

**AUGUSTO D. APO, PRESCILLANO S. AGUINALDO, ROMEO B. IGLESIA,
CEFERINO RIVERA & THE HON. NELLY L. ROMERO
VALDELLON, JUDGE, CFI OF RIZAL, BRANCH XXII PETITIONERS, VS.
THE HONORABLE...**

G.R. No. L-49807. May 15, 1981

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This Petition for Review on Certiorari of the Decision of the Court of Appeals[1] stems from the following facts:

Petitioners and private respondent were the incorporators of Apollo Surveying Company, Inc., a corporation primarily engaged in the business of land survey, formed sometime in May 1971. Private respondent, a Geodetic Engineer, was the President and General Manager, while petitioner Augusto D. Apo was the Treasurer. Private respondent alleges that except for himself, the other incorporators, petitioners herein, had not actually paid for their shares of stock.

On July 15, 1974, private respondent encashed Treasury Warrant No. B-03, 840, 352 dated July 11, 1974 in the amount of P23,257.80, drawn by the Department of Agrarian Reform in favor of the said corporation as part payment of the contract price of the subdivision survey conducted by the company. The warrant appeared to have been endorsed by Terencio C. Rañon and Augusto D. Apo, as the authorized officers of the corporation. Petitioner Apo, however, denied the signature pur-posing to be his and disclaimed knowledge of the encashment.

A complaint for Estafa thru Falsification of Public/Official Document was filed against private respondent with the Complaints and Action Branch of the Department of National Defense. Petitioners, in a proper Board resolution also ousted private respondent as President and General Manager.

Private respondent countered with an action for damages against petitioners in the Court of First Instance of Rizal, Branch XXII, docketed as Civil Case No. 19866. After the issues were joined, the case was set for pre-trial. Petitioners and their counsel failed to appear, and private respondent was allowed to present evidence ex-parte.

On January 15, 1976, the Court, presided by Judge Onofre A. Villaluz, rendered a Decision ordering petitioners to pay private respondent actual, moral and exemplary damages, as well as attorney's fees, all in the total amount of P41,500.00, for having entered into an "illegal conspiracy of maliciously filing the Estafa case" against respondent just to harass him, which charge was subsequently dropped for lack of merit.

After the judgment became final, private respondent moved for the issuance of a Writ of Execution on May 13, 1976. The Court, presided by respondent Judge Nelly L. Romero Valdellon, granted the motion. The property of petitioner Augusto D. Apo, covered by TCT No. 163354, with an area of 3,000 square meters, situated at Tandang Sora Avenue, Quezon City, was attached and sold at public auction. On July 7, 1976, a Certificate of Sale was issued in favor of private respondent as the highest bidder.

Meanwhile, re-investigation of the Estafa case was conducted. Asst. Fiscal Ruben T. Reyes recommended the filing of the Information for the said offense. Criminal Case No. 28362 for Estafa thru Falsification of a Public and/or Official Document was subsequently instituted in the Court of First Instance of Manila against private respondent.

On March 11, 1977, petitioners moved to set aside the Decision in the Damages Case and to recall the Writ of Execution issued on the ground that petitioner Prescillano S. Aguinaldo was not notified of the pre-trial on January 7, 1976. "For want of due process and in the interest of justice," Judge Valdellon, on October 10, 1977, set aside the Decision of January 15, 1976, recalled the Writ of Execution, and re-set the case for pre-trial.

Private respondent sought reconsideration. Petitioner Apo, for his part, requested for the cancellation of the entry or annotation of the public auction sale on TCT No. 163354. On January 30, 1978, the Court denied reconsideration and granted petitioner Apo's Motion for cancellation of entry.

A Petition for Certiorari and Mandamus with Injunction assailing the lower Court's Orders of October 10, 1977 and January 30, 1978, and seeking to declare its Decision of January 15, 1976 final, was filed by private respondent with the Court of Appeals (CA-G.R. No. SP-07664). On October 18, 1978, the latter Court revoked the challenged Orders; declared the Decision of January 15, 1976 final and executory; and directed the respondent Court to issue an order to execute the necessary final bill of sale to consolidate the ownership of the property under TCT No. 163354 in favor of Terencio Rañon. Petitioners' Motion for reconsideration of the said Decision was denied by the Appellate Court.

Petitioners filed with this Court the present Petition seeking to set aside the Decision of the Court of Appeals, arguing that the rule on finality of judgment must yield to the right to a day in Court; that final judgment may be modified or altered if subsequent facts and circumstances would render its execution unjust; that final judgment may be annulled on the ground of fraud; that the rule of res judicata may be disregarded if its application would involve the sacrifice of justice to technicalities.

