

## SECOND DIVISION

[ G.R. No. 171872, June 28, 2010 ]

**FAUSTO R. PREYSLER, JR., PETITIONER, VS. MANILA  
SOUTHCOAST DEVELOPMENT CORPORATION, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This petition for review<sup>[1]</sup> assails the 22 November 2005 Decision<sup>[2]</sup> and the 3 March 2006 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 89621.

#### The Facts

On 15 January 2002, petitioner Fausto R. Preysler, Jr. (petitioner) filed with the Municipal Trial Court (MTC) of Batangas a complaint for forcible entry against respondent Manila Southcoast Development Corporation (respondent). The subject matter of the complaint is a parcel of land with an area of 21,922 square meters located in Sitio Kutad, Barangay Papaya, Nasugbu, Batangas. The disputed land, covered by Transfer Certificate of Title (TCT) No. TF-1217<sup>[4]</sup> in the name of petitioner, is also within the property covered by TCT No. T-72097<sup>[5]</sup> in the name of respondent.<sup>[6]</sup> TCT No. T-72097 covers three contiguous parcels of land with an aggregate area of 86,507,778 square meters.

On 13 December 2002, the MTC ruled in favor of petitioner and ordered respondent to vacate the disputed land covered by TCT No. TF-1217 in the name of petitioner and to return the possession of the land to petitioner.<sup>[7]</sup> Respondent appealed to the Regional Trial Court (RTC). In its Decision dated 22 January 2004, the RTC, Branch 14, Nasugbu, Batangas reversed the MTC decision and dismissed petitioner's complaint.

Petitioner received the RTC Decision on 9 February 2004 and thereafter filed a Motion for Reconsideration, which was set for hearing on 26 February 2004. Petitioner sent a copy of the Motion for Reconsideration to respondent's counsel by registered mail on 23 February 2004. During the 26 February 2004 scheduled hearing of the motion, the RTC judge reset the hearing to 2 April 2004 because the court's calendar could not accommodate the hearing of the motion. All the parties were notified of the schedule for the next hearing.

Meanwhile, it was only on 3 March 2004, or 6 days after the scheduled hearing on 26 February 2004, that respondent's counsel received a copy of petitioner's Motion for Reconsideration.

The rescheduled hearing on 2 April 2004 was again reset on 7 May 2004 because the RTC judge was on official leave. The 7 May 2004 hearing was further reset to 6 August 2004. After the hearing, respondent filed its Motion to Dismiss dated 9 August 2004,<sup>[8]</sup> claiming that non-compliance with the three-day notice rule did not toll the running of the period of appeal, which rendered the decision final.

On 4 October 2004, the RTC issued an Order, denying petitioner's Motion for Reconsideration for failure to appeal within the 15 days reglementary period and declaring the 22 January 2004 Decision as final and executory. The RTC ruled that petitioner's Motion for Reconsideration was fatally flawed for failure to observe the three-day notice rule. Petitioner filed an Omnibus Motion for Reconsideration of the Order dated 4 October 2004. In its Order dated 22 February 2005, the RTC dismissed the Omnibus Motion. Petitioner then filed a petition for certiorari with the Court of Appeals, alleging that the RTC committed grave abuse of discretion in dismissing the Motion for Reconsideration and Omnibus Motion for petitioner's alleged failure to observe the three-day notice rule.

### **The Ruling of the Court of Appeals**

In its Decision dated 22 November 2005, the Court of Appeals dismissed the petition. The Court of Appeals held that the three-day notice rule under Sections 4, 5, and 6 of Rule 15 of the Rules of Court is mandatory and non-compliance therewith is fatal and renders the motion *pro forma*. As found by the RTC, petitioner's Motion for Reconsideration dated 12 February 2004 was received by respondent only on 3 March 2004, or six days after the scheduled hearing on 26 February 2004. Furthermore, the Court of Appeals held that all violations of Sections 4, 5, and 6 of Rule 15 which render the purpose of the notice of hearing of the motion nugatory are deemed fatal.

Petitioner moved for reconsideration, which the Court of Appeals denied in its Resolution dated 3 March 2006. Hence, this petition for review.

### **The Issues**

In his petition for review, petitioner submits that:

#### I

THE COURT OF APPEALS COMMITTED GRAVE ERROR IN AFFIRMING THE RULING OF THE PUBLIC RESPONDENT THAT PETITIONER HAD VIOLATED THE THREE-DAY NOTICE RULE DESPITE THE FACTS THAT:

A) PRIVATE RESPONDENT WAS DULY HEARD ON THE MOTION FOR RECONSIDERATION, HAD OPPORTUNITY TO OPPOSE, AND ACTUALLY OPPOSED SAID MOTION.

B) PRIVATE RESPONDENT WAS NOT PREJUDICED BY THE ALLEGED DEFECT OF THE MOTION.

C) THE PURPOSE OF THE THREE-DAY NOTICE RULE WAS SUFFICIENTLY ACHIEVED.

D) THE ALLEGED FAILURE OF PETITIONER TO COMPLY WITH SECTION 4, RULE 15 WAS CURED BY THE FACT THAT THE PUBLIC RESPONDENT RESET SEVERAL TIMES THE HEARING OF THE MOTION, AND THE PRIVATE RESPONDENT WAS PROPERLY NOTIFIED THEREOF AND OPPOSED SAID MOTION.

E) PETITIONER HAD AN EXTREMELY MERITORIOUS CASE.

## II

THE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING ON THE ISSUE OF THE ALLEGED DEFECT OF THE PETITIONER'S OMNIBUS MOTION, THEREBY AFFIRMING THE ERRONEOUS COMPUTATION OF THE THREE-DAY NOTICE BY THE RESPONDENT TRIAL JUDGE.

## III

THE COURT OF APPEALS ERRED IN NOT RESOLVING THE MERITS OF THE PETITIONER'S MOTION FOR RECONSIDERATION FILED BEFORE THE PUBLIC RESPONDENT.<sup>[9]</sup>

### **The Ruling of the Court**

We find the petition meritorious.

In upholding the RTC Order denying petitioner's Motion for Reconsideration, the Court of Appeals relied mainly on petitioner's alleged violation of the notice requirements under Sections 4, 5, and 6, Rule 15 of the Rules of Court which read:

SECTION 4. *Hearing of motion.* - Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SECTION 5. *Notice of hearing.* - The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.