

## THIRD DIVISION

[ G.R. No. 139020, October 11, 2000 ]

**PAQUITO BUAYA, PETITIONER, VS. STRONGHOLD INSURANCE CO., INC., RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

Courts are duty-bound to put an end to controversies. Any attempt to prolong, resurrect or juggle them should be firmly struck down. The system of judicial review should not be misused and abused to evade the operation of final and executory judgments. Moreover, the remand of a case does not nullify the entire proceedings. It merely authorizes the trial court to receive additional evidence, not to conduct a trial *de novo*.

### The Case

Before us is a Petition for Review on Certiorari of the August 28, 1998 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-GR CV No. 52999, dismissing Petitioner Paquito Buaya's appeal of the trial court's Order dated November 13, 1995, which denied his Petition for Relief. The assailed Decision disposed as follows:

"IN THE LIGHT OF ALL THE FOREGOING, the Appeal is DISMISSED. The Order appealed from is AFFIRMED. With costs against the Appellant."<sup>[2]</sup>

### The Facts

The facts of this case are as follows:<sup>[3]</sup>

"On July 31, 1985, x x x Stronghold Insurance Company, Inc., the [respondent] in the present recourse, filed a complaint against Paquito B. Buaya, its erstwhile [b]ranch [m]anager for Cebu and the [petitioner] in the present recourse, for the collection of the principal amount of P678,076.83, representing his unremitted premium collections owing to the [respondent]. For failure of the [petitioner] and his counsel to appear at the scheduled pre-trial, the [petitioner] was declared x x x in default, and the [respondent] was allowed, by the [c]ourt, to adduce its evidence, *ex parte*. On the basis of the evidence of the [respondent], the Court *a quo* promulgated a Decision, dated September 17, 1987, in favor of the [respondent], the decretal portion of which reads as follows:

'WHEREFORE, judgment is hereby rendered in favor of the [respondent] and against the [petitioner] ordering the latter to pay the former the sum of P678,076.83 plus legal interest thereon from the filing of the complaint until fully paid; the

sum equivalent to 25% of [respondent's] claim as and for attorney's fees plus the cost of suit.

SO ORDERED.' (at page 135, Records).'

The [petitioner] appealed, from said Decision, to [the CA], entitled and docketed 'Stronghold Insurance Co., Inc., versus Paquito B. Buaya, CA-GR. No. 17329.' On March 30, 1990, this [c]ourt promulgated a Decision in favor of the [petitioner] annulling the Decision of the [c]ourt *a quo* and remanding the case to the lower [c]ourt for further proceedings. (at page 154, Records). The Decision of this [c]ourt became final and executory. Accordingly, the [c]ourt *a quo* issued an Order setting the case for hearing on December 13, 1990 at 8:30 o'clock in the morning (at page 169, Records). The [petitioner] himself filed a 'Motion for Postponement' of the hearing. [Petitioner's] motion was granted by the [c]ourt *a quo* and the hearing was reset [to] February 15, 1991, at 8:30 in the morning. However, the hearing was reset to March 14, 1991, at the same time, on motion of the [respondent] (at page 180, Record). The [petitioner] himself filed a 'Motion for Postponement' of the hearing set on March 14, 1991 on the ground that his [c]ounsel, Atty. Bartolome A. Avancena, had died and [petitioner] needed time to engage the services of new counsel. The hearing was reset to May 16, 1991 at the same time (at page 187, Record). However, the [petitioner] filed another motion for the resetting of said hearing on the ground that he needed [more] time to secure the services of new counsel. The hearing was reset to July 26, 1991, at the same time. But then, the [petitioner] filed another motion for the postponement of said hearing on the ground that 'he was weak and sickly'. However, the [respondent] opposed [petitioner's] motion. Nevertheless, the [c]ourt reset the hearing to November 29, 1991, at the same time, but subject to the condition that if, for any reason, the [petitioner] still failed to appear on said setting, such failure shall be deemed a waiver of his right to present evidence (at page 250, Records). On November 27, 1991, Atty. Manuel Maranga, the new counsel of the [petitioner], filed a 'Motion to Postpone'. The [respondent] opposed [petitioner's] motion. On December 19, 1991, the [c]ourt *a quo* issued an Order denying [petitioner's] motion and declaring the [petitioner] to have waived his right to adduce evidence in his behalf (at page 222, Record). The [respondent] forthwith filed a motion praying the [c]ourt to reinstate its Decision, dated September 17, 1987. The [petitioner] filed a 'Motion for Reconsideration' of the Order of the [c]ourt *a quo*, dated December 19, 1991. On March 18, 1992, the [c]ourt *a quo* issued an Order denying [petitioner's] 'Motion for Reconsideration' and granting [respondent's] motion for the reinstatement of its Decision, dated September 17, 1987. The [petitioner] filed a 'Petition for Certiorari' with [the CA], entitled and docketed as 'Paquito Buaya versus Hon. Fernando Agdamag, et al., [.] CA-G.R. No. 27814 (SP), assailing the Orders of the [c]ourt *a quo*, dated December 19, 1991 and March 18, 1992. On August 24, 1992, [the CA] promulgated a Decision dismissing [petitioner's] Petition for lack of merit (at page 261, Record). The Decision of this [c]ourt became final and executory on June 28, 1993 (at page 282).<sup>[4]</sup> On [m]otion of the [respondent], the [c]ourt *a quo* issued an Order, dated October 29, 1993, directing the issuance of a [W]rit of [E]xecution (at page 298, Record).

