SUPREME COURT
SECOND DIVISION

ROSARIO S. QUE,
***Petitioner-Appellant*,**

-versus-

G.R. No. 54169
November 10, 1980

COURT OF APPEALS, JUDGE MIGUEL R. NAVARRO of the Court of First Instance of Manila, Branch XXXI; JUDGE RUFINO G. MADARANG of the City Court of Manila, Branch XV and MIGUEL C. ADRIATICO, SR.,
***Respondents-Appellees*.**
x----------x

D E C I S I O N

AQUINO, *J.*:

Leonardo A. Baquizal, in his motion for the reconsideration of this Court's minute resolution, rejecting the appeal of Rosario S. Que from

the decision of the Court of Appeals, disrespectfully made the following abrasive allegations:

> "The summary manner by which such petition for certiorari has been denied, could create a bad impression. One might be led to believe that such a denial was premised on considerations other than merit. Or, worse, that there could be seeming reluctance, if not tolerance, by higher courts to set aright abusive actuations of their counterparts in the lower courts. These apprehensions, apart from the substantive merit of our petition for certiorari, impel us to seek reconsideration of its summary denial."

These brash allegations constitute contempt in facie curiae because they contain a veiled insinuation or innuendo that the denial of Rosario S. Que's petition for review was motivated by mercenary considerations, bribery or partiality and they impute malice to the lower courts by branding their actuations as "abusive." (The imputation of grave abuse of discretion is alright but the use of the phrase "abusive actuations" is derogatory and offensive)

Lawyer Baquizal should be severely censured or reprimanded for his temerity in unjustifiably impugning the good faith of this Court in summarily denying his client's appeal for lack of merit.

The exceptionally considerable number of petitions, motions and interlocutory matters resolved daily by this Court, in addition to its basic task of rendering decisions in hundreds of cases, renders it impracticable to set forth in detail the reasons for rejecting an appeal from a decision of the Court of Appeals. (Salao vs. Salao, L-26699, March 16, 1976, 70 SCRA 65, 77; In re Almacen, L-27654, February 18, 1970, 31 SCRA 562, 573)

However, to dispel the erroneous impression that Rosario S. Que's appeal was arbitrarily dismissed and to show that lawyer Baquizal is guilty of direct contempt of court, it becomes necessary to recite the antecedents of the appeal.

Rosario S. Que invoked denial of due process as the ground of her appeal. Ordinarily, that is a very persuasive ground for entertaining

the appeal. Denial of due process implies that an injustice was perpetrated. It is this Court's inescapable duty to correct an injustice.

The record shows that at the trial of the ejectment suit filed by Miguel C. Adriatico, Sr. against Rosario S. Que in the city court of Manila, scheduled on January 12, 1978, neither Rosario nor her counsel Baquizal appeared. Upon motion of Adriatico, the city court allowed him to present his evidence ex parte.

On the basis of that evidence, the city court in its decision dated February 10, 1978 ordered Rosario S. Que and all persons claiming under her to vacate the apartment located at 1117 Kundiman Street, Sampaloc, Manila and to pay to Adriatico the sum of P3,150 as rentals as of November, 1977 and thereafter to pay the sum of P350 a month as compensation for the use of the apartment until the same is vacated, plus P500 as attorney's fees. (pp. 29-30, Rollo)

The issue was whether the city court denied Rosario S. Que procedural due process the city court decided the case without allowing her to present evidence.

It appears that five days before the trial, or on January 7, 1978, Baquizal sent by registered mail at the U.P. post office in Diliman, Quezon City a motion to resent the trial on the ground that he had to attend to another case and the Lynn Que, who was to represent her mother Rosario in the ejectment case had to undergo rural service in Catanduanes.

That motion to reset was received by the city court of Manila on January 17, 1978 or long after the scheduled date of the trial.

An experienced and conscientious lawyer could have filed that motion to reset long before the date of trial (scheduled on January 12) or could have filed it personally in the city court and should have assured himself that the city court had granted the re-scheduling of the trial.

Lawyer Baquizal should have known that it takes weeks for a piece of registered mail to reach its destination unless it is also sent by special delivery. He should not have assumed that the city court would grant

the transfer of hearing. He should have alerted Rosario S. Que to attend the trial and to ask the court to grant the postponement or he could have requested another lawyer to appear for him at the trial.

