

**ROBY & S PAWNSHOP, INC., AND FAUSTINO M. SANTOS,
PLAINTIFFS-APPELLEES, VS. AMELIA L. SANTOS, ET AL.,
DEFENDANTS., AMELIA L. SANTOS, DEFENDANT-APPELLANT.**

Ponente: DE GUIA-SALVADOR, J.

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DE GUIA-SALVADOR, J.:

The lifetime of a writ of execution is at issue in this appeal from the May 5, 2003 Order issued by the Regional Trial Court of Quezon City, Branch 93, in Civil Case No. Q-01-42967,[1] the decretal portion of which states:

“WHEREFORE, the foregoing premises considered, the court adjudges the defendant Amelia L. Santos, guilty of indirect contempt and penalizes her with a fine of TEN THOUSAND PESOS (P10,000.00) to be paid to the clerk of court immediately upon finality of this order.

SO ORDERED.”[2]

The Facts

On March 25, 1999, appellees Roby’s Pawnshop, Inc. and Faustino Santos, as one of its stockholder-incorporators, filed a petition for accounting and damages against appellee pawnshop’s other stockholders-incorporators, appellant Amelia Santos as well as Teresita de Leon, Alex de Leon and Zenaida dela Cruz. Docketed as SEC CASE No. 03-99-6252,[3] the petition was twice amended to incorporate, among other matters, additional causes of action for inspection and access to the records and books of the pawnshop, together with an inventory of its assets.[4] Served with summons, appellant and her co-respondent filed their answer to the amended petition on April 29, 1999.[5]

Pursuant to Section 5.2 of Republic Act No. 8799 and its implementation by Supreme Court Resolutions A.M. No. 00-8-10-SC and A.M. No. 00-11-03-SC, the petition was referred to the trial court sometime in January 2001. Thereat docketed as Civil Case No. Q-01-42967,[6] the case was decided as follows in the trial court’s December 21, 2001 decision, to wit:

“WHEREFORE, the foregoing premises considered, the court orders as follows:

1. The defendants to allow plaintiff Faustino M. Santos to inspect the records of all business transactions, the minutes of any meeting of Roby’s Pawnshop, Inc at reasonable hours of any business day and to let him photocopy the same at his expense.
2. The corporation Roby’s Pawnshop, Inc. be dissolved and for this purpose, the defendants to make an accounting of the business operations of the company during its corporate existence and submit a liquidation inventory of all its assets and liabilities together with the pertinent, audited financial statements, copy furnished the plaintiff Faustino M. Santos, within thirty (30) days from receipt hereof.

Let a copy of this judgment be served upon the SEC for action as may be appropriate relative to the dissolution of Roby’s Pawnshop, Inc., without prejudice to the compliance by the concerned officers of the corporation with the reportorial requirements of the SEC on the matter.

SO ORDERED.”[7]

With the finality of the foregoing decision and its entry in the trial court’s Book of Judgments on February 8, 2002,[8] appellee Santos moved for the issuance of the corresponding writ of execution on March 21, 2002.[9] Granted in the trial court’s order of April 5, 2002,[10] the writ of execution was served to appellant at the pawnshop’s address at 627 Valencia Building, Pinatubo Street, Quezon City. The Sheriff’s Return shows that the writ was received by one Rita de Guzman, an employee of the pawnshop, who refused to allow appellee Santos to inspect the records when the latter visited the office on May 30, 2002.[11]

On June 19, 2002, appellee Santos consequently filed a motion to declare appellant and her co-defendants in contempt of court.[12] With the denial of said motion in the trial court’s July 22, 2002 order[13] upon a showing that the pawnshop was no longer holding office at the address where the writ was served,[14] appellee Santos once again caused the same to be served, this time, upon appellant herself who was then attending the hearing of the criminal case she filed against him. Because of appellant’s continued refusal to comply with the writ of execution issued in the premises,[15] appellee Santos filed another motion to cite appellant and her co-defendants in contempt of court on October 9, 2002.[16]

On October 21, 2002, appellant and her co-defendants filed their opposition to the foregoing motion on the ground that the writ of execution was served beyond the 60-day period allotted by the rules for its return.[17] As a matter of course, the trial court forthwith issued the November 21, 2002 order commanding appellant and her co-defendant to show cause why they should not be held in contempt of court for refusing to comply with the writ of execution for its December 21, 2001 decision.[18] After hearing, the trial court went on to issue the herein appealed May 5, 2003 order, upon the following findings and conclusions, viz:

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“Despite service of a copy of the judgment upon her by way of execution of the final adjudication, the defendant Amelia Santos, has failed to comply with the orders therein contained. In an earlier motion to cite the defendants in contempt, the court denied the motion by reason of a technical defect.

