Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES, represented by the PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG),
Petitioner,

- versus -

TRINIDAD DIAZ-ENRIQUEZ, LEANDRO ENRIQUEZ, ERLINDA ENRIQUEZ-PANLILIO, ALLAN E. PANLILIO, JOSE MARCEL E. PANLILIO, KATRINA E. PANLILIO, NICOLE P. MORRIS, IMELDA R. MARCOS, MA. IMELDA MARCOS-MANOTOC, FERDINAND R. MARCOS, JR., MA. VICTORIA IRENE MARCOS-ARANETA, EMILIA T. CRUZ, RAFAEL ROMAN T. CRUZ, MA. RONA ROMANA T. CRUZ, ANA CRISTINA CRUZ GAYLO, GINO R. CRUZ, ISAIAH PAVIA CRUZ, and DON M. FERRY.
Respondents.

G.R. No. 181458

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

MAR 20 2013

x - x

DECISION

SERENO, *CJ:*

Before this Court is the 11 March 2008 Petition for Review on Certiorari filed by petitioner under Rule 45 of the Rules of Court, which assails the 1 October 2007 Order and 25 January 2008 Resolution of the Sandiganbayan (Second Division).[1]

[1] *Rollo*, pp. 92, 56-58; both the Order and the Resolution were penned by Associate Justice Edilberto G. Sandoval, with Associate Justices Francisco H. Villaruz, Jr. and Samuel R. Martires concurring.

The facts in this case are not disputed.

On 23 July 1987, the Republic of the Philippines (Republic), represented by the Presidential Commission on Good Government (PCGG) and the Office of the Solicitor General (OSG), filed a Complaint against respondents. Docketed as Civil Case No. 0014, this civil action sought the recovery of ill-gotten wealth from respondents for the benefit of the Republic. Allegedly, these properties were illegally obtained during the reign of former President Ferdinand E. Marcos and, hence, were the subject of sequestration orders.

Thereafter, Civil Case No. 0014 went through a series of inclusions of individual defendants and defendant corporations. As a result, respondents finished filing their separate Answers eight years later, or in 1995.

In May 1996, some of the defendant corporations filed motions for dismissal. Six years thereafter, the Sandiganbayan resolved the motions. It ruled in favor of defendant corporations and lifted the sequestration orders against them.[2]

Aggrieved, the Republic filed a Petition for Certiorari[3] before this Court on 23 August 2002. Docketed as G.R. No. 154560,[4] the Rule 65 petition questioned the lifting of the sequestration orders against defendant corporations.

With these two cases at bay, the counsels for the Republic divided their responsibilities as follows: Special PCGG Counsel Maria Flora A. Falcon (Falcon) attended to Civil Case No. 0014, while OSG Senior State Solicitor Derek R. Puertollano (Puertollano) handled G.R. No. 154560.

After receiving the Answers, the Sandiganbayan scheduled pretrial dates for Civil Case No. 0014. However, the court failed to conduct pretrial hearings from 2002 to 2007. For five years, it reset the hearings in view of the pending incidents, which included G.R. No. 154560, and because the case "was not yet ripe for a pretrial conference."[5]

---

[2] Id. at 143-146; Resolution promulgated on 7 February 2002 penned by Associate Justice Edilberto G. Sandoval, with Associate Justices Godofredo L. Legaspi and Raoul V. Victorino concurring.
[3] Id. at 149-194.
[4] This Court promulgated the Decision on *Republic v. Sandiganbayan (Second Division)*, G.R. No. 154560 on 13 July 2010.
[5] See *rollo*, p. 209, Order dated 26 June 2002; id. at 210, Order dated 17 September 2002; id. at 211, Resolution dated 29 November 2002; id. at 212, Resolution dated 19 February 2003; id. at 213, Order dated 7 July 2003; id. at 214, Order dated 1 March 2004; id. at 203, Order dated 10 June 2004; id. at 215, Order dated 2 September 2004; id. at 216, Notice dated 7 November 2005; id. at 217, Constancia dated 14 March 2006; id. at 218, Order dated 23 November 2006.

