

FIRST DIVISION

[G.R. No. 233135, December 05, 2018]

**B.E. SAN DIEGO, INC., PETITIONER, V. MANUEL A.S. BERNARDO,
RESPONDENT.**

D E C I S I O N

TIJAM, J.:

This petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court filed by B.E. San Diego Inc. (petitioner), seeks to reverse and set aside the Decision^[2] dated April 3, 2017 and the Resolution^[3] dated July 17, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 142759, which affirmed the Decision^[4] dated October 20, 2014 and the Order^[5] dated July 30, 2015 of the Regional Trial Court (RTC) of Valenzuela City, Branch 75, in Civil Case No. 19-V-12, that denied petitioner's petition for relief and motion for reconsideration, respectively.

Antecedents Fact

Sometime in December 1992, petitioner sold an 8,773-square meter parcel of land (subject property) located in Arkong Bato, Valenzuela City, on installment to Manuel A.S. Bernardo (respondent) for a total purchase price of Nine Million Six Hundred Fifty Thousand Three Hundred Pesos (P9,650,300.00).^[6]

Pursuant to their agreement, respondent paid an initial amount of Three Million Pesos (P3,000,000.00) to petitioner, and the remaining balance of Six Million Six Hundred Fifty Thousand Three Hundred Pesos (P6,650,300.00) to be paid in 36 monthly installments of One Hundred Eighty-Four Thousand Seven Hundred Thirty Pesos and Fifty-Six Centavos (P184,730.56).^[7]

Respondent paid an aggregate amount of Two Million Fifty-Four Thousand Five Hundred Pesos (P2,054,500.00) but failed to pay the remainder of the purchase price balance as they become due. Hence, on March 29, 1996, petitioner advised respondent of its intent to cancel their agreement of sale and demanded respondent to vacate the subject property.^[8]

Petitioner's demand remained unheeded, it then filed an action for Cancellation of Contract and Restitution of the Premises before the RTC docketed as Civil Case No. 5088-V-96.^[9]

The RTC in a Decision^[10] dated August 13, 2010, dismissed the complaint and ratiocinated that petitioner failed to provide respondent a grace period of sixty (60) days to pay the installments due as governed by sales on installment of the Maceda Law.

The said RTC Decision was received by petitioner's counsel on record on September 30, 2010.

On October 4, 2010, petitioner, through a new collaborating counsel - Ramirez Lazaro & Associates Law Office filed a Motion for Reconsideration^[11] of the RTC Decision dated August 13, 2010 without a Notice of Hearing. On October 15, 2010 or eleven (11) days thereafter, petitioner's new collaborating counsel sent via registered mail a Notice of Hearing,^[12] which stated that the date of hearing was set on October 29, 2010 at 8:30a.m.

On December 10, 2010 Order^[13] of the RTC, denied the motion for reconsideration filed by petitioner's new collaborating counsel and considered the same as a mere scrap of paper. The RTC found that there was antedating in the Notice of Hearing filed to make it appear that the same was filed within the fifteen (15) day reglementary period, and that there was dishonesty and scheme employed on the part of the petitioner's new collaborating counsel in the separate filing of the Notice of Hearing.^[14]

Consequently, petitioner filed a Notice of Appeal^[15] but the RTC in an Order^[16] dated February 11, 2011 denied the same for having been filed beyond the reglementary period.

Meanwhile, the RTC Decision^[17] dated August 13, 2010 lapsed into finality.

Accordingly, on September 6, 2011, petitioner filed a Petition for Relief^[18] from the Order dated February 11, 2011 before the RTC, docketed as Civil Case No. 19-V-12 and asseverated that the gross and palpable negligence of its new collaborating counsel should not bind and prejudice the petitioner.

Trial on the merits ensued and thereafter, on October 20, 2014, the RTC in Civil Case No. 19-V-12 issued a Decision^[19] denying the Petition for Relief, to wit:

IN VIEW OF THE FOREGOING, the instant petition for relief from judgment is hereby DENIED for lack of merit.

SO ORDERED.^[20]

Petitioner's motion for reconsideration^[21] was denied for lack of merit by the RTC in an Order^[22] dated July 30, 2015.

Then, petitioner duly filed a petition for *certiorari* before the CA.^[23]

On April 3, 2017, the CA rendered a Decision^[24] which affirmed the RTC's denial of petitioner's petition for relief, the dispositive portion of the Decision provides:

WHEREFORE, premises considered, the Petition for *Certiorari* is **DENIED**. The assailed Decision dated 20 October 2015 and Order dated 30 July 2015 of the [RTC], Branch 75, Valenzuela City, are **SUSTAINED**.

SO ORDERED.^[25]

Petitioner's motion for reconsideration^[26] was likewise denied in a CA Resolution^[27] dated July 17, 2017.

Hence, the instant petition.

Ruling of the Court

The petition is meritorious.

The general rule is that the negligence of counsel binds the client, even mistakes in the application of procedural rules, an exception to this doctrine is when the negligence of counsel is so gross that the due process rights of the client were violated.^[28]

In this case, the manner with which the Law Office of Ramirez Lazaro & Associates Law handled the case of petitioner, as a collaborating counsel shows gross negligence and utter incompetence, when it failed to attach a Notice of Hearing when it filed the motion for reconsideration before the RTC on October 4, 2010, and antedated the filing thereof to make it appear that it was filed on time. As a result thereof, the RTC in an Order dated December 10, 2010, denied the motion for reconsideration and considered the same as a mere scrap of paper. Worst, the August 13, 2010 Decision of the RTC lapsed into finality. Thus, petitioner lost its right to appeal the Decision and petitioner's petition for relief was denied. Clearly, the rights of petitioner were deprived due to its collaborating counsel's palpable negligence and thereof is not bound by it.

Also, contrary to findings of the RTC and the CA, petitioner exercised due diligence in monitoring the case it filed. Petitioner even inquired with the Law Office of Ramirez Lazaro & Associates Law and informed it that the motion for reconsideration was duly filed. As far as petitioner is concerned and in respect of its interest, its duty to be vigilant to the status of the case was complied with by being updated on the progress of the case.

While the Court applauds the RTC's and CA's zealousness in upholding procedural rules, it cannot simply allow petitioner to be deprived of its property due to the gross negligence of its collaborating counsel.

It is settled in Our jurisprudence that procedural rules were conceived to aid the attainment of justice. If a stringent application of the procedural rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter.

We allowed liberal application of technical rules of procedure, pertaining to the requisites of a proper notice of hearing, upon consideration of the importance of the subject matter of the controversy, as illustrated in the cases of *City of Dumaguete v. Philippine Ports Authority*,^[29] to wit:

The liberal construction of the rules on notice of hearing is exemplified in *Goldloop Properties, Inc. v. CA*:

Admittedly, the filing of respondent-spouses' motion for reconsideration did not stop the running of the period of appeal because of the absence of a notice of hearing required in Secs. 3, 4 and 5, Rule 15, of the Rules of Court. As we have repeatedly held, a motion that does not contain a notice of hearing is a mere scrap of paper; it presents no question which merits the attention of the court. Being a mere scrap of