Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

VITARICH CORPORATION,
Petitioner,

-*versus*-

FEMINA R. DAGMIL,
Respondent.

G.R. No. 217138

Present:

CAGUIOA, *Acting Chairperson*
REYES, J., JR.,
LAZARO-JAVIER, and
LOPEZ,
DELOS SANTOS,* *JJ.*

Promulgated:

AUG 27 2020

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D E C I S I O N

LOPEZ, *J.:*

The propriety of an order of default is the core issue in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Decision[1] dated October 31, 2014 in CA-G.R. SP No. 131472, which set aside the Regional Trial Court's (RTC) Decision dated April 1, 2011 in Civil Case No. 33-M-2010.

ANTECEDENTS

On January 15, 2010, Vitarich Corporation filed an action for sum of money against Femina Dagmil before the RTC Branch 11 of Malolos City docketed as Civil Case No. 33-M-2010.[2] Upon receipt of summons, Femina's counsel, Atty. Nepthali Solilapsi, moved to dismiss the case on ground of improper venue.[3] On August 17, 2010, the RTC denied the motion and directed Femina to answer the complaint.[4] Atty. Solilapsi received the Order

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* Designated as additional Member *in lieu* of Chief Justice Peralta *per* raffle dated June 29, 2020.

1 *Rollo*, pp. 13-29; penned by Associate Justice Fernanda Lampas-Peralta, with the concurrence of Associate Justices Francisco P. Acosta and Myra V. Garcia-Fernandez.

2 *Id.* at 42-49.

3 *Id.* at 53-56.

4 *Id.* at 63-64.

on November 3, 2010 but Femina did not submit any responsive pleading.[5] On January 5, 2011, Vitarich sought to declare Femina in default.[6] Meantime, Femina's new counsel, Atty. Emilio Quianzon, Jr, entered his appearance and filed on January 31, 2011 a motion to admit answer.[7]

On February 8, 2011, the RTC declared Femina in default and allowed Vitarich to present its evidence *ex-parte*. Meanwhile, on March 1, 2011, the RTC denied Atty. Quianzon, Jr.'s entry of appearance and Femina's motion to admit answer.[8] On April 1, 2011, the RTC granted the complaint and ordered Femina to pay Vitarich the following amounts,[9] to wit:

> 1. The amount of FIFTEEN MILLION EIGHT HUNDRED TWENTY NINE THOUSAND EIGHT HUNDRED FORTY PESOS (P15,829,840.00) representing the principal obligation plus interest at the rate of twenty four (24%) *per annum* from the filing of the complaint.
>
> 2. To pay the plaintiff the amount of Two Hundred Thousand Pesos (P200,000.00) as and for attorney's fees and;
>
> 3. To pay the cost of suit.[10]

Aggrieved, Femina filed a petition for relief[11] from judgment based on her former counsel's excusable negligence. Allegedly, Atty. Solilapsi failed to timely read the order directing her to file an answer because his secretary placed it on a wrong case folder. Moreover, Atty. Solilapsi was saddled with health issues and seldom reported to his office that made it difficult for her to correspond with him. Femina also filed a motion for new trial[12] claiming mistake and/or excusable negligence and that she has a meritorious defense.

On June 7, 2012, the RTC denied the motion for new trial emphasizing that Femina is bound by the action of her counsel.[13] Dissatisfied, Femina filed motions for reconsideration and to resolve the petition for relief from judgment. On May 20, 2013, the RTC denied the motions, *viz.*:

> [T]his Court, after a careful review of the records, is of the view and so holds that the points raised therein, have been passed upon in the resolution of denial, hence, for lack of any compelling ground to warrant a modification or reversal thereof, the instant motion is hereby DENIED.
>
> Concerning herein defendants[']] petition for relief, it is noted that the said petition is basically anchored upon similar grounds as her motion for new trial which, needless to state, have been dealt with extensively in

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5 *Id.* at 65.
6 *Id.* at 68-70.
7 *Id.* at 72-74.
8 *Id.* at 75.
9 *Id.* at 77-79.
10 *Id.* at 79.
11 *Id.* at 80-88.
12 *Id.* at 89-97.
13 *Id.* at 118-119.

