

## FIRST DIVISION

[ G.R. No. 166104, June 26, 2008 ]

**RN DEVELOPMENT CORPORATION, PETITIONER, VS. A.I.I. SYSTEM, INC.,RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

In this petition for review under Rule 45 of the Rules of Court, petitioner RN Development Corporation (now Fontana Development Corporation) seeks the reversal of the September 2, 2004 decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 75227 entitled *A.I.I. Systems, Inc. v. RN Development Corporation* as reiterated in its November 22, 2004 Resolution<sup>[2]</sup> denying petitioner's motion for reconsideration.

The assailed decision reversed and set aside an earlier Order and Resolution of the Regional Trial Court (RTC) of Quezon City, Branch 226, in *Civil Case No. QOO-41445*, dismissing respondent's complaint for its failure to appear for pre-trial and for lack of interest. The respondent's motion for reconsideration of the said Order was denied by the RTC in its Resolution dated March 22, 2002, which is quoted hereunder:

As set forth in the Order of November 27, 2001, the pre-trial in this case has been reset for five times already: first on February 6, 2001, then on April 24, 2001, on August 7, 2001, September 18, 2001 and on November 27, 2001. Let it be noted that on April 24, 2001, there was no appearance for [respondent] and counsel. Again, on August 7, 2001, [respondent] and counsel did not appear, which prompted the Court to reset the pre-trial for the last time to September 18, 2001, with a warning that should the [respondent] and counsel not appear on the next setting, the Court will dismiss the case for lack of interest. On September 18, 2001, counsel for the [respondent] moved for a resetting since the new counsel had not yet studied the proposals for settlement made by the [petitioner]. Thus, pre-trial was again reset for the last time to November 27, 2001. On November 27, 2001, there was again no appearance for the [respondent] and its counsel.

The record thus bears out that the Court had been very lenient to the [respondent] when it allowed the resetting of the pre-trial for five times. In fact, the Court set the pre-trial "for the last time" twice. It is litigants like [respondent] who unduly clog the court dockets by taking advantage of the court's leniency. If only to decongest the court dockets and to serve as a lesson to [respondent] and counsel to be more considerate of the time and resources of the Court, the amended motion for reconsideration is DENIED, for lack of merit.

WHEREFORE, in view of the foregoing, the amended Motion for Reconsideration is DENIED, for lack of merit. The Order of November 27, 2001 is REITERATED.

SO ORDERED.<sup>[3]</sup>

Aggrieved, respondent went on appeal to the CA on the lone issue as to whether or not its complaint was properly dismissed for its failure to appear on November 27, 2001 for pre-trial and for its lack of interest to prosecute the case.

In its assailed Decision dated September 2, 2004, the CA reversed and set aside the RTC's Order dated November 27, 2001 and the Resolution dated March 22, 2002 and remanded the case to the said trial court for further proceedings. We quote the *fallo* of the CA decision:

WHEREFORE, the appealed Order and Resolution of Branch 226 of the Regional Trial Court of Quezon City, in Civil Case No. QOO-41445, dated 27 November 2001 and 22 March 2002, respectively, are hereby REVERSED AND SET ASIDE. The case is remanded to the trial court for further proceedings.

The petitioner sought reconsideration of the above-cited decision, which was denied by the appellate court.

Hence, the petitioner is now before this Court contending that the CA erred in reversing the RTC's Order dismissing the petitioner's complaint because "the inference made by the Court of Appeals was manifestly mistaken; its judgment was based on misapprehension of facts; and the Court of Appeals manifestly overlooked certain facts not disputed by the parties and which, if properly considered, would justify a different conclusion." Petitioner added that the trial court did not commit grave abuse of discretion in dismissing respondent's complaint.

The facts of the case are summed up by the CA from the records in its decision, which reads in part:

On 28 July 2000, AII Systems, Inc. [respondent] filed a Complaint for Sum of Money against RN Development Corporation [petitioner], seeking to collect the outstanding balance of the purchase price of the pipes and fittings, valves and electrical panels which [petitioner] allegedly ordered from [respondent].

On 09 November 2000, [petitioner] filed its answer. On 20 November 2000, [respondent] filed an *Ex-Parte* Motion to Set Case for Pre-Trial which was granted by the court a *quo* scheduling the case for pre-trial on 06 February 2001.

During the 06 February 2001 pre-trial conference, parties' counsel manifested their intention to settle the case. In view thereof the pre-trial was reset to 24 April 2001.

At the calendared 24 April 2001 pre-trial, only [petitioner's] counsel appeared. He manifested that there are negotiations for the settlement of

the case and moved for the resetting of the pre-trial. The trial court granted said request in order to give the parties an opportunity to settle the case. Pre-trial was rescheduled to 07 August 2001.

In the 07 August 2001 pre-trial meeting, [petitioner's] counsel appeared but [respondent] and counsel were absent. The trial court deferred the pre-trial and set the same to 18 September 2001, with a proviso that said resetting shall be "*the last time*" and warned that if [respondent] and his counsel will not appear again "*the Court shall dismiss the case for lack of interest.*"

During the 18 September 2001 pre-trial, [respondent's] new counsel appeared. He requested the resetting of the pre-trial because he has yet to study [petitioner's] proposals for the settlement of the case. Despite its warning in the 07 August 2001 Order the trial court relented to [respondent's] request setting another date, 27 November 2001, for pre-trial. The trial court again cautioned the parties that the resetting shall be for the "*last time.*"

On 27 November 2001, pre-trial proceeded. [Petitioner] appeared but [respondent] did not. Pursuant to the trial court's warning contained in the 07 August 2001 Order, the [respondent's] Complaint was dismissed, thus:

When this case was called for pre-trial, only [the] counsel for the [petitioner] appeared; there was no appearance for the [respondent] and its counsel.

The court issued a warning during the hearing held on August [7,] 2001 that should the [respondent] and counsel fail to appear again today for pre-trial, the case shall be dismissed. The Court observes that this is the fifth time that this case has been reset for pre-trial...

WHEREFORE, as prayed for, the complaint is hereby DISMISSED for failure of the [respondent] and counsel to appear for pre-trial and for lack of interest...

SO ORDERED.

On 03 December 2001, [respondent] filed its Motion for Reconsideration explaining his failure to attend the 27 November 2001 pre-trial, thus:

1. The instant case was scheduled for Pre-Trial last November 27, 2001 at 8:30 a.m. However, the ... counsel [for respondent] arrived in court at 8:34 a.m. or four (4) minutes late ...
2. The ... counsel [for respondent] sincerely apologizes for ... tardiness which was entirely unintentional. [He] left his residence [in Sampaloc, Manila] at 7:00 a.m. allotting the usual one (1) hour for his trip to Quezon City knowing that [the] Honorable Court starts its hearing at exactly 8:30 [a.m.] but... along the way [his vehicle suffered] a flat tire... It took ... thirty (30) minutes to