HEIRS OF FLORENCIO ADAZA, NAMELY: RUSTICA ADAZA, DAHLIA ADAZA JARANTILLA, OSCAR ADAZA, AND ROSELLER ADAZA, OSCARLITO ADAZA, AND ERLITO ADAZA, PETITIONERS, VS. THE REGIONAL TRIAL...

Ponente: LOPEZ, J.

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LOPEZ, J.:

Assailed in the instant petition[1] for certiorari under Rule 65 of the Revised Rules of Court is the Resolution[2] dated December 1, 2011 of the Regional Trial Court, Branch 10, Zamboanga City (court a quo) in Civil Case No. 5337 for Recovery of Possession, Ownership and Damages filed by the private respondents against the petitioners entitled “Heirs of Pialago, et. al., v. Oscar Adaza, et. al.”, which denied petitioners’ motion for reconsideration to allow them to present evidence to prove that their houses are exempt from execution.

The Antecedent Facts:

The assailed order stems from a complaint for Recovery of Possession, Ownership and Damages[3] filed by private respondents against the petitioners over a parcel of land (disputed land) situated in Dahinob, Zamboanga del Norte, containing an area of 49,000 square meters, covered by Transfer Certificate of Title No. T-56578 in Civil Case No. 5337.

Private respondents obtained a favorable decision by default from the court a quo on August 22, 2008 where they were declared lawful owners of the disputed land, and the petitioners were ordered to vacate the premises thereof. The decision in Civil Case No. 5337 became final and executory for failure of petitioners to appeal therefrom.[4]

On November 17, 2008, private respondents sought the issuance of a writ of execution to enforce the aforesaid decision. On December 2, 2008, a writ of execution was issued and was served on the petitioners on December 11, 2008.[5]

On December 16, 2008, petitioners filed a petition for Relief from Judgment docketed as Civil Case No. 6568 on the ground of excusable negligence on the part of the court a quo’s branch clerk of court who failed to notify the petitioners of the scheduled pre-trial conference on November 16, 2007 for which the petitioners were declared in default and the private respondents were allowed to present evidence ex-parte. Petitioners admit however that their counsel, Atty. Cres N. Palpagan, was duly notified of the scheduled pre-trial conference on November 16, 2007 but failed to appear thereon as well as to inform them of the same.[6]

On March 13, 2009, the petition for Relief from Judgment was heard before the court a quo which subsequently denied the same on May 22, 2009.[7] Thus, petitioners went to the Court of Appeals via a petition for certiorari docketed as CA-G.R. SP No. 03006-MIN.[8]

On September 27, 2010, private respondents filed before the court a quo an Urgent Motion for Issuance of an Order of Demolition[9] for failure of the petitioners to vacate the disputed land despite the issuance by the court a quo of an Alias Writ of Execution on July 16, 2010. Petitioners opposed the motion arguing in the main that their

houses constructed on the disputed land are exempt from execution for being “family homes”.[10]

On January 24, 2011, the court a quo granted private respondents’ motion for issuance of an order of demolition and ordered petitioners to demolish their respective houses and other structures inside the disputed land within 30 days from notice. The court a quo held that a person’s family dwelling is exempt from execution for the satisfaction of a money judgment, but when the judgment requires the losing party to perform a specific act, as in this case where the petitioners have been ordered to surrender possession of the disputed land where petitioners’ houses are situated to the prevailing party, the exemption does not apply.[11]

On February 17, 2011, petitioners moved for reconsideration[12] of the January 24, 2011 resolution. The same was denied by the court a quo per Resolution[13] of July 29, 2011, viz:

> “WHEREFORE, premises considered, [petitioners’] motion at bar is denied for lack of merit.
>
> SO ORDERED.”[14]

A subsequent motion for reconsideration[15] was filed by the petitioners on August 31, 2011 which was likewise denied by the court a quo per its Resolution[16] dated December 1, 2011, thus:

> “WHEREFORE, premises considered, [petitioners’] Motion for Reconsideration is denied for lack of merit.
>
> “SO ORDERED.”[17]

Aggrieved, petitioners came to Us via the instant petition alleging the following:

Assignment of Errors:

