

## FIRST DIVISION

[ G.R. No. 157219, May 28, 2004 ]

**NATIVIDAD E. BAUTISTA, CLEMENTE E. BAUTISTA AND SOCORRO L. ANGELES, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, MANILA PAPERMILLS, INTERNATIONAL, INC., ADELFA PROPERTIES, INC. AND SPOUSES RODOLFO JAVELLANA AND NELLY JAVELLANA, RESPONDENTS.**

### D E C I S I O N

#### **YNARES-SATIAGO, J.:**

This is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure, seeking the reversal of the decision of the Court of Appeals in CA-G.R. SP No. 72307 dated February 17, 2003.<sup>[1]</sup>

The facts are not in dispute.

On August 12, 1999, petitioners Natividad E. Bautista, Clemente E. Bautista and Socorro L. Angeles filed a complaint against respondent Manila Papermills, International, Inc., before the RTC of Imus, Cavite, Branch 22, docketed as Civil Case No. 1948-99, for quieting of title.<sup>[2]</sup> This complaint was later amended to implead respondents Adelfa Properties, Inc. and the spouses Rodolfo and Nelly Javellana.<sup>[3]</sup>

Petitioners alleged in their Amended Complaint that they have been in actual and uninterrupted possession of Lot 5753 of the Imus Estate; that they discovered that the land was covered by a reconstituted title in the name of respondents; and that the said title and the derivatives thereof are spurious. Hence, they prayed that they be declared the absolute owners of the land in dispute.

After several delays spanning more than two years, the case was finally set for trial. However, on May 2, 2002, petitioners filed an Urgent Motion for Postponement to cancel the hearing on the ground that Atty. Michael Macaraeg, the lawyer assigned to the case was in the United States attending to an important matter.

The trial court denied petitioners motion for postponement and considered them as having waived the presentation of their evidence.

Petitioners filed a Motion for Reconsideration, which was denied. Petitioners filed a special civil action for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 72307. On February 17, 2003, the Court of Appeals denied due course to the petition for certiorari and dismissed the same.

Hence, this petition on the following assignment of errors:

1. The respondent Court of Appeals erred in failing to consider the partiality and prejudice of the trial court against the petitioners since the inception of the case thereby depriving the petitioners of their constitutionally guaranteed right to due process (*Padua vs. Ericta*, 161 SCRA 458);
2. As a consequence, the respondent appellate court denied the petitioners of their chance to present evidence even after satisfactorily explaining the failure of petitioners' counsel to attend the scheduled hearing the due process guarantee was violated (*Continental Leaf Tobacco [Phil.], Inc. vs. Intermediate Appellate Court*, 140 SCRA 269).<sup>[4]</sup>

Petitioners claim that the arbitrary acts of the trial court have resulted in the denial of their right to due process, and that the Court of Appeals erred in holding that the trial court did not commit grave abuse of discretion in issuing the challenged Orders.

Petitioners further aver that the trial judge displayed "noticeable partiality and prejudice" in dealing with their case, by granting several continuances to respondents while denying petitioner's Urgent Motion for Postponement.<sup>[5]</sup> They cite four instances wherein respondents were granted extensions to file responsive pleadings and two instances wherein respondents' requests for postponement were similarly granted.<sup>[6]</sup> An extension to file a responsive pleading is clearly different from a request for a postponement of trial. The former is less likely to waste the time of the court, the litigants, their counsels and witnesses who may have already prepared for the trial and traveled to the courthouse to attend the hearing. More specifically, out of the two postponements prayed for by respondents, one was for the cancellation of a court date unilaterally requested by petitioners which has not been approved by the trial court.<sup>[7]</sup>

On the other hand, the trial court, in its Order dated July 2, 2002, clearly stated that petitioners' motions for postponement on three previous occasions were granted.<sup>[8]</sup> This was never refuted by petitioners. Petitioners' last motion for postponement was, however, denied because it was filed on the very date of the hearing sought to be rescheduled.<sup>[9]</sup>

In *Gohu v. Spouses Gohu*,<sup>[10]</sup> we ruled that, far from being tainted with bias and prejudice, an order declaring a party to have waived the right to present evidence for performing dilatory actions upholds the court's duty to ensure that trial proceeds despite the deliberate delay and refusal to proceed on the part of one party.<sup>[11]</sup>

Petitioners' contention that they were denied due process is not well-taken. Where a party was afforded an opportunity to participate in the proceedings but failed to do so, he cannot complain of deprivation of due process. Due process is satisfied as long as the party is accorded an opportunity to be heard. If it is not availed of, it is deemed waived or forfeited without violating the constitutional guarantee.<sup>[12]</sup>

Moreover, the grant of a motion for continuance or postponement is not a matter of right. It is addressed to the sound discretion of the court. Action thereon will not be disturbed by appellate courts, in the absence of clear and manifest abuse of discretion resulting in a denial of substantial justice.<sup>[13]</sup> In other words, we cannot make a finding of grave abuse of discretion simply because a court decides to