Subsequently, however, the execution of the judgment was carried out properly such that the plaintiff now moved a second time to cite the defendants in contempt of court.

During the hearing of the second motion for contempt, the defendant Amelia L. Santos and counsel appeared. Defendant Santos merely informed that there was no corporate records to speak of. She did not give a plausible reason for such a state of affairs. She did not also give any reason for her failure to comply with the second paragraph of the adjudication.

To date, the defendant Amelia L. Santos has not bothered to comply with any of the orders of adjudication which are contained in the final judgment.

Resolving now the motion to cite defendant Amelia L. Santos in contempt, the actuations of said defendant leave the court no option but to grant the motion. Defendant Santos has contumaciously refused the execution of a lawful judgment against her. She has not given any acceptable reason why she could not comply with said judgment as implemented by the deputy sheriff of this court.”[19]

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Aggrieved, appellant perfected the appeal at bench with the filing of her Notice of Appeal within the reglementary period.[20]

The Issues

Appellant seeks the reversal and setting aside of the appealed order on the ground that the trial court committed the following reversible errors, to wit:

“I

THE TRIAL COURT COMMITTED A SERIOUS AND GRAVE REVERSIBLE ERROR IN DECLARING
HEREIN DEFENDANT-APPELLANT GUILTY OF INDIRECT CONTEMPT.

II.

THE TRIAL COURT COMMITTED A SERIOUS AND GRAVE REVERSIBLE ERROR IN PENALIZING
THE HEREIN DEFENDANT-APPELLANT WITH A FINE OF TEN THOUSAND PESOS
(P10,000.00).”[21]

The Court’s Ruling

We find the appeal bereft of merit.

In urging the grant of her appeal, appellant argues that the improper service of the subject writ of execution the first time around has rendered said service a nullity, to the effect that the duplicate thereof may no longer be served upon her. Then as now, she calls our attention to the 60-day period the rules purportedly allots for the return of the writ and maintains that the “nullification of the service of the Original Copy of the subject Writ of Execution carries with it the nullification of all other copies of the said writ. Even assuming arguendo that she had been validly served with a copy of the self same writ the second time around, moreover, appellant contends that compliance with the trial court’s December 21, 2002 decision was not viable in view of the fact that the pawnshop has no corporate records and minutes of meetings to speak of. In the petition from which the instant suit stemmed, even appellee Santos purportedly admitted that the pawnshop was never formally organized and that no corporate officers were, in fact, ever elected.[22]

Rather than the 60-day period harped upon by appellant, there is, however, no gainsaying that the lifetime of a writ of execution is co-terminus with the period within which the judgment may be enforced by motion, i.e., within five years from the date of its entry in accordance with Section 6, Rule 39 of the 1997 Rules of Civil Procedure.[23] This much is readily evident from Section 14 of the same Rule which provides as follows:

“Section 14. Return of writ of execution. – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until effectivity expires. The returns or periodic report shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.”

The foregoing provision is a pragmatic amendment of Section 11, Rule 39 of the Revised Rules of Court which merely allotted a 60-day period for the return of the writ[24] and, thereafter, required the judgment creditor to procure the issuance of an alias writ of execution for the enforcement of a decision.[25]

Contrary, therefore, to appellant’s position, the initial impropriety of the service of the trial court’s writ of execution did not affect the validity thereof or, for that matter, render the same functus officio. Considered in the light of the fact that the trial court’s December 21, 2001 decision was entered in the Book of Judgments on February 8, 2002,[26] it is clear that the subject writ of execution has a lifetime of five years computed from said date. With the improper service of said writ on May 24, 2002,[27] we find that no fault can be successfully imputed against the trial court for citing appellant in contempt for failure to comply with its December 21, 2001

decision after the same writ was properly served upon her on September 3, 2002.[28]

It is beyond cavil that a party's disobedience of or resistance to the court's lawful writ, process, order or judgment is punishable as indirect contempt.[29] Aside from the general provision of Section 1, Rule 71 of the 1997 Rules of Civil Procedure, Section 11, Rule 39 of the same Rules specifically provides as follows:

"Section 11. Execution of special judgments. – When a judgment requires the performance of any act other than those mentioned in the two preceding sections a certified copy of the judgment shall be attached to the writ of execution and shall be served by the officer upon the party against whom the same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may be punished for contempt if he disobeys such judgment." (emphasis supplied)

For failing to comply with the directive in the trial court's December 21, 2001 Decision, we find that appellant was correctly found guilty of indirect contempt which is punishable under Section 7 of the same Rules by a fine not exceeding P30,000.00 or imprisonment not exceeding 6 months or both.[30]

In taking exception to the P10,000.00 fine imposed by the trial court, appellant, of course, insists that compliance with the trial court's decision is impossible inasmuch as there are, in fact, no corporate records over which the right of inspection urged by appellee can be properly exercised.[31] Even assuming the same to be true, however, appellant loses sight of the fact that the trial court likewise ordered the dissolution of the pawnshop, an accounting of the business operations thereof during its corporate existence and the submission of a liquidated inventory of all its assets and liabilities, together with the pertinent, audited financial statements, with copies duly furnished appellee within thirty days from receipt of the decision.[32] Granted that appellant has proffered an excuse for not according appellee the right of inspection allowed by the trial, it still appears that she has miserably failed to show any justification for her non-compliance with said second directive.

A means to protect the dignity of the court, the solemnity of the proceedings therein and the administration of justice from callous misbehavior and offensive personalities,[33] the power to declare a person in contempt of court and in dealing with him accordingly is, admittedly, to be exercised on the preservative, not on the vindictive principle[34] and on the corrective, not retaliatory idea of punishment.[35] Time and again, judges had consequently been exhorted to bear in mind that the power should be exercised judiciously and sparingly, with utmost restraint, and with the end in view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindication.[36] Our perusal of the record shows that the trial court did not violate these strictures in punishing appellant for indirect contempt of court.

WHEREFORE, the appealed Order dated May 5, 2003 is AFFIRMED in toto.

SO ORDERED.

Reyes, (Chairman) and Roxas, JJ., concur.

[1] pp. 227-228, Orig. Rec.

[2] p. 228, *ibid.*

[3] pp. 30-43, *ibid.*

[4] pp. 51-65; 109-119, *ibid.*

[5] pp. 132-138, *ibid.*

[6] p. 179, *ibid.*

[7] p. 189, *ibid.*

[8] p. 198, *ibid.*

[9] pp. 194-195, *ibid.*

[10] p. 197, *ibid.*

[11] p. 203,

[12] pp. 204-205, *ibid.*

[13] p. 214, *ibid.*

[14] pp. 210-211, *ibid.*

[15] p. 216, *ibid.*

[16] pp. 217-218, *ibid.*

[17] p. 221-223, *ibid.*

[18] p. 224, *ibid.*

[19] pp. 227-228, *ibid.*

[20] p. 230, *ibid.*

[21] pp. 36-37, *Rollo.*

[22] pp. 45-47, *ibid.*

[23] *Bajet vs. Baclig*, 385 SCRA 343, 349.

[24] Rule 39

Section 11. Return of writ of execution. – The writ of execution may be made returnable to the clerk or judge of the court issuing it, at any time not less than ten (10) nor more than sixty (60) days after its receipt by the officer who must set forth in writing on its back the whole of his proceedings by virtue thereof, and file it with the clerk or judge to be preserved with the other papers in the case. A certified copy of the record, in the execution kept by the clerk, or an execution by virtue of which real property has been sold, or the officer's return thereon, shall be evidence of the contents of the originals wherever they, or any part thereof, have been lost or destroyed.

[25] *Herrera*, Remedial Law, Vol. VII, 1997 ed., p. 377

[26] p. 198, *Orig. Rec.*

[27] p. 203, *ibid.*

[28] p. 215, *ibid.*

[29] Section 3 (b), Rule 71, 1997 Rules of Civil Procedure.

[30] Section 7, *ibid.*

[31] pp. 46-47, *Orig. Rec.*

[32] p. 189, *ibid.*

[33] In re: Ventura O. Ducat, 269 SCRA 615, 621.

[34] Quinio vs. Court of Appeals, 335 SCRA 522, 529.

[35] Rodriguez vs. Bonifacio, 344 SCRA 519, 535.

[36] Esmeralda-Baroy vs. Peralta, 287 SCRA 1, 16.

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