> “A. THE RESPONDENT COURT HAS ACTED IN EXCESS OF ITS JURISDICTION WHEN IT DENIED PETITIONERS’ MOTION FOR RECONSIDERATION WHICH CITED THE PROVISION OF ARTICLE 153, OF THE FAMILY CODE, WHICH [EXEMPTS] FROM EXECUTION AND DEMOLITION THE LOT AND HOUSES DULY CONSTITUTED AS FAMILY HOMES OF PETITIONERS;
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> “B. THE RESPONDENT COURT HAS ACTED IN EXCESS OF ITS JURISDICTION WHEN IT DELIBERATELY IGNORED THE PERTINENT RULINGS OF THE HONORABLE SUPREME COURT ON THE EXEMPTIONS OF FAMILY HOMES FROM EXECUTION AND DEMOLITION; AND THE EXISTENCE OF CA-G.R. SP. NO. 03006-MIN (PETITION FOR CERTIORARI) AND CIVIL CASE NO. 6568 (FOR QUIETING OF TITLE, ETC.), BETWEEN PETITIONERS AND PRIVATE RESPONDENTS NOW PENDING DETERMINATION BEFORE THE REGIONAL TRIAL COURT, BRANCH 9, DIPOLOG CITY, WHICH ARE SUPERVENING EVENTS TO STAY EXECUTION.”[18]
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> Neither party filed their respective memoranda nor did the private respondents file their comment to the petition.

The ultimate issue for resolution in this case is whether or not the court a quo acted in excess of jurisdiction when it denied petitioners’ motion to allow them to present evidence to prove that their houses are exempt from execution.

Our Ruling:

The petition lacks merit.

The special civil action for certiorari under Rule 65 of the Revised Rules of Court is intended to correct errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ of certiorari is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions that acted without or in

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excess of its or his jurisdiction or with grave abuse of discretion. “Grave abuse of discretion” means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. To justify the issuance of the writ of certiorari, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.[19]

Records disclose that the court a quo’s Decision dated August 22, 2008 in Civil Case No. 5337 (Action for Recovery of Possession, Ownership and Damages), declaring the private respondents as the lawful owners of the disputed land where the houses of petitioners were constructed and ordering the petitioners to surrender possession of the land to the private respondents, had already attained finality for failure of the petitioners to file a timely appeal.[20]

Settled is the rule in this jurisdiction that once a court decision or judgment becomes final and executory, the same may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land. This is known as the Doctrine of Finality of Judgment. The said rule is founded on public policy and sound practice that at the risk of occasional errors, the judgments or orders of courts must become final at some definite time fixed by law. Otherwise, there will be no end to litigations, thus, negating the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality as held in Dacanay vs. Hon. Raphael Yrastorza, Sr.[21] (2009).

Under the Rules, once a judgment or final order has attained finality, it becomes a ministerial duty of the court to issue upon motion a writ of execution to enforce the same.[22] Thus, a Writ of Execution dated December 2, 2008 and an alias writ thereof were issued upon motion of the private respondents. When the petitioners still refused to vacate the disputed land and surrender possession thereof to the private respondents, the court a quo upon motion and proper hearing issued a special order of demolition in accordance with Section 10(d) of Rule 39 of the Revised Rules of Court which provides, thus:

> “Sec. 10(d) Removal of improvements on property subject of execution.- “when the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court issued upon motion of the judgment obligee after due hearing and after the judgment obligor or his agent has failed to remove the improvements within a reasonable time fixed by the court.”

(Emphasis Ours)

In Abrigo v. Flores (2013),[23] it was held that the issuance of a special order of demolition is a necessary and logical consequence of the execution of a final and immutable decision. It is an ancillary remedy designed to carry out the execution of a final decision to place the owner of the land in possession thereof pursuant to the pronouncement in Collado v. Heirs of Alejandro Triunfante, Sr. (2007).[24]

Such being the case, the court a quo could not have committed “grave abuse of discretion” either: (a) in denying the motion for reconsideration to allow petitioners to present evidence, or (b) in issuing the special order of demolition.

Petitioners’ motion for reconsideration to allow them to present evidence was denied since it would just be an exercise in futility, considering that the decision dated August 22, 2008 in Civil Case No. 5337 sought to be reconsidered had already attained finality. As such, it cannot be modified in any respect pursuant to the rule on

immutability of final judgments.

Neither was there "grave abuse of discretion" in issuing the special order of demolition. This is so since the court a quo acted within its jurisdiction in issuing the same which is a necessary and logical consequence of the execution of a final and immutable decision. Besides, the issuance of the special order of demolition as an ancillary writ for the execution of a final judgment is a mere ministerial duty of the court to enforce its final judgment. A purely "ministerial act or duty" is defined as "one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment."[25] Considering that the exercise of a ministerial duty is incompatible and cannot co-exist with an exercise of discretion they being diametrically opposed to each other, it follows that the court a quo could not have committed "abuse of discretion", let alone "grave abuse of discretion" in having ministerially issued the special order of demolition to carry out the delivery of the disputed property to the private respondents as the prevailing party.

Even if We hypothetically assume (for the sake of academic discussion) that the court a quo committed grave abuse of discretion in denying petitioners' motion for reconsideration to allow them to present evidence to prove that their houses are exempt from execution, still the petitioners would fail to prevent execution thereof.