On 28 June 2007, Civil Case No. 0014 was called for the initial presentation of plaintiff's evidence, but the proceedings did not push through. Finally, two decades after the inception of the case, both parties moved to set the pretrial and trial hearings on 1, 2, 29, and 30 October 2007. The Sandiganbayan granted their motions in this wise:[6]

> When this case was called for initial presentation of plaintiff's evidence, both parties moved for postponement, and considering some issues still pending with the Supreme Court, but considering also on the other hand, that this case has been pending for quite a long time, the Court orders parties to submit Joint Stipulation of Facts, as well as substitution of parties, and by the next hearing, the Court shall proceed to hear this case.
>
> Accordingly, the hearing set for tomorrow is cancelled, and reset to October 1, 2, 29 & 30, 2007, all at 1:30 o'clock in the afternoon.
>
> SO ORDERED.

Following this Resolution, the defendants moved for the extension of the submission of these requirements. Nevertheless, none of them fully complied, except petitioner who submitted an "unofficial proposal for stipulation, for defendants to comment on the same."[7]

In the interim, the contract of Falcon with the PCGG terminated on 1 July 2007.[8] Through a letter dated 21 September 2007, she informed Puertollano that she was no longer connected with the PCGG. She also turned over to him the records of Civil Case No. 0014.[9] However, Puertollano belatedly received the letter on 8 October 2007. For all he knew, Falcon had attended the hearings prior to that date, while he was pursuing G.R. No. 154560.

Thus, on 1 October 2007, no representative appeared on behalf of petitioner. Consequently, the Sandiganbayan issued its 1 October 2007 Order dismissing the case without prejudice. The court ruled thus:[10]

> On motion of Atty. Nini Priscilla D. Sison-Ledesma for the dismissal of this case, since plaintiff's counsel failed to appear despite due notice and there was no representative from the plaintiff, this case is ordered DISMISSED without prejudice. The issue of whether the pending incident before the Supreme Court would affect this case is off tangent.
>
> Accordingly, the hearings set tomorrow, October 2, 2007, and also on October 29 and 30, 2007 are cancelled.
>
> SO ORDERED.

---

[6] *Rollo p.* 91.
[7] Id. at 227; Manifestation dated 17 July 2007.
[8] Id. at 83; Certification dated 20 November 2007.
[9] Id. at 82.
[10] Id. at 92.

On 5 October 2007, Atty. Mary Charlene Hernandez took over the case from PCGG's previous special counsel[11] and only after a while did she learn of the trial dates. She also knew nothing about the dismissal of the case. Hence, she proceeded to file an Urgent Motion for Postponement[12] of the 30 October 2007 hearing.

The OSG came to know of the dismissal of Civil Case No. 0014 only when it received the assailed Order on 15 November 2007. On 29 November 2007, it filed a Motion for Reconsideration[13] with a notice for hearing on 7 December 2007. This motion was served on the Sandiganbayan and respondents on 29 November 2007 via registered mail.[14] Unfortunately, the court received the motion only on 10 December 2007.[15]

Considering the late receipt of the motion, the Sandiganbayan issued its 25 January 2008 Resolution denying it on the ground of failure to observe the three-day notice requirement.[16] In effect, it considered the motion as a worthless piece of paper. With this instant dismissal, the Sandiganbayan no longer considered the reasons adduced by petitioner to explain the latter's absence in court.

Specifically, petitioner brought to the Sandiganbayan's attention the fact that Falcon, who was assigned to Civil Case No. 0014, had diligently attended to the civil action. But since she was no longer connected to the PCGG, and given that the OSG only learned of this circumstance seven days after the hearing on 1 October 2007, counsels for petitioner failed to appear during the hearing.[17]

Hence, petitioner comes before this Court to seek the reinstatement of the 26-year-old case, which has already reached the start of the trial stage.

Petitioner argues that its single incidence of absence after Falcon resigned on 1 October 2007 does not amount to failure to prosecute under Rule 17, Section 3 of the Rules of Court, which states:

> Sec. 3. Dismissal due to fault of plaintiff.
>
> If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of

[11] Id. at 83.
[12] Id. at 235-238.
[13] Id. at 60-78.
[14] Id. at 239-244; Registry Return Card stamped with 29 November 2007 as date of delivery.
[15] Id. at 56.
[16] Id. at 56-58.
[17] Id. at 61-64.

