

SECOND DIVISION

[G.R. No. 176706, October 08, 2008]

MANIGO K. RAMOS, PETITIONER, VS. SPOUSES PURITA G. ALVENDIA^[1] AND OSCAR ALVENDIA AND SPOUSES JOSE AND ARACELI SEVERINO, RESPONDENTS.

DECISION

CARPIO MORALES, J.:

Assailed via Petition for Review on Certiorari^[2] are the August 29, 2006 Decision^[3] and February 16, 2007 Resolution^[4] of the Court of Appeals affirming the Order dated October 1, 1998 and Resolution dated June 6, 2000 of Branch 253, Regional Trial Court (RTC), Las Piñas City in Civil Case No. LP-97-0107, "*Manigo K. Ramos v. Spouses Purita G. Alvenida and Oscar Alvenida and Spouses Jose Severino and Araceli Severino*," which declared the plaintiff-herein petitioner non-suited and accordingly dismissed his complaint for failure of his counsel to appear during the scheduled pre-trial and to file a pre-trial brief.

Petitioner and his brother Jose Orlando Ramos, Jr. (Orlando) were registered owners of three parcels of land covered by Transfer Certificate of Title Nos. 336585, 33875 and 24162-A of the Las Piñas, Rizal Register of Deeds, the owners' copies of which were in the possession of Orlando.^[5]

Petitioner claimed that after Orlando died on December 25, 1987, the owners' copies of the titles could no longer be found; that on the offer of Hermilina Calasan (Hermilina), a neighbor, petitioner allowed her to reconstitute them; and that Hermilina, representing that funds were needed to pursue the reconstitution of titles, made her sign documents which he was misled into believing that they were deeds of mortgage.^[6]

Petitioner further claimed that Hermilina colluded with respondent Purita Alvendia (Purita) by making it appear that petitioner and his deceased brother Orlando donated to Purita the parcels of land covered by the titles via two Deeds of Donation executed on November 13, 1995^[7] and November 29, 1995;^[8] that Purita and her co-respondent husband Oscar Alvendia thereafter caused the cancellation of the titles of petitioner and his brother over the lands and the issuance to them of titles in their name; and that Purita and her husband later transferred also via donation the parcels of land to respondent spouses Jose and Araceli Severino who were subsequently issued TCT Nos. 51342, 51343 and 51344 in their names.^[9]

Petitioner was thus prompted to file on April 24, 1997 a Complaint^[10] against respondents before the RTC of Las Piñas for, *inter alia*, the cancellation of the titles of respondent spouses Severino's and reconveyance of the parcels of land.

To the Complaint, petitioner attached as Annex "E," among other documents, a photocopy of a Report dated November 19, 1996^[11] of Nedy L. Tayag, a Clinical Psychologist of the National Center for Mental Health, concluding that petitioner is not "competent enough to stand on his own" based on the following findings:

Current level of intelligence falls along the Moderate Mental Retardation level. (Imbecile) with a numerical rating of 52, and with a mental age between 9 to 10 years old. Social IQ may be a little higher but he could not perform complex tasks which will require analytical and logical reasoning. In line with this, capacity to renders [sic] sound judgement congruent with his current chronological age is not possible. Likewise, deduction-induction, conceptual-perceptual capacity and planning are also affected.

He may accept responsibility but he is not aware of how to go about organizing and performing it nor come-up with aproductive [sic] output. He lacks pre-planning so that chore maybe haphazardly done, just for the sake of obeying and having it done. He reacts on impulse, being deprived on intellectual resources that could help him to control or regulate his actions and emotions. Having low intelligence he tends to be gullible and easy prey to allurements of pleasure and satisfaction. (Underscoring supplied)

Respondent spouses Alvendia, in their Answer with Compulsory Counterclaim,^[12] claimed to have acquired the subject lots by Deeds of Absolute Sale executed by petitioner with the consent of his wife, in support of which they submitted photocopies thereof.^[13]

On the other hand, the spouses Severino claimed to have acquired the lots by purchase from the spouses Alvendia, in support of which they also submitted photocopies of receipts of payment for the purpose.^[14]

The pre-trial of the case was set on September 7, 1998 during which petitioner was present as well as the defendants spouses Severino but it was reset to October 1, 1998 at 8:30 in the morning due to the absence of the therein defendant spouses Alvendia.^[15]

On the rescheduled pre-trial on October 1, 1998, after petitioner's complaint was called in open court, the trial court issued an Order declaring petitioner non-suited for "failure of his counsel to appear" and to file pre-trial brief, and accordingly dismissing the Complaint.^[16]