We are in full accord with the court a quo's observation that when a final judgment requires the losing party to perform a specific act, as in this case where the petitioners have been ordered to surrender possession of the disputed land where their houses are situated to the private respondents as the prevailing party, the exemption does not apply. What governs is Section 10 of Rule 39 of the Revised Rules of Court which states:

> "Section 10. Execution of judgments for specific act. — (a) Conveyance, delivery of deeds, or other specific acts; vesting title. — If a judgment directs a party to execute a conveyance of land or personal property, or to deliver deeds or other documents, or to perform, any other specific act in connection therewith, and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done shall have like effect as if done by the party. If real or personal property is situated within the Philippines, the court in lieu of directing a conveyance thereof may by an order divest the title of any party and vest it in others, which shall have the force and effect of a conveyance executed in due form of law.
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> x x x
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> "(c) Delivery or restitution of real property. — The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee, otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. x x x
>
> "(d) Removal of improvements on property subject of execution. — When the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after the hearing and after the former has failed to remove the same within a reasonable time fixed by the court."
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> x x x

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(Emphasis added)

The fact that the improvements sought to be removed, destroyed or demolished from the disputed land are the petitioners' houses are of no consequence. The existence or presence of such houses on the disputed land does not constitute a supervening event that would render the execution of the judgment unjust or inequitable. A "supervening event" consists of facts that transpire after the judgment became final and executory, or of new circumstances that develop after the judgment attained finality, including matters that the parties were not aware of prior to or during the trial because such matters were not yet in existence at that time. The principle of supervening event is an exception to the rule on execution as a matter of right of a final and immutable judgment. Such principle obtains when the supervening facts or event directly affects the matter already litigated and settled, or substantially changes the rights or relations of the parties therein as to render the execution unjust, impossible or inequitable.[26] The removal, destruction or demolition of such houses is a necessary consequence of the execution of a final and immutable judgment which directed the losing party to surrender to the prevailing party the possession of the land where such houses are situated as held in Rubio v. MTCC[27] (1996) and Calixtro v. Gonzales[28] (2008).

Neither was the filing by the petitioners of Civil Case No. 6568 (petition for relief from judgment) before the lower court nor the pendency before the Court of Appeals of CA-G.R. SP No. 03006 (petition for certiorari filed by them assailing the adverse decision of the lower court in Civil Case No. 6568), constitute supervening event that would justify stay of execution of the court a quo's final decision in the absence of any TRO or Injunction.[29] This is so since the mere filing or pendency of such action has not resulted to any material change in the rights or relations of the parties to this case that would render the execution of the final decision unjust, impossible or inequitable. The fact that there exists a "probability" of reversal by the appellate court of the lower court's adverse decision in Civil Case No. 6568 which is the subject matter of CA-G.R. SP No. 03006, is a mere expectancy which does not in any way stay the execution of the aforesaid final decision absent any TRO or Injunction. Otherwise, it would become all too easy to frustrate the conclusive effects of a final and immutable judgment.[30] Considering that no TRO or Injunction has been issued in this case to stay the execution of the court a quo's final decision, there is no abuse of discretion to speak of, much less grave, in issuing the special order of demolition to fully implement and enforce a final judgment.

THE FOREGOING CONSIDERED, the instant petition is DENIED and, thus, ordered DISMISSED for lack of merit.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Camello, J., Ch., and Inting, JJ., concur.

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[1] Rollo. pp. 3-14.

[2] Rollo, pp. 15-16.

[3]Rollo, pp.45-50.

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[4]Rollo, p. 7.

[5]id..

[6]id..

[7]id..

[8]id..

[9]Rollo, pp. 26-27.

[10]Rollo, pp. 28-30.

[11]Rollo, pp. 32-38.

[12]Rollo, pp. 39-43.

[13]Rollo, pp. 24-25.

[14]Rollo, p. 25.

[15]Rollo, pp. 17-18.

[16]Rollo, pp. 15-16.

[17]Rollo, p. 16.

[18]Rollo, p. 11.

[19]Julie's Franchise Corporation v. Judge Ruiz, G.R. No. 180988, August 28, 2008.

[20]Rollo, p. 7.

[21]G. R. No. 150664, September 3. 2009.

[22]Rule 30, Section 1 of the Revised Rules of Court.

[23]G.R. No. 160786, June 17, 2013.

[24]G.R. No. 162874, November 23, 2007.

[25]Mallari v. Banco Filiino Savings & Mortagage Bank, G.R. No. 157660, August 29, 2008.

[26]Abrigo v. Flores, id..

[27]G.R. No. 87110, January 24, 1996.

[28]G.R. No. 169047, November 3, 2008.

[29]De Leon v. Public Estates Authority, G.R. No. 181970, August 3, 2010.

[30]Abrigo v. Flores. G.R. No. 160786, June 17, 2013.

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