> the Order of June 7, 2012, hence, on that basis alone, the Court hereby finds no meritorious reason to give due course.
>
> Neither can the Court grant defendants' prayer to appeal the default judgment in view of plaintiffs' opposition, defendant having failed to appeal the decision within the reglementary period.
>
> SO ORDERED.[14]

Femina filed a petition for *certiorari*[15] before the CA, docketed as CA-G.R. SP No. 131472, faulting the RTC with grave abuse of discretion. On October 31, 2014, the CA reversed the April 1, 2011 judgment of default and remanded the case for further proceedings. It also ordered the RTC to admit Femina's answer,[16] thus:

> The Court finds that the trial court gravely abused its discretion in rendering judgment by default, despite the several remedies resorted to by petitioner in order for her to be given her day in court. There is no denying that petitioner availed of the following remedies:
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> (I) "Entry of Appearance and Motion to Admit Answer[;"]
> (II) Petition for Relief of the Orders dated February 8, 2011 and March 1, 2011;
> (III) Motion for New Trial of the Decision dated April 1, 2011; and
> (IV) Motion for Reconsideration of the Order dated June 7, 2012 denying petitioner's motion for new trial.
>
> By availing of the foregoing remedies, petitioner had manifested a strong desire to file an answer to prove her defense which should not have been disregarded by the trial court. It must also be stressed that when petitioner filed her motion to admit answer on January 31, 2011, the trial court had not yet declared her in default. The Order of default was issued on February 8, 2011. x x x
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> x x x x
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> Thus, it would be in keeping with justice and equity to allow petitioner's prayer for new trial in order for her to present her evidence; and for the trial court to determine with certainty whether the computation presented by private respondent reflects the true and real obligation of petitioner.[17]

Hence, this petition. Vitarich argued that there is no proof that Femina filed her motion to admit answer before the RTC declared her in default. Further, the health issues of Atty. Solilapsi and the mistake of his secretary do not constitute excusable negligence.[18]

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14 *Id.* at 123.
15 *Id.* at 124-135.
16 *Id.* at 19-29.
17 *Id.* at 25-29
18 *Id.* at 3-15.

RULING

The petition is unmeritorious.

We have enunciated in *Sablas v. Sablas*[19] the principle that it is within the sound discretion of the trial court to permit the defendant to file his answer and to be heard on the merits even after the reglementary period for filing the responsive pleading expires. The rule is that the answer should be admitted when it is filed before a declaration of default provided there is no showing that defendant intends to delay the proceedings and no prejudice is caused to the plaintiff.[20]

In *Sablas*, the petitioners filed a motion for extension of time to file their answer. But, they were able to file a responsive pleading three days late from the expiration of the requested period. While the answer was filed out of time, the trial court admitted the pleading because no motion to declare the petitioners in default was filed. Corollarily, the trial court denied the respondents' subsequent motion to declare the petitioners in default. The Court of Appeals then reversed the trial court's ruling and remanded the case for reception of plaintiffs' evidence. However, this Court held that the CA erred in ruling that the trial court had no recourse but to declare petitioners in default when they failed to file their answer within the requested period, thus:

> **The rule is that the defendant's answer should be admitted where it is filed before a declaration of default and no prejudice is caused to the plaintiff.** Where the answer is filed beyond the reglementary period but before the defendant is declared in default **and there is no showing that defendant intends to delay the case, the answer should be admitted**.
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> Therefore, the trial court correctly admitted the answer of petitioner spouses even if it was filed out of time because, at the time of its filing, they were not yet declared in default nor was a motion to declare them in default ever filed. Neither was there a showing that petitioner spouses intended to delay the case.
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> x x x x
>
> **Since the trial court already admitted the answer, it was correct in denying the subsequent motion of respondents to declare petitioner spouses in default.**[21] (Emphasis supplied; citations omitted.)

