Jean Dy - 2,363.50 sq m, more or less;

2. To spouses Mario and Luisa Dy - 1,332.50 sq m, more or less;

3. To spouses Gomercindo and Estela Jimenez - 1,331 sq m, more or less; and

4. To spouses Nicomedes Augusto and Gaudencia Augusto - 300 sq m, more or less.

Dissatisfied with the RTC Decision, the petitioners filed an appeal with the CA.

Ruling of the CA

In the assailed Decision[11] dated November 20, 2014, the Court of Appeals-Cebu City (CA) in CA-G.R. CEB C.V. No. 04753 affirmed *in toto* the findings of the RTC.

The CA, in sustaining the RTC, held that Roberta cannot unilaterally rescind the sale executed by her father. The sale was made way back in 1965 and it can be safely presumed that proprietary rights had already been acquired by the buyers in interim. Moreover, she failed to bring the proper action in court to defend her claims. At the time the subject property was offered to the buyers, there was yet no annotation that would place them on guard that what was being sold to them was infirmed. The CA opined that since the Extrajudicial Settlement executed by Roberta cannot be given probative value, all accompanying documents executed pursuant to it should also be nullified since these were executed fraudulently.

Petitioners filed a Motion for Reconsideration.[12] The motion was denied by the CA in a Resolution[13] dated June 2, 2015. Undaunted, petitioners filed the instant petition with this Court arguing as follows:

1. THE DECISION OF THE [CA] FAILED TO SPECIFICALLY ADDRESS THE ISSUE REGARDING THE PROPRIETY OF THE TRIAL COURT'S REFUSAL TO LIFT ORDER OF DEFAULT AGAINST PETITIONERS;

2. THE DECISION OF THE [CA] FAILED TO CONSIDER THAT ALTHOUGH PETITIONERS WERE UNABLE TO PRESENT EVIDENCE DUE TO THE ORDER OF DEFAULT AGAINST THEM, RESPONDENTS' VERY OWN EVIDENCE, SPECIFICALLY EXHIBIT "B" (OCT.) NO. 3456, SHOWED THAT PETITIONERS' TRANSACTIONS WERE MADE EARLIER THAN THAT OF THE RESPONDENTS AND WERE ALSO DULY REGISTERED AND ANNOTATED ON THE SAID OCT;

3. THE DECISION OF THE [CA] FAILED TO CONSIDER THAT PETITIONERS WERE THE FIRST REGISTRANTS OF THE PROPERTY SOLD TWICE BY SIXTO SILAWAN;

4. THE DECISION OF THE [CA] FAILED TO CONSIDER THAT PETITIONERS WERE BUYERS IN GOOD FAITH AND THAT THE TRIAL COURT CANNOT JUST SUMMARILY DECLARE PETITIONERS' TRANSACTIONS AS FRAUDULENT; [and]

5. THE DECISION OF THE [CA] FAILED TO ADDRESS THE ISSUE ON THE IMPROPRIETY OF GRANTING RELIEF TO RESPONDENT MARIO

DY AND FURTHER ERRED IN SUSTAINING THE PARTITION ORDERED BY THE TRIAL COURT.[14]

From the above arguments, two main issues need to be threshed out: (1) the propriety of declaring petitioners in default and allowing respondents to present evidence *ex parte*; and (2) the propriety of cancelling petitioners' TCTs.

I.

We cannot fault the RTC for allowing the respondents to present their evidence *ex parte* in view of the failure of petitioners to attend the pre-trial conference as it merely adhered to the Rules. Thus, Rule 18, Section 5 of the 1997 Rules of Court:

> Section 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.

The aforesaid rule explicitly provides that both parties (and their counsel) are mandated to appear at a pre-trial except for: (1) a valid excuse; and (2) appearance of a representative on behalf of a party who is fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.[15]

In the present case, petitioners failed to attend the pre-trial conference. They did not even give any excuse for their non-appearance. It was only during the appeal in the RTC that petitioners explained that their non-attendance was due to the fact that their counsel lost his calendar. At any rate, this still cannot be considered a justifiable excuse for their non-attendance as it bespeaks of carelessness and indifference to the importance of pre-trial to explore possible ways to avoid a protracted trial. Thus, the RTC properly issued an Order allowing respondents to present evidence *ex parte*.

As it now stands, the RTC could only render judgment based on the evidence offered by respondents during the trial.[16] The petitioners lost their right to present their evidence during the trial and, *a fortiori*, on appeal due to their inattentiveness and disregard of the mandatory attendance in the re-trial conference.[17] As held by this Court:

> The pre-trial cannot be taken for granted. It is not a mere technicality in court proceedings for it serves a vital objective: the simplification, abbreviation and expedition of the trial, if not indeed its dispensation. More significantly, the pre-trial has been institutionalized as the answer to the clarion call for the speedy disposition of cases. Hailed as the most important procedural innovation in Anglo-Saxon justice in the nineteenth century, it paved the way for a less cluttered trial and resolution of the case. It is, thus, mandatory for the trial court to conduct pre-trial in civil cases in order to realize the paramount objective of simplifying, abbreviating and expediting trial.[18]