Because of Baquizal's negligence and incompetence, no one appeared for Rosario S. Que at the trial. The city court concluded that she and her lawyer were not interested in presenting their evidence. So, it could not be blamed for allowing plaintiff Adriatico in its order of January 12, 1978 to present his evidence ex parte on January 31, 1978 at two o'clock in the afternoon. (Annex H)

If Baquizal and his client did not bother to appear at the trial and did not make sure that the motion to reset would reach the city court before the trial, the city court could not be expected to take the trouble of scheduling another date for the reception of her evidence. She and her lawyer gave the impression that they waived their right to present evidence.

According to Baquizal, at two o'clock in the afternoon of January 31, 1978, the time scheduled for the presentation of Adriatico's evidence, he appeared in the city court but he was dismayed to learn that Adriatico had already presented his evidence on January 12.

According to Baquizal, he complained to the city judge in his chamber about the ex parte presentation of Adriatico's evidence. He was advised to file a motion for reconsideration.

On the same date, January 31, he filed the motion for reconsideration which was ex parte and was submitted for resolution on that same date and wherein it was prayed that the order allowing Adriatico to present his evidence ex parte be set aside. (Annex I)

The city court denied that motion in its order of February 2, 1978 on the ground that it was "not in accordance with the rules as well as the prevailing jurisprudence." (Annex J)

What Baquizal should have done was to have filed a motion for reconsideration praying that he be allowed to cross-examine plaintiff Adriatico's witnesses and that he be given the opportunity to present the evidence of defendant Rosario S. Que at a certain date and at the

same time he should have submitted an affidavit of merits or made a showing that the defendant had meritorious defenses so as to erase the city court's impression (induced by his nonappearance at the trial) that defendant Rosario S. Que was not interested in resisting the ejectment suit. And that motion for reconsideration should have been set for hearing with notice to the plaintiff.

As already stated, the city court in its decision of February 10, 1978 ejected Rosario S. Que from the disputed premises. The ejectment was based on the expiration of the term of the lease, nonpayment of rentals and violation of the conditions of the lease. (use of the premises for gambling purposes, according to the Court of First Instance)

She appealed. The Court of First Instance of Manila affirmed the city court's judgment with the modification that Rosario S. Que should pay to Adriatico rentals at the rate of P350 a month from April, 1977 until the apartment is vacated.

Under Republic Act No. 6031, which amended section 45 of the Judiciary Law, that decision of the Court of First Instance should be considered final and executory. The lawmaker's intention is not to prolong litigations originating in municipal and city courts and thus minimize the congestion of cases in the appellate courts. The clogged dockets of appellate courts have become a monumental problem.

Experience has shown that many of the appeals to the Court of Appeals or the Supreme Court in cases coming from the inferior courts were bereft of merit and had been made only for dilatory purposes and to harass the winning party.

That phenomenon is particularly true of ejectment cases which are summary in nature and where the question of possession de facto has to be adjudicated with the least possible delay. To achieve that end, immediate execution of the judgment against the defendant is allowed and the remedy of preliminary mandatory injunction is provided for in section 9, Rule 70 of the Rule of Court and in articles 539 and 1974 of the Civil Code.

In the instant case, plaintiff Adriatico did not avail himself of those remedies to obtain immediate possession of the apartment.

Rosario S. Que filed with the Court of Appeals a petition for the review of the adverse decision of the Court of First Instance of Manila. Under Republic Act No. 6031, that remedy is not a matter of right. It is allowed only on the theory that the decision of the Court of First Instance is not supported by substantial evidence and is clearly against the law and jurisprudence.

The Court of Appeals dismissed Que's petition and affirmed the decision of the Court of First Instance of Manila. (Que vs. Judge Navarro, et al., CA-G. R. No. SP-08562-R, May 2, 1979)

Rosario S. Que appealed to this Court. As already noted, her petition for review was dismissed outright for lack of merit in this Court's minute resolution of July 21, 1980.

Baquizal's contention that Rosario S. Que was denied procedural due process is unsustainable. It was his faulty management of the case or his negligence and incompetence as well as the unmeritoriousness of his client's side of the case that led to the adverse judgment against her. As a general proposition, a client is bound by the mistakes of his counsel.

It is not proper for Baquizal to harbor the suspicion that the four courts, which passed upon the 1977 ejectment suit brought against Rosario S. Que, acted unjustly and by reason of extraneous considerations. No injustice was committed against her.

WHEREFORE, lawyer Leonardo A. Baquizal is adjudged guilty of direct contempt of court for having used offensive language in his motion for reconsideration.

He is hereby severely censured and warned that for a repetition of the same offense a more drastic disciplinary penalty will be imposed upon him.

A copy of this resolution should be attached to his personal record in the Bar Confidant's office.

SO ORDERED.

Barredo, *J., (Chairman)*, Concepcion Jr. Abad Santos and De Castro, *JJ*., concur.
