

## FIRST DIVISION

[ G.R. NO. 139167, June 29, 2005 ]

**HEIRS OF WILFREDO C. DELOS SANTOS, NAMELY: MA. GRACIA DELOS SANTOS, RAYMOND C. DELOS SANTOS AND MINORS RICHARD C. DELOS, WILFRED C. DELOS SANTOS, ARNOLD C. DELOS SANTOS, EDWARD C. DELOS SANTOS AND ALFREDO C. DELOS SANTOS, DULY REPRESENTED BY THEIR MOTHER, MA. GRACIA C. DELOS SANTOS, PETITIONERS, VS. FELISA DEL ROSARIO AND THE COURT OF APPEALS, RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This petition for review<sup>[1]</sup> assails the 26 January 1999 and 21 June 1999 Resolutions<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 50420. The Court of Appeals upheld the Orders of the Regional Trial Court, Branch 6, Legazpi City ("trial court") dismissing the petition for relief of Wilfredo C. Delos Santos and Ma. Gracia Delos Santos ("petitioners") and denying their motion for reconsideration.

#### The Antecedents

The present controversy arose from a Complaint for replevin and damages filed with the Regional Trial Court of Legazpi City by respondent Felisa L. Del Rosario ("respondent") against Wilfredo C. Delos Santos ("Wilfredo"), doing business under the name Rich-mon Pawnshop.<sup>[3]</sup>

The Complaint, docketed as Civil Case No. 8836,<sup>[4]</sup> alleged among others, that respondent owned several pieces of jewelry valued at approximately P250,000. Respondent claimed that she delivered these pieces of jewelry for sale on commission to one Lolita Sanio ("Sanio"), with the condition that respondent should retain the title or ownership over the jewelry until its total value have been fully paid to respondent. Respondent further claimed that Sanio did not return or pay the value of the jewelry despite demand to do so. Thereafter, respondent learned that the pieces of jewelry were pawned to Rich-mon Pawnshop. Respondent contended that Rich-mon Pawnshop was wrongfully retaining her jewelry since it had knowledge that these were pledged without her prior consent and authority.

On 10 November 1993, Ma. Gracia Delos Santos ("Grace"),<sup>[5]</sup> owner and operator of Rich-mon Pawnshop,<sup>[6]</sup> filed the Answer<sup>[7]</sup> instead of Wilfredo. Grace claimed that she was a holder for value and in good faith of the jewelry because she had no knowledge of any defect or flaw in the title of the pawner. Grace alleged that a certain Gloria Rogando was the holder of the pawn tickets entrusted by the pawner

Sanio. Grace could not release the pawned jewelry to Del Rosario unless the principal obligation would be paid.

On 13 April 1994, respondent filed an Amended Complaint impleading Grace as defendant.

On 27 March 1998, the trial court rendered a Decision<sup>[8]</sup> in favor of respondent. The trial court held that respondent proved that she owned the jewelry and that the pawnshop owners unlawfully deprived her of its possession. The trial court was convinced that respondent entrusted the jewelry to Sanio for sale on commission with the ownership remaining with respondent until full payment of its value. The trial court found that the agreement was for Sanio to sell the jewelry within 30 days. Should the pieces of jewelry be sold, respondent was to deposit or encash the checks issued by Sanio. If the jewelry were not sold, they should be returned to respondent. The trial court did not give credence to Grace's claim of good faith in possessing the jewelry.

The trial court disposed as follows:

WHEREFORE, premises considered, decision is hereby rendered in favor of the plaintiff and against the defendants ordering the defendants to deliver to the plaintiff all the jewelries described in the pawn tickets marked as Exhibits "A", "B", "C", "D", "E" and "F", and in case delivery cannot be had, to pay plaintiff the value thereof of P250,000.00 plus P25,000.00 for attorney's fees, P5,000.00 as litigation expenses and to pay costs.

SO ORDERED.<sup>[9]</sup>

Thereafter, the trial court furnished Atty. Oliver Olaybal ("Atty. Olaybal"), then counsel for petitioners Wilfredo and Grace, a copy of the decision by registered mail at his then office address at Pecson Building, Rizal Street, Legazpi City.

From 29 March 1998 until 20 April 1998, the lone office clerk of Atty. Olaybal, Julie Espinosa ("Espinosa"), took a leave of absence from work.

From 2 to 16 April 1998, Atty. Olaybal was sick with influenza and was unable to go to his office. Since there was no one to man the law office of Atty. Olaybal, it was closed from 2 to 16 April 1998.

Meanwhile, on 2 April 1998, since the office of Atty. Olaybal was closed, the postman delivered the copy of the trial court's decision to Bernadeth Faye Alamares ("Alamares"). Alamares was a clerk of Asaphil Corporation whose office is adjacent to Atty. Olaybal's. Alamares received the Decision and signed the corresponding registry return card.

