

THIRD DIVISION

[G.R. No. 147029, February 27, 2004]

SPOUSES LEONARDO P. DIMACULANGAN AND LUZ DIMACULANGAN, SPOUSES NORBERTO M. VILLALUNA AND MILAGROS VILLALUNA, ROSAURO K. HERNANDEZ, SPOUSES FLORENTINO C. REYES, JR. AND LOLITA REYES, PETITIONERS, VS. VIRGINIA AQUINO ROMASANTA, ROSALINDA A. BALAGTAS, GLORIA A. SANTOS, REBECCA A. LEDESAMA, VALENTINA A. INOCENTES, ROMAN AQUINO, RODOLFO AQUINO AND VIOLETA A. FOJAS, SUBSTITUTED BY ROYAL MOLUCCAN REALTY HOLDINGS, INC., RESPONDENTS.

D E C I S I

CARPIO MORALES, J.:

The present petition for review on certiorari seeks to set aside and nullify the January 31, 2001 decision of the Court of Appeals in CA-GRCV. No. 58048.

The antecedents of the case culled from the records are as follows:

On November 11, 1954, Roman Aquino, owner of a parcel of land located in San Mateo, Norzagaray, Bulacan, containing 75 hectares, 51 ares and 12 centares and registered in his name under Original Certificate of Title No. 6 issued by the Register of Deeds of Meycauayan, Bulacan, together with his wife Valentina Bernardo Aquino executed a Deed of Absolute Sale covering the land in favor of the spouses Juan and Esperanza Fabella (spouses Fabella or the Fabellas) in consideration of P17,500.00. The real agreement of the parties, however, was one of mortgage to secure the payment of a loan extended by the Fabellas in favor of the Aquinos.

By virtue of the Deed of Absolute Sale, Juan Fabella was able to transfer the title of the land to his name, under Transfer Certificate of Title (TCT) No. 15770.

Juan Fabella later sold the land to the siblings Saturnino, Domingo, Raymundo and Rosie D. Liwanag (Liwanag group) in consideration of P40,000.00. TCT No. 15770 was thus cancelled and TCT No. 17592 was in its stead issued in the name of the Liwanag group.

On September 9, 1956, Valentina, on her behalf and in her capacity as administratrix of the estate of her deceased husband Roman Aquino, filed before the then Court of First Instance of Bulacan a complaint against the Fabellas for **reformation of the Deed of Absolute Sale to Deed of Mortgage, cancellation of TCT Nos. 15770 and 17592, and damages**, which complaint was docketed as **Civil Case No. 1376-M**. Valentina lost no time in causing the annotation of a Notice of *Lis Pendens* on the Liwanag group's TCT No. 17592 at the local Registry of Deeds which recorded it as follows:

Entry No. 36645;
Kind: Notice of Lis Pendens;
Executed in favor of: Valentina Bernardo Vda. de Aquino;
Conditions: A complaint has been filed in Court (Civil Case No. 1376, Court of First Instance of Bulacan), affecting the parcel of land herein described and now pending;
Date of the Instrument: Oct. 9, 1956;
Date of Inscription: Oct. 9, 1956 at 9:40 a.m.

xxx^[1]

The Liwanag group moved to intervene in Civil Case No. 1376-M which was granted by the trial court on March 4, 1961.

After Valentina rested her case in court, the defendants Fabellas, instead of presenting evidence, filed a Manifestation dated July 17, 1968, the pertinent portion of which reads:

2. x x x x

3. That however, in fairness to the plaintiff, **herein defendants confirm plaintiffs testimony to the effect, among others, that the true intention and real agreement between her and herein defendants with respect to the property in litigation has always been one of mortgage** to secure the payment of the original consolidated loan of P16,500.00 pesos extended by the defendants ESPERANZA VDA. DE FABELLA to the plaintiff and her deceased husband ROMAN AQUINO, **but not a sale of said property to defendant JUAN FABELLA;**

4. x x x x

5. That with plaintiffs case already rested and on the basis of the foregoing manifestation and **confession of judgment**, herein defendants respectfully submit this case for decision. x x x.^[2]
(Emphasis and underscoring supplied)

The Liwanag group subsequently filed on November 21, 1968 a Manifestation stating that the "confession of judgment [contained in the partly quoted Manifestation of the Fabellas] appears to have been executed under oath by defendants alone and does not show whether the same was prepared and filed with the assistance and/or consent of their counsel as the latter has no signature thereon," hence, its [Liwanag group] filing of a Manifestation "in order to insure whether the confession of judgment was prepared and filed [by the Fabellas] knowing the full meaning of the same, to afford the intervenor [Liwanag group] opportunity to amend [its] pleadings in accordance therewith; and to determine whether [the Fabellas] may be proceeded against for violation of the provisions of the Revised Penal Code."^[3]

On October 31, 1971, Valentina filed a "Motion to Render Judgment," which was set for hearing on February 22, 1972 on which latter date, however, the parties failed to appear despite notice, prompting the trial court^[4] to dismiss the case.^[5]

Both Valentina and the Liwanag group moved to reconsider the dismissal order.

In the meantime or on August 24, 1972, Valentina died.^[6]

By Order of August 31, 1972, the trial court reconsidered the February 22, 1972 order dismissing the case.

By Order of October 31, 1972, the trial court, under a new presiding judge,^[7] noted that during the hearing of the case on October 26, 1972, "only Camalayan, for the office of K. V. Faylona, appeared and manifested that he was submitting the case for the intervenor without submission of any evidence inasmuch as the defendant Esperanza Vda. de Fabella had confessed judgment as of July 2, 1968 in favor of intervenor Liwanag in the amount of P15,000.00." The trial court concluded its order by stating that "if no request to submit memorandum is received, within ten days from receipt hereof, the case will be deemed submitted for decision."

About four years later or on October 18, 1976, the trial court, under a new presiding judge,^[8] issued an order calling the parties to an annual conference and setting the same to November 13, 1976. The parties, however, failed to appear at said scheduled conference of November 13, 1976, drawing the trial court to, on even date, consider them as lacking interest "to proceed with this case."^[9] The trial court thereupon ordered the case dismissed "for failure to prosecute." Before the court adjourned its session, the counsel of Valentina arrived and verbally moved to reconsider the order of dismissal. The trial court thereafter issued the following order:

After the case was ordered dismissed for failure of the parties and their counsels to appear and before the Court adjourned its session, Atty. Arsenio L. Cabrera came in to move for a reconsideration of the order of dismissal. Considering this has been pending for twenty (20) years and the Court is now busy trying other cases, **the Court believes that the movant should better be given ten (10) days from today to submit his written motion for reconsideration stating therein the history of the case and the reason why the order of dismissal should be set aside. A copy of such motion should be furnished the defendants who shall have five (5) days from receipt of a copy thereof to reply thereto, if they so desire and thereafter, the motion for reconsideration shall be submitted for resolution.**^[10]
(Emphasis supplied)

It appears, however, that no written motion for reconsideration was ever filed by Valentina's counsel.

In the meantime, the Liwanag group offered to sell the property to herein petitioners spouses Leonardo and Luz Dimaculangan, et al. Upon noting the notice of *lis pendens* annotated on the Liwanag group's TCT No. 17592, petitioners imposed the condition that such annotation must first be cancelled before they consider the offer.^[11]

Lawyer-real estate broker Florentino Reyes, Jr., one of herein petitioners, thereafter helped ^[12] the Liwanag group secure a certification^[13] dated January 27, 1977,

issued by one "Spl. Deputy Clerk" Serafin R. Santos, who appears to have been a court interpreter of the Court of First Instance of Bulacan, Branch I, reading:

This is to certify that the Order issued by this Court on November 13, 1976 [dismissing] Civil Case No. 1376-M, entitled VALENTINA BERNARDO DE AQUINO, Versus ESPERANZA VDA. DE FABELLA. et al., SATURNINO LIWANAG, et al., Intervenors, is already final and executory.

Issued upon request of Rosie D. Liwanag of 1167 Antipolo cor. J.A. Santos, Tondo, Manila for all legal intents and purposes. (Emphasis and underscoring supplied)

On the basis of the above-mentioned certification, the following entry was annotated on TCT No. T-17592:

Entry No. 3629 (M). Kind: Order of the Court of First Instance of Bulacan, Branch I, dismissing Civil Case No. 1376-M, VALENTINA BERNARDO DE AQUINO versus ESPERANZA VDA. DE FABELLA, Defendants, for failure to prosecute, which Order has become final and executory as per Certificate of the Deputy Clerk of Court dated January 27, 1977, copies of which are on file with this Office. Date of Instrument: November 13, 1976; Date of Inscription: January 27, 1977 at 10:40 a.m.^[14]

On June 1, 1978, the Registry of Deeds of Meycauayan, Bulacan issued the following certification:^[15]

This is to certify that according to the records available in this Office, the original of **Transfer Certificate of Title No. T-17592** (T-2942 (m), Bulacan Registry, (Meycauayan Branch), is complete and intact; and that **there are no liens and/or encumbrance appearing at the time of the issuance of this certificate.**

Issued at the request of Mr. Domingo Liwanag, of Tondo Manila, who paid the certification fee of P3.00 under O.R. No. 0923146, issued on June 1, 1978. (Emphasis and underscoring supplied)

On August 10, 1978, the Liwanag group executed a Deed of Absolute Sale^[16] covering the land in favor of petitioners.

TCT No. T-17592 was thus cancelled on August 11, 1978 and TCT No. T-1702-P was in its stead issued in the name of petitioners.^[17]

On February 16, 1983, the Aquino children (respondents-heirs of Valentina) filed a motion to set aside the order of dismissal issued on November 13, 1976 (for failure of the parties to appear for the annual conference) at Branch 8 of the now Regional Trial Court where the case was eventually lodged, anchored on the following grounds:

x x x

7. That, the apparent reason as to why Atty. Arsenio M. Cabrera, counsel for plaintiff Valentina B. Vda. de Aquino, was not

so able to file his promised Motion to Set Aside Order of Dismissal, was that **plaintiff had already died** as evidenced by her Certificate of Death, certifying that she died on AUGUST 24, 1972, EXHIBIT "A" of Motion for Substitution of plaintiff, and for which reasons, she was unable to appear anymore on November 13, 1976 when so called for conference by then Honorable Fidel L. Purisima, on which date the above-entitled case was ordered dismissed for failure to prosecute;

8. That, plaintiffs now most respectfully submit that the **then plaintiff Valentina B. de Aquino had already prosecuted her case, duly submitted and closed her case** and it was then for the defendants and intervenors to present their evidence, which by reason of technicalities of the law and dilatory tactics resorted to by said defendants and intervenors, the above-entitled case had up to the present remained pending;

9. That, it is further respectfully submitted that Sec. 6 of Rule 22 of the Rules of Court refers to annual conference on pending cases, and with due respect to this Honorable Court, the said conference is a matter of an administrative ways and means in order to justifiable termination of all cases pending before courts of justice and **does not become a ground for dismissal** of any case on the basis of parties' and counsels' non-appearance in said conference. x x x"^[18] (Emphasis and underscoring supplied)

The motion was denied by Order of June 7, 1983.

Respondents-heirs of Valentina filed a Motion for Reconsideration of said June 7, 1983 Order which was, by Order of August 26, 1986, by again a new presiding judge,^[19] granted on the ground that respondents-heirs of Valentina did not fail to prosecute the case.^[20] Said the trial court:

First for reconsideration is the issue of whether the dismissal done in open court by then Judge Purisima has ever become final. Nowhere in the record does it show that the motion for its reconsideration interposed immediately after the dismissal has been resolved. It is true that counsel for the plaintiffs failed to file within the extended time the **formal motion as required by then Judge Purisima** in his order, but after a scrutinizing second look at the circumstances, the court now believes that **such failure should not be held to have resulted in the cancellation or withdrawal of the standing verbal motion**. A careful perusal of said order reveals that it was not meant to disregard the oral motion but to afford the then presiding judge, who was still unfamiliar with the progress of the case, the opportunity to be better apprised of its history and development. Proof enough that the judge needed a briefing is the fact that he dismissed the case "for failure to prosecute" when the voluminous record shows that there had already been several incidents, and in fact, trial, particularly the presentation of evidence by the plaintiff, and the confession of judgment by the defendant, had taken place before he became a judge of this court. In fact, the record reveals that the plaintiff has submitted an unusual bulk of documentary evidence