> the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

Petitioner further avers that the Motion for Reconsideration questioning the dismissal of Civil Case No. 0014 should not have been denied for supposedly violating the three-day notice requirement. Rule 15, Section 4 of the Rules of Court, reads:

> Sec. 4. Hearing of motion.
>
> Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.
>
> Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Therefore, this Court is tasked to resolve the two issues raised by petitioner as follows:

I. Whether the Sandiganbayan gravely erred in dismissing Civil Case No. 0014 for the failure of petitioner to appear during the 1 October 2007 hearing.

II. Whether the Sandiganbayan committed reversible error in denying the Motion for Reconsideration on the ground that it failed to comply with the three-day notice rule.

RULING OF THE COURT

Dismissal of Civil Case No. 0014 for Petitioner's Failure to Appear

Petitioner asserts that, save for the absence of Falcon due to the termination of her contract with the PCGG, she was diligent in attending the hearings and in submitting the requirements of the Sandiganbayan. Likewise, Puertollano was responsible in pursuing G.R. No. 154560. Thus, their inability to send representatives for the Republic in the 1 October 2007 hearing can only be appreciated as mere inadvertence and excusable negligence, which cannot amount to failure to prosecute.

Petitioner also advances the argument that this Court disfavors judgments based on non-suits and prefers those based on the merits – especially in Civil Case No. 0014, which contains allegations of ill-gotten wealth. Moreover, petitioner claims that reasonable deferments may be tolerated if they would not cause substantial prejudice to any party.

Lastly, petitioner manifests good reasons to expect the cancellation of the 1 October 2007 hearing, as in the past resetting. At that time, the same circumstances for postponement were present: (1) G.R. No. 154560 was still pending before this Court; (2) several incidents[18] were also still pending; and (3) no pretrial order has yet been issued by the Sandiganbayan.

On the other hand, in their Comments,[19] respondents stress the letter of the law. Indeed, Rule 17, Section 3 of the Rules of Court, provides that complaints may be dismissed if a petitioner fails to be present on the date of presentation of its evidence in chief.

Additionally, respondents contend that no justifiable cause exists to warrant petitioner's absence. To support their contention, they cite the following: (1) Falcon agreed to set the hearing on 1 October 2007; and (2) Puertollano should have attended the pretrial even if Falcon failed to appear considering that, as counsels for petitioner, both of them had been notified of the orders and resolutions of the Sandiganbayan.

Respondents also highlight the fact that the PCGG and the OSG failed to monitor the proceedings when they filed a Motion for Reconsideration only after 14 days from the OSG's receipt of the assailed Order of dismissal. Worse, the counsels of the Republic did not even inform the court beforehand of the reason for their absence. Because of these circumstances, respondents posit that the Sandiganbayan did not gravely err in dismissing Civil Case No. 0014.

This Court rules in favor of the Republic.

As worded, Rule 17, Section 3 of the Rules of Court, provides that the court **may** dismiss a complaint in case there are no **justifiable reasons** that explain the plaintiff's absence during the presentation of the evidence in chief. Generally speaking, the use of "may" denotes its directory nature,[20] especially if used in remedial statutes that are known to be construed liberally. Thus, the

---

[18] *Rollo*, pp. 43-44; These pending incidents included the following: (1) Motion for Reconsideration and/or Set Order of Default and Urgent Motion to Resolve filed by Ferdinand Marcos Jr.; (2) Motion for Extension to file a Special Power of Attorney for two of the heirs of Rebecco Panlilio.

[19] Id. at 247-265, Opposition/Comment to Petition for Review on Certiorari filed by Heirs of Roman A. Cruz, Jr.; id. at 259-266, Comment/Opposition filed by Trinidad Diaz-Enriquez and Leandro Enriquez; id. at 304-310, Comment on Petition for Review on Certiorari filed by Heirs of Rebecco Panlilio; id. at 365-367, Comment filed by Don M. Ferry.

[20] *Grego v. COMELEC*, 340 Phil. 591 (1997).

word "may" in Rule 17, Section 3 of the Rules of Court, operates to confer on the court the **discretion**[21] to decide between the dismissal of the case on technicality vis-à-vis the progressive prosecution thereof.