The [petitioner] filed a 'Motion for Reconsideration' of said Order, dated October 29, 1993. On March 16, 1995, the [c]ourt *a quo* issued an Order denying motion (at pages 359-360, Record). On April 12, 1995, the [petitioner] filed a 'Notice of Appeal' from said Order. However, on May 11, 1995, the [c]ourt [*a quo*] issued an Order declining to give due course to the appeal of the [petitioner] considering that the Decision of the [c]ourt had already become final and executory (at page 365, Record). On June 2, 1995, the [c]ourt *a quo* issued a Writ of Execution. On July 27, 1995, the [petitioner] filed a 'Petition for Relief from Order'. On November 13, 1995, the [c]ourt *a quo* issued an Order denying the Petitioner's 'Petition for Relief.'

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

The CA denied petitioner's appeal which centered on these issues: (1) whether the September 17, 1987 Decision of the trial court had become final and executory, and (2) whether the failure of petitioner to inform his new counsel of the status of the case before the trial court constituted "mistake and excusable negligence."

In view of the amount involved in the collection suit, the CA disbelieved petitioner's contention that he had failed to apprise his counsel of the status and the particulars of the case in the trial court. Granting *arguendo* that he did make such omission through sheer inadvertence, his counsel was duty-bound to familiarize himself with the case before accepting the same, specially because litigation had already commenced. Such omission did not constitute "mistake or excusable negligence" that would have entitled him to relief from the trial court's judgment. Thus, he deserved to suffer the consequences of his own mistake or omission.

Noting that the validity of the March 18, 1992 Order of the trial court reinstating its September 17, 1987 Decision had been affirmed by both the CA and the Supreme Court, the CA also condemned the penchant of petitioner for resurrecting the same issues. Hence, his appeal was solely designed to further derail the execution of the lower court's Decision.

Besides, the present posture of petitioner is antithetical to his earlier "Petition for Relief from Order," which was denied by the trial court. In filing said action for relief, he was admitting that the Decision of the trial court had become final and executory. Hence, he cannot claim the Decision's nullity.

Hence, this Petition.<sup>[5]</sup>

### **Issues**

Petitioner interposes the following issues for resolution:<sup>[6]</sup>

"I -Petitioner is presenting in this petition a question of law which is believed or which appears to be one of first impression, namely: Can a decision of a Regional Trial Court which is annulled by the Court of Appeals be reinstated by the trial court which rendered the decision or any trial court for that matter and thereafter order its execution?

"II When the decision of a trial court is annulled by the Court of