Required to comment, private respondent asserts that petitioners were not deprived of their day in Court; that they never pursued their move for a new trial; and that there must be an end to every litigation.

After petitioners replied to private respondent's comment this Court gave due course to the petition, and required the parties to present their respective memoranda. The parties complied.

In the meantime, the records show that on March 20, 1978 a Decision was rendered by the Court of First Instance of Manila, then Judge Bernardo P. Fernandez, presiding, finding private respondent Rañon guilty of Estafa thru Falsification of a Public or Official document.^[2] Petitioners stressed this fact in their Memorandum as they prayed for a reversal of the judgment of respondent Appellate Court on the basis of supervening facts. Private respondent, on the other hand, emphasized his argument that the trial Court judgment had become final and could not have been set aside by respondent Judge after 434 days from the date of its finality.

We deemed the case submitted for decision on August 13, 1979.

On April 15, 1981, petitioner Augusto D. Apo and respondent Terencio C. Rañon, assisted by their respective counsels, "after a full and exhaustive consideration of all the issues involved" submitted a Compromise Agreement to this Court for approval. The Agreement reads:

"After a full and exhaustive consideration of all the issues involved in the instant case, together with the related cases CA-G.R. No. SP-07664 and Civil Case No. 19866, Court of First Instance of Rizal, Branch XXII, the parties have finally come to an amicable settlement and agree on the following:

1. For and in consideration of the sum of FIFTY THOUSAND PESOS (P50,000.00), Philippine Currency, receipt of which is hereby acknowledged and confessed, and in cash, by Terencio Rañon is hereby reconveying and transferring, by way of redemption, the parcel of land covered by and embraced in Transfer Certificate of Title No. 163354, Registry of Deeds of Quezon City, to petitioner Augusto D. Apo, free from all other liens and encumbrances and for this purpose, said private respondent Terencio Rañon authorizes, empowers and allows the Register of Deeds of Quezon City to cancel, lift and obliterate the annotation of the Certificate of Sale in his favor in Transfer Certificate of Title No. 163354 inscribed under Primary Entry T-820 and on all titles derived therefrom such as Transfer Certificates of Title Nos. 237487, 237488, 237489, 237490, 237491, 237492, 237493, 237494 and 237531 inscribed under Primary Entry No. 5682;

2. That, likewise, private respondent Terencio Rañon, by reason and on account of the redemption of the property embraced in Transfer Certificate of Title 163354, including all subsequent and derivative titles therefrom, releases and discharges the said title and parcel of land from any and all liability arising out and in connection with Civil Case No. 19866, Court of First Instance of Rizal, Branch XXII, entitled Terencio Rañon vs. Augusto D. Apo, et al.;

3. As a consequence of the redemption, as aforesaid, the parties hereby mutually agree to discharge and release each other from any and all liability arising out of and in connection with Civil Case No. 19866, Court of First Instance of Rizal, Branch XXII and in CA-G.R. No. SP-07664.

WHEREFORE, it is most respectfully prayed of this Honorable Tribunal that judgment be rendered approving the fore-going Compromise Agreement.

Quezon City for Manila, April 3, 1981.

(sgd.) (sgd.)

TERENCIO RAÑON AUGUSTO D. APO

Private Respondent Petitioner

Assisted by:

BERNARDO R. LAURETA ALFREDO C. FLORES

(Counsel for the Private Respondent) (Counsel for the Petitioner)

Rm. 210 Bank of P.I. Building 2nd Floor, Castro Building

Aurora Boulevard, 58 Timog Avenue, Quezon City"

Cubao, Quezon City"

Of the four petitioners, only petitioner Augusto D. Apo signed the Compromise Agreement. However, the property attached and subsequently sold at public auction to private respondent covered by TCT No. 163354, belongs to Apo alone, and he appears to be the principal petitioner. It is also to be noted that the Agreement correctly excludes any stipulation with respect to the criminal case for Estafa.

WHEREFORE, judgment is hereby rendered approving the Compromise Agreement as hereinabove reproduced, and the parties are enjoined to abide by its terms and conditions.

The instant Petition is hereby dismissed. Without costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

[1] Penned by J. Rodolfo A. Nocon, and concurred in by JJ. Luis B. Reyes and Rafael C. Climaco.

[2] pp. 90-98, Rollo.

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