In *Sablas*, we cited *Indiana Aerospace University v. Comm. on Higher Educ.*[22] which set aside an order of default. In that case, the petitioner sought to declare the respondent in default. On the same date, the respondent moved for an extension of time to file an answer. Yet, the trial court still issued an order of default even if the respondent submitted a responsive pleading within the requested period. We ruled that the trial court committed grave abuse of

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19 553 Phil. 271 (2007).
20 *Id.* at 276.
21 *Id.* at 276-277.
22 408 Phil. 483 (2001).

discretion because placing the respondent in default served no practical purpose, thus:

> Petitioner claims that in issuing the default Order, the RTC did not act with grave abuse of discretion, because respondent had failed to file its answer within fifteen days after receiving the August 14, 1998 Order.
>
> **We disagree. Quite the contrary, the trial court gravely abused its discretion when it declared respondent in default despite the latter's filing of an Answer. Placing respondent in default thereafter served no practical purpose.**
>
> Petitioner was lax in calling the attention of the Court to the fifteen-day period for filing an answer. It moved to declare respondent in default only on September 20, 1998, when the filing period had expired on August 30, 1998. The only conclusion in this case is that petitioner has not been prejudiced by the delay. The same leniency can also be accorded to the RTC, which declared respondent in default only on December 9, 1998, or twenty-two days after the latter had filed its Answer on November 17, 1998. **Defendant's Answer should be admitted, because it had been filed before it was declared in default, *and* no prejudice was caused to plaintiff.** x x x[23] (Emphases supplied; citations omitted.)

In *Hernandez v. Agoncillo*,[24] however, we clarified the ruling in *Sablas* and held that it is not mandatory on the part of the trial court to admit an answer which is belatedly filed even though the defendant is not yet declared in default. Settled is the rule that it is within the discretion of the trial court to permit the filing of an answer even beyond the reglementary period, provided that there is justification for the belated action and there is no showing that the defendant intended to delay the proceedings.[25] In that case, we found the petitioner guilty of inexcusable neglect and deliberately employing delay in the prosecution of the civil case against him. Also, we noted significant differences between the *Sablas* and *Hernandez* cases, to wit:

> The Court finds no cogent reason to depart from the above ruling of the MeTC, as affirmed by the RTC and the CA.
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> *Sablas* differs from the instant case on two aspects, to wit: *first,* in *Sablas*, the petitioners' motion for extension to file their answer was seasonably filed while in the present case, petitioner's Motion for Extension to File His Answer was filed beyond the 15-day period allowed by the Rules of Court; *second,* in *Sablas*, since the trial court admitted the petitioners' Answer, this Court held that the trial court was correct in denying the subsequent motion of the respondent to declare the petitioners in default while, in the instant case, the MeTC denied due course to petitioner's Answer on the ground that the Motion for Extension was not seasonably filed and that the Answer was filed beyond the period requested in the Motion for Extension, thus, justifying the order of default. Thus, the principle enunciated in *Sablas* is not applicable in the present case.

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23 *Id.* at 497-498.
24 697 Phil. 459 (2012).
25 *Id.* at 466.

> In this respect, the Court agrees with the CA in its ruling that procedural rules are not to be ignored or disdained at will to suit the convenience of a party.[26]

Given these precepts, we find that the CA correctly reversed the judgment of default. Foremost, Femina moved to admit her answer before she was declared in default. Femina filed her motion through registered mail on January 31, 2011 while the order of default was issued on February 8, 2011. The fact of mailing on the said date is undisputed. It was mentioned in the RTC and CA's findings and admitted in the parties' pleadings. Notably, Section 3, Rule 13 of the Rules of Court provides that if a pleading is filed by registered mail, then the date of mailing shall be considered as the date of filing. It does not matter when the court actually receives the mailed pleading.[27] Thus, this circumstance must be fully appreciated in favor of Femina. Applying the *Sablas* ruling, the RTC should have considered Femina's answer since it was filed before the declaration of default.

Moreover, persuasive reasons justified the belated filing of the motion to admit answer.[28] The records reveal that Atty. Solilapsi had been confined in the hospital twice in January 2011. He was treated for Pulmonary Tuberculosis Class 3 (Intensive Phase) and was advised to take a rest for two months.[29] This caused Atty. Solilapsi to be absent from office most of the time and to ask for his discharge as counsel. The delay was compounded by the mistake of Atty. Solilapsi's secretary who placed the order to file answer in the wrong case folder. These predicaments forced Femina to hire a new counsel to defend her case. Further, Femina's answer shows that she has a *prima facie* meritorious defense. The allegations that Femina did not receive several deliveries and that Vitarich money claims of ₱15,829,840.00 were bloated must be determined in a full-blown trial. The outcome of the case, after all, will still depend on the strength of the parties' respective evidence. Applying the *Hernandez* ruling, the RTC should have liberally exercised its discretion and permitted the filing of an answer even beyond the reglementary period.

To be sure, there is no showing that Femina intended to delay the proceedings. As the CA aptly held, Femina availed several post-judgment remedies which evinced her desire to file an answer and to establish her defenses. More importantly, Vitarich did not suffer any damage. It appears that Femina's counsel received on November 3, 2010 the notice to file answer and had 15 days or until November 18, 2010 to comply. Yet, Vitarich moved to declare Femina in default only on January 5, 2011 or 48 days from the expiration of the reglementary period. The only conclusion is that Vitarich has not been prejudiced by the delay. Otherwise, Vitarich would not have been lenient and opted to wait that long before invoking its right.

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26 *Id.* at 466-467.
27 *Russel v. Ebasan, et al.*, 633 Phil. 384, 391 (2010).
28 *Mercader v. Judge Bonto*, 181 Phil. 201 (1979).
29 *Rollo*, p. 26.

Taken together, we affirm the CA's findings that the RTC gravely abused its discretion in rendering the judgment of default. The RTC could have rectified the palpable error by lifting the order of default, admitting Femina's answer and considering it in deciding the case. Applying the *Indiana Aerospace University* ruling, declaring the defendant in default after the filing of answer served no practical purpose. However, the RTC unceremoniously discarded the compelling circumstances resulting in a violation of Femina's right to present evidence on her behalf. Consequently, the premature and improvident order of default and judgment of default are void. It is the avowed policy of the law to accord both parties every opportunity to pursue and defend their cases in the open and relegate technicality to the background in the interest of substantial justice.[30] On this point, we reiterate the ruling in *Akut v. CA*,[31] that courts should be liberal in setting aside orders of default, for default judgments are frowned upon, thus:

> The controlling principle ignored by respondent court is that it is within sound judicial discretion to set aside an order of default and to permit a defendant to file his answer and to be heard on the merits even after the reglementary period for the filing of the answer has expired. **This discretion should lean towards giving party-litigants every opportunity to properly present their conflicting claims on the merits of the controversy without resorting to technicalities. Courts should be liberal in setting aside orders of default, for default judgments are frowned upon,** and unless it clearly appears that reopening of the case is intended for delay, it is best that the trial courts give both parties every chance to fight their case fairly and in the open, without resort to technicality. x x x
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> x x x Moreover, petitioners' answer shows that they have a *prima facie* meritorious defense. **They should, therefore, be given their day in court to avoid the danger of committing a grave injustice if they were denied an opportunity to introduce evidence in their behalf.**[32] (Emphases supplied; citation omitted.)

In sum, while there are instances when a party may be properly declared in default, these cases should be deemed exceptions to the rule and should be resorted to only in clear cases of obstinate refusal or inordinate neglect in complying with the orders of the court.[33] Otherwise, any judgment by default that the trial court may subsequently render is intrinsically void for having been rendered pursuant to a patently invalid order of default.[34]

FOR THESE REASONS, the petition is **DENIED**. The Court of Appeal's Decision dated October 31, 2014 in CA-G.R. SP No. 131472 is **AFFIRMED**.

SO ORDERED.

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30 *Republic of the Philippines v. Sandiganbayan (Second Division)*, 309 Phil. 488, 493 (1994).
31 201 Phil. 680 (1982).
32 *Id.* at 687.
33 *Leyte v. Cusi*, 236 Phil. 532, 535 (1987).
34 *Omico Mining and Industrial Corp. v. Judge Vallejos*, 159 Phil. 886 (1975); and *Matute v. CA*, 136 Phil. 157 (1969).

MARIO V. LOPEZ
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Acting Chairperson
Associate Justice

JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

I attest 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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, 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.

DIOSDADO M. PERALTA
Chief Justice