
Calo vs. Tan

G.R. No. 151266, November 29, 2005.⁷

SPS. RAYMUNDO & MARILYN CALO, petitioners, vs. SPOUSES REYNALDO & LYDIA TAN and THE DEVELOPMENT BANK OF THE PHILIPPINES, (Butuan Branch), respondents.

Actions; Due Process; If the absence of a party during the hearing was due to his own fault, he cannot later on complain that he was deprived of his day in court.—That the absence of a party during trial constitutes waiver of his right to present evidence and cross-examine the opponent's witnesses is firmly supported by jurisprudence. Although a defendant who answered the complaint but fails to appear at the scheduled trial cannot be declared in default, the trial, however, may proceed without his presence. And if the absence of a party during the hearing was due to his own fault, he cannot later on complain that he was deprived of his day in court.

Same; Same; Motions; The Rules of Court requires only that the motion be heard—it does not direct the court to order the filing of comments or oppositions to the motion before the motion is resolved.—The absence of petitioners and their counsel at the aforesaid hearings cannot be justified by their belief that the trial court would first require respondent spouses to comment to or oppose the motions before resolving them. The Rules of Court requires only that the motion be heard; it does not direct the court to order the filing of comments or oppositions to the motion before the motion is resolved. During the hearing on the motion, the opposition to the motion and the arguments of the parties may be ventilated; thereafter, the court may rule on the motion. Petitioners and their counsel should have known the significance of the hearing dates since petitioners themselves chose one of the hearing dates and the hearing dates were accordingly fixed with due notice to all the parties.

Same; Statutes and rules regulating the procedure of courts are considered as applicable to actions pending and unresolved at the time of their passage—procedural laws and rules are retroactive in

Supreme Court Reports Annotated

Brendan G. Carr



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