On 17 April 1998, a Friday, Atty. Olaybal reported for work. Alamares subsequently turned over the mails she received, including the decision, to Atty. Olaybal.

Atty. Olaybal asked from Alamares the exact date when she received the Decision. Alamares replied that to her recollection it was before the holidays, referring to 9 April 1998 (Bataan Day). Atty. Olaybal concluded from Alamares' recollection that

she received the decision on 8 April 1998 and mistakenly thought that the end of the reglementary period to perfect an appeal fell on 23 April 1998.

On 20 April 1998, the next business day, Atty. Olaybal filed with the trial court a Notice of Appeal of the decision.

On 30 April 1998, Atty. Olaybal received an Order dated 23 April 1998 dismissing the appeal for being filed out of time.

On 8 May 1998, Atty. Olaybal filed a Petition for Relief<sup>[10]</sup> pleading mistake and excusable negligence for failure to perfect an appeal within the reglementary period and praying that the appeal be given due course.

On 25 September 1998, the trial court issued two Orders dismissing the Petition for Relief<sup>[11]</sup> and issuing a Writ of Execution.<sup>[12]</sup>

On 1 October 1998, petitioners filed a motion for reconsideration of the Orders, which the trial court denied in an Order dated 18 November 1998.<sup>[13]</sup>

Petitioners filed with the Court of Appeals a petition for *certiorari*<sup>[14]</sup> assailing the Orders of the trial court dismissing the petition for relief and denying the motion for reconsideration.

In its Resolution dated 26 January 1999,<sup>[15]</sup> the Court of Appeals dismissed the petition for certiorari and affirmed the Orders of the trial court. Petitioners filed a motion for reconsideration, which the Court of Appeals denied in its Resolution dated 21 June 1999.<sup>[16]</sup>

Hence, this petition.

Meanwhile, Wilfredo died on 1 May 1999.<sup>[17]</sup> Thus, his heirs substituted him in this petition.<sup>[18]</sup>

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

The Court of Appeals upheld the trial court's findings and ruled that the assailed orders of the trial court are in accord with jurisprudence. The Court of Appeals held that the trial court issued the orders in the exercise of its sound discretion. Moreover, the petitioners failed to establish the existence of the requirements under Rule 38 of the Rules of Court for the granting of relief.

### **The Issues**

In their Memorandum, petitioners raise the following issues for resolution:

#### **I**

WHETHER THERE WAS VALID SERVICE OF THE LOWER COURT'S DECISION DATED 27 MARCH 1998 ON PETITIONERS OR THEIR COUNSEL, WHICH WAS COURSED THROUGH M[S]. ALAMARES, AN

EMPLOYEE OF ASAPHIL CORPORATION WITH OFFICE ADJACENT TO,  
HENCE A NEIGHBOR OF PETITIONERS' COUNSEL.

## II

WHETHER THE MISTAKE OR NEGLIGENCE BY NEIGHBOR MS. ALAMARES  
VIS-À-VIS HER RECOLLECTION OF HER RECEIPT OF THE LOWER  
COURT'S DECISION IS BINDING ON PETITIONERS AND THEIR COUNSEL.

## III

ASSUMING ARGUENDO THAT IT WAS BINDING, WHETHER MS.  
ALAMARES' FAILED RECOLLECTION OF ACTUAL RECEIPT OF THE  
DECISION CONSTITUTES MISTAKE OR EXCUSABLE NEGLIGENCE.

## IV

WHETHER UNDER THESE CIRCUMSTANCES, PETITIONERS' COUNSEL'S  
ERRONEOUS OBTENTION OF INFORMATION FROM MS. ALAMARES  
CONSTITUTES MISTAKE OR EXCUSABLE NEGLIGENCE WARRANTING  
RELIEF FROM JUDGMENT.

## V

WHETHER BASED ON THE FOREGOING CIRCUMSTANCES AND THE  
STRONG MERIT OF PETITIONERS' APPEAL, THE HARSH APPLICATION OF  
THE RULE ON APPEAL PERIOD BE SET ASIDE BY THIS COURT IN THE  
EXERCISE OF ITS POWER TO INTERPRET LIBERALLY THE RULES.<sup>[19]</sup>

The fundamental issue in this case is whether the service of the trial court's decision  
was valid and binding on petitioners.

### **The Court's Ruling**

We grant the petition.

We agree with petitioners' contention in their Memorandum<sup>[20]</sup> that there was no  
valid service of the trial court's 27 March 1998 decision. The pertinent provisions of  
the Rules of Court governing service of decisions are clear.

Section 2 of Rule 13 provides:

SEC. 2. Filing and service, defined. – xxx

**Service is the act of providing a party with a copy of the pleading  
or paper concerned. If any party has appeared by counsel,  
service upon him shall be made upon his counsel or one of them,**  
unless service upon the party himself is ordered by the court. xxx  
(Emphasis supplied)

Section 7 of Rule 13 provides: