

SECOND DIVISION

[G.R. No. 143216, February 27, 2003]

CLEOFFE NORRIS, REPRESENTED BY HER ATTORNEY-IN-FACT, LUIS T. FERNANDEZ, PETITIONER, VS. HON. JOSE J. PARENTELA, JR., IN HIS CAPACITY AS EXECUTIVE JUDGE, RTC OF TRECE MARTIREZ CITY, BRANCH 23, AND THE HEIRS OF THE LATE ALEJANDRO CUBOL, REPRESENTED BY CARMELA, EUTEQIO,^[1] DIONISIO AND MARIANO, ALL SURNAMED CUBOL, RESPONDENTS.

RESOLUTION

QUISUMBING, J.:

This petition for review assails the resolution^[2] dated December 6, 1999 of the Court of Appeals in CA-G.R. SP No. 55692 dismissing petitioner's appeal under Rule 65 of the Rules of Court, as well as the resolution^[3] dated May 11, 2000, denying petitioner's motion for reconsideration.

The facts are as follows:

On April 4, 1977, private respondents, heirs of Alejandro Cubol, purchased from the government Lot No. 2678, FLS. 325, S.C. de Malabon Estate, Cavite and registered it in their name on September 5, 1977 under Transfer Certificate of Title (TCT) No. 92049. However, through fraud, spouses Adelaida and Conrado Kalugdan had the said TCT cancelled and on October 4, 1977, TCT No. T-93113 was issued in their name. Thereafter, said spouses sold the property to petitioner Cleoffe Norris who was issued TCT No. T-171266 on July 23, 1984.

On August 27, 1997, private respondents filed a complaint for annulment/cancellation of titles and damages docketed as Civil Case No. TM-768 with the Regional Trial Court, Fourth Judicial Region, Branch 23 of Trece Martirez City. Summons was served upon petitioner through substituted service by Sheriff Joaquin R. Espinelli. Petitioner failed to answer. The trial court declared her in default on June 11, 1998. Ex-parte proceedings were then held before legal researcher Josephine S. Abuzo-Ilogon, then acting as Clerk of Court. Before she submitted her report on November 20, 1998, the trial court decided the case on November 13, 1998 declaring null and void Kalugdan and petitioner's title. The judgment reads:

WHEREFORE, in view of the foregoing consideration, judgment by default is hereby rendered in favor of the plaintiff and against the defendants, viz:

a) Declaring T.C.T. # 93113 issued in the name of Spouses Adelaida and Conrado Kalugdan null and void;

- b) Declaring T.C.T. # 171266 in the name of Spouses Cleofe and Stanley Norris null and void;
- c) Directing the defendant Register of Deeds for the Province of Cavite to cancel T.C.T. # 171266 in the name of Spouses Cleofe and Stanley Norris;
- d) Directing the Register of Deeds for the Province of Cavite to RESTORE and REINSTATE T.C.T. No. T-92049 in the names of the plaintiffs as heirs of the late Alejandro Cubol;
- e) Ordering the defendants to pay plaintiffs the sum of P30,000.00 as and for attorney's fees plus the costs of suit.

SO ORDERED.^[4]

The Register of Deeds did not reinstate the old title but issued a new one in the name of private respondents.

On April 30, 1999, petitioner filed a petition for relief from judgment. Private respondents moved to dismiss it on the ground of absence of certification against forum shopping. The motion was granted on July 14, 1999. Petitioner filed a motion for reconsideration but this was denied because of the absence of notice of hearing addressed to the parties.

On November 8, 1999, petitioner elevated the matter to the Court of Appeals through a petition for certiorari under Rule 65 of the Rules of Court. The petition was dismissed, in this wise:

An examination of the petition reveals that (1) petitioner failed to indicate in the petition the date when her Attorney-in-Fact Luis T. Fernandez received copy of the July 14, 1999 Order sought to be vacated, thus preventing this Court from ascertaining if the petition was filed on time, as required under Rule 65 of the 1997 Rules of Civil Procedure, as amended; (2) said assailed Order of July 14, 1999 is a mere photocopy; and (3) except for the registry receipts attached to the petition, no Affidavit of Service was executed to show why service upon respondents was done by registered mail.