Given the connotation of this procedural rule, it would have been expected that the Sandiganbayan would look into the body of cases that interpret the provision. From jurisprudence, it is inevitable to see that the **real test** of the exercise of discretion is whether, under the circumstances, the plaintiff is charged with want of due diligence in failing to proceed with reasonable promptitude.[22] In fact, we have ruled that there is an abuse of that discretion when a judge dismisses a case without any showing that the party's conduct "is so indifferent, irresponsible, contumacious or slothful."[23]

Here, the Sandiganbayan appears to have limited itself to a rigid application of technical rules without applying the real test explained above. The 1 October 2007 Order was bereft of any explanation alluding to the indifference and irresponsibility of petitioner. The Order was also silent on any previous act of petitioner that can be characterized as contumacious or slothful.

Verily, the circumstances in Civil Case No. 0014 should have readily convinced the Sandiganbayan that it would be farfetched to conclude that petitioner lacked interest in prosecuting the latter's claims.

Firstly, based on the records, petitioner's counsels have actively participated in the case for two decades. The Sandiganbayan has not made any remark regarding the attendance of petitioner, save for this single instance. Secondly, after the latter received the assailed Order, it duly filed a Motion for Reconsideration. These circumstances should have easily persuaded the Sandiganbayan that the Republic intended to advance the ill-gotten wealth case.

More importantly, respondents' imputation of lack of interest to prosecute on the part of petitioner becomes a hyperbole in the face of its explanation, albeit belated.

Respondents harp on the fact that since Falcon agreed to set the hearing on 1 October 2007 and Puertollano, being a counsel of record, may have also known of the schedule, petitioner has no excuse to be absent. But even if we concede to respondents' arguments, the most that they can say is that petitioner had an instance of absence without an excuse. Juxtaposing this

---

[21] *Tan v. SEC*, G.R. No. 95696, 3 March 1992, 206 SCRA 740.
[22] *Pontejos v. Desierto*, G.R. No. 148600, 7 July 2009, 592 SCRA 64.
[23] *Rizal Commercial Banking Corporation v. Magawin Marketing Corporation*, 450 Phil. 720, 741 (2003).

lapse against its long history of actively prosecuting the case, it would be the height of rigidity to require from petitioner complete attendance, at all times.

Similarly, in *Perez v. Perez,* we held thus:[24]

> The records show that every time the case was set for hearing, the plaintiffs and their counsel had always been present; however, the scheduled hearings were either cancelled by the court *motu propio* and/or postponed by agreement of the parties, until the case was eventually set for trial on the merits on February 15, 1967. It was only at this hearing where the plaintiffs and their counsel failed to appear, prompting the court to issue its controversial order of dismissal. Considering that it was the first time that the plaintiffs failed to appear and the added fact that the trial on the merits had not as yet commenced, We believe that it would have been more in consonance with the essence of justice and fairness for the court to have postponed the hearing on February 15, 1967.
>
> We are not unmindful of the fact that the matter of adjournment and postponement of trials is within the sound discretion of the court; but such discretion should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case, the ends of justice and fairness should be served thereby. Postponements and continuances are part and parcel of our procedural system of dispensing justice, and when — as in the present case — no substantial rights are affected and the intention to delay is not manifest, it is sound judicial discretion to allow them.

This Court further considers that based on the records, the contract of the handling lawyer, Falcon, with the PCGG terminated without the knowledge of Puertollano. After Falcon's resignation, it was only on 5 October 2007 that the case was transferred to the new lawyer. These facts then explain the nonattendance of petitioner on 1 October 2007, and why it failed to keep abreast with the succeeding 2, 29, and 30 October 2007 hearings.

Moreover, this Court understands the absence of Puertollano in Civil Case No. 0014. The OSG has explained that he attends to G.R. 154560, as the main case has been delegated to the PCGG. We find this arrangement sensible, given that case management is needed to tackle this sensitive case involving a number of high-profile parties, sensitive issues and, of course, numerous offshoots and incidents.