Petitioner, through counsel, filed a Motion for Reconsideration and for the Reinstatement of the Case with Apology and Prayer for Compassion,^[17] explaining that his counsel arrived for the pre-trial alright but was late, and giving an account of the non-filing in court of a pre-trial brief, viz:

x x x x

2. That with respect to his late arrival [during the pre-trial on October 1, 1998], the undersigned arrived at 8:55 and it was his intention

to arrive at exactly 8:30 a.m. but he was prevented by an unusual heavy traffic along the Baclaran/Coastal Road and he was not able to estimate his arrival time;

3. That he did not have the intention of arriving later than 8:30 a.m.;
4. That with respect to the pre-trial brief of the plaintiff, the same was already prepared on September 28, 1998 but his Liason Officer Mr. Juan Cantos who was tasked to file the same did not report for work and undersigned counsel thought that Mr. Cantos would arrive and file the same. It was only in the afternoon of September 29, 1998 that it was discovered that the pre-trial brief was not filed on September 28, 1998;
5. That upon discovery, undersigned counsel instructed his secretary, Ms. Cristina Enales to mail the said pre-trial brief to the other party as shown by a copy of the mailed pre-trial brief hereto attached as Annex "A" and the registry receipts of mailing to the defendants hereto attached as Annexes "A-1" and "A-2", respectively;
6. That in that same afternoon of September 29, 1998, he instructed his Liason Officer Mr. Cantos to proceed to this Honorable Court to file the pre-trial brief but it was already very late and at 5:00 p.m. he was still on his way to court and he just returned as it was already impossible to file on September 29, 1998;
7. That the non filing of the pre-trial brief was discovered late on September 29, 1998 because there was a sort of a party in the office of the undersigned counsel as it was then his birthday.^[18]
(Emphasis and underscoring supplied)

By Resolution of June 6, 2000,^[19] the trial court, finding that petitioner's motion "did not come forward with the most persuasive of reasons for the relaxation of Rule 18 [on Pre-Trial]. . . as amended [by Circular No. 1-89 dated January 19, 1989 and supplemented by Circular No. 3-99 dated January 15, 1999],"^[20] denied the motion, for "a contrary rule would result in a `heavy traffic' or clogging of cases which this Court abhors." It bears emphasizing at this juncture that under Section 5 of Rule 18, it is the failure of the plaintiff^[21] to appear during pre-trial when so required which is a cause for dismissal of the action; and that the plaintiff-herein petitioner was already present in court, together with a care-giver, at the time the case was called.^[22]

On appeal, the Court of Appeals, by the challenged August 29, 2006 Decision, narrated the factual milieu of the case, thus:

As culled from the records, it appears that during the scheduled Pre-Trial Conference of this case on October 1, 1998 at 8:30 o'clock in the morning, the parties and counsel for the defendants were present. Counsel for the plaintiff was not around. As alleged in the Appellant's Brief, plaintiff's counsel arrived at the premises of the trial court at 8:55

o'clock in the morning of the said day but was **not allowed to enter the court room,** "When he succeeded in gaining entry into the court room, **the public respondent judge shouted at him and ordered him to step out**" only to learn later that "upon verification at the Office of the Branch Clerk of Court that the case was dismissed because when he called the herein counsel for the plaintiff-appellant was not yet in court, and additionally the pre-trial brief for the plaintiff was not yet on file.^[23] (Emphasis and underscoring supplied).

After observing as follows, however,

. . . [T]he Pre-trial brief serves as a guide during the pre-trial conference so as to simplify, abbreviate and expedite the trial. If not, indeed, to dispense with it. It is an essential device to the speedy disposition of disputes, and parties cannot brush it aside as a mere technicality. Thus, if a party is allowed to serve the brief at any time after the scheduled pre-trial or, on the date of the pre-trial, the purposes of the procedure is defeated as the parties will not be given sufficient time to study the proposals of the adverse party and to decide whether or not to accept the same,

and citing the following injunction of this Court in *Saguid v. CA*:^[24]

"Pre-trial rules are not to be belittled or dismissed because their non-observance may result in prejudice to a party's substantive rights. Like all rules they **should be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thought[less]ness in not complying with the procedure,**" (Emphasis and underscoring supplied),

the appellate court sustained the trial court's earlier-quoted conclusion that petitioner "did not come forward with the most persuasive reasons. . ."

In his present petition, petitioner pleads that justice would be best served if the Complaint would be reinstated, he invoking Article 24 of the Civil Code which states:

In all contractual, property or other relations, **when one of the parties is at a disadvantage** on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, **the courts must be vigilant for his protection.** (Underscoring supplied)

The dismissal of a complaint for failure to file pre-trial brief is discretionary on the part of the trial court.

Section 6, Rule 18 of the Rules of Court (Rules) mandates that parties shall file with the court and serve on the adverse party their pre-trial briefs at least three days before the scheduled pre-trial. The Rules also provide that **failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.** Therefore, plaintiff's failure to file the pre-trial brief shall be cause for dismissal of the action.

The Court of Appeals erred in ruling that the trial court had "no discretion" on the matter of a party's failure to file a pre-trial brief. If the