WHEREFORE, for being insufficient in form and substance, the petition for review (on certiorari) should be, as it is hereby, DENIED DUE COURSE and accordingly DISMISSED.

SO ORDERED.^[5]

The motion for reconsideration was likewise denied, hence this petition where it is averred that the Court of Appeals gravely abused its discretion and committed reversible error in:

- I. ... APPLYING IN A VERY RIGID AND TECHNICAL SENSE THE RULES OF PROCEDURE, UNDER RULE 65 OF THE RULES OF COURT, THEREBY DEPRIVING PETITIONER OF HER RIGHT TO BE AFFORDED THE AMPLEST OPPORTUNITY FOR THE PROPER AND JUST DISPOSITION OF HER CASE, CONTRARY TO THE RULINGS OF THIS HONORABLE COURT IN *CARMEN SI[G]UENZA VS. COURT OF*

APPEALS, G.R. NO. L-44050, JULY 16, 19^[8]5 AND IN DOLORES BAGALANON, ET AL VS. COURT OF APPEALS, ET AL., G.R. NO. L-43043, MARCH 31, 1977.

II. ... NOT RULING THAT THE ORDERS DATED JULY 14, 1999 AND SEPTEMBER 3, 1999 OF THE TRIAL COURT WERE ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND THEREFORE ARE NULL AND VOID.

III. ... NOT RULING THAT TRANSFER CERTIFICATE OF TITLE NO. 171266 REGISTERED IN THE NAME OF PETITIONER, AN INNOCENT PURCHASER FOR VALUE, IS INDEFEASIBLE FOR HAVING GONE THROUGH A CHAIN OF REGISTRATION UNDER THE TORRENS SYSTEM.

In sum, the issue for our consideration is whether the appellate court committed reversible errors in the application of Rule 65 of the Rules of Court, with the result that allegedly (a) it erred in not finding that the trial court gravely abused its discretion in its orders dated July 14 and September 3, 1999; and (b) it erred in not holding that the TCT No. 171266 in petitioner's name is indefeasible.

Petitioner argues that the Court of Appeals erred in applying strictly the rules of procedure, contrary to our rulings in *Siguenza vs. Court of Appeals*, 137 SCRA 570 (1985) and *Bagalanon vs. Court of Appeals*, 76 SCRA 233 (1977).

In *Siguenza*, petitioner's motion for reconsideration was declared *pro forma* by the trial court because it was not accompanied by an affidavit of merit and verification. Also, the record on appeal was filed thirteen (13) days late. Accordingly, the Court of Appeals disapproved the appeal. The case was elevated to us. We allowed the filing of petitioner's appeal and held that rules of procedure should not be applied in a very rigid and technical sense to serve the demands of substantial justice, especially in this case where the appeal appeared to be impressed with merit.

In *Bagalanon*, the Court of Appeals denied the petition for review because it was filed two (2) days late. However, we ordered the appellate court to reinstate the petition applying the same doctrine of liberal application of procedural rules to avoid a possible denial of substantial justice.

Petitioner invokes the above rulings in her petition, claiming that although her petition before the Court of Appeals was filed late and was not accompanied by an affidavit of service, her petition was meritorious. She said that due to a void judgment in default by the trial court, she was unjustly deprived of property duly registered in her name.

In their comment, private respondents counter that rules of procedure should not be taken lightly. Citing *Santos vs. Court of Appeals*, 198 SCRA 806 (1991), private respondents stress the importance of adjective law for it is a tool for the effective enforcement of substantial rights through orderly and speedy administration of justice. Procedural rules are not intended to hamper litigants but to provide a system under which a suitor may be heard in the correct form and manner at the prescribed time. Private respondents maintain that lawyers should keep abreast of Supreme Court decisions, circulars and other issuances relating to procedure.