Respondents are correct in saying that courts have a right to dismiss a case for failure of the plaintiff to prosecute. Still, we remind justices, judges and litigants alike that rules "should be interpreted and applied not in a

[24] 165 Phil. 500, 504 (1976).

vacuum or in isolated abstraction, but in light of surrounding circumstances and attendant facts in order to afford justice to all."[25]

We underscore that there are specific rules that are liberally construed, and among them is the Rules of Court. In fact, no less than Rule 1, Section 6 of the Rules of Court echoes that the rationale behind this construction is to promote the objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Surprisingly, the Sandiganbayan obviated the speedy disposition of the case when it chose to dismiss the case spanning two decades over a technicality and, in the same breath, rationalized its cavalier attitude by saying that a complaint for ill-gotten wealth should be reinstituted all over again.

Here, we find it incongruous to tip the balance of the scale in favor of a technicality that would result in a complete restart of the 26-year-old civil case back to square one. Surely, this Court cannot waste the progress of the civil case from the institution of the complaint to the point of reaching the trial stage. Not only would this stance dry up the resources of the government and the private parties, but it would also compromise the preservation of the evidence needed by them to move forward with their respective cases. Thus, to prevent a miscarriage of justice in its truest sense, and considering the exceptional and special history of Civil Case No. 0014, this Court applies a liberal construction of the Rules of Court.

Every party-litigant must be afforded the amplest opportunity for the proper and just determination of its cause.[26] "Adventitious resort to technicality resulting in the dismissal of cases is disfavored because litigations must as much as possible be decided on the merits and not on technicalities."[27] Inconsiderate dismissals, even if without prejudice to its refiling as in this case, merely postpone the ultimate reckoning between the parties. In the absence of a clear intention to delay, justice is better served by a brief continuance, trial on the merits, and final disposition of the case before the court.[28]

Denial of Petitioner's Motion for Reconsideration due to Petitioner's Failure to Observe the Three-day Notice Rule

In its assailed 25 January 2008 Resolution, the Sandiganbayan held that petitioners failed to comply with the three-day notice rule. It faulted petitioner

---

[25] *Magsaysay Lines, Inc. v. Court of Appeals*, 329 Phil. 310, 323 (1996).
[26] *RN Development Corporation v. A.I.I. System, Inc*., G.R. No. 166104, 26 June 2008, 555 SCRA 513, 524.
[27] *Pagadora v. Ilao*, G.R. No. 165769, 12 December 2011, 662 SCRA 14, 17.
[28] *Anson Trade Center Inc., v. Pacific Banking Corporation*, G.R. No. 179999, 17 March 2009, 581 SCRA 751, 759.

for its belated receipt on 10 December 2007 of the Motion for Reconsideration set for hearing on 7 December 2007.

The Sandiganbayan is incorrect. By the very words of Rule 15, Section 4 of the Rules of Court, the moving party is required to serve motions in such a manner as to ensure the receipt thereof **by the other party** at least three days before the date of hearing. The purpose of the rule is to prevent a surprise and to afford the **adverse party** a chance to be heard before the motion is resolved by the trial court.[29] Plainly, the rule does not require that the court receive the notice three days prior to the hearing date.

Likewise, petitioner mailed the motion to the Sandiganbayan on 29 November 2007. Since Rule 13, Section 3 of the Rules of Court, states that the date of the mailing of motions through registered mail shall be considered the date of their filing in court, it follows that petitioner filed the motion to the court 10 days in advance of the hearing date. In so doing, it observed the 10-day requirement under Rule 15, Section 5 of the Rules of Court, which provides that the time and date of the hearing must not be later than ten days after the filing of the motion.

Considering that the Motion for Reconsideration containing a timely notice of hearing was duly served in compliance with Rule 15, Sections 4 and 5 of the Rules of Court, the fact that the Sandiganbayan received the notice on 10 December 2007 becomes trivial. The court cannot also blame petitioner for this belated receipt of the registered mail since it followed the rules.

Therefore, the Sandiganbayan should have given due course to the Motion for Reconsideration filed by petitioner. If it had done so, Civil Case No. 0014 would have progressed at the trial court level.

IN VIEW THEREOF, the 11 March 2008 Petition for Review on Certiorari filed by petitioner is **GRANTED**. The 1 October 2007 Order and 25 January 2008 Resolution of the Sandiganbayan (Second Division) are **REVERSED.** Consequently, Civil Case No. 0014 is hereby **REINSTATED**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

[29] *Leobrera v. Court of Appeals*, 252 Phil. 737, 743 (1989).

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice