

**EMMA SANCHEZ, ISABEL VDA. DE MONILAR, RICARDO ESPANA,
LELIA BAUTISTA, PANCRASIO BAUTISTA, MICHELLE CAMPO,
MARGARITA TOQUERO, ELDIFONSO DIOSMA, EMELITA PURISIMA,
GREGORIO DIOSMA,...**

Ponente: LOPEZ, J.

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LOPEZ, J.:

Before Us is a Petition for Certiorari under Rule 65 of the Rules of Court which seeks to annul the April 15, 2014 Order[1] of respondent court in Civil Case No. T-2380 denying petitioners' prayer to hold the enforcement of the order for issuance of a writ of demolition in abeyance, and the July 16, 2014 Order[2] denying petitioners' Motion for Reconsideration of the April 15, 2014 Order. The first assailed Order is quoted hereunder with citations omitted:

"The new counsel for defendants, Atty. Moreno A. Patindol, filed on March 18, 2014 a "REJOINDER (Against the Issuance of Writ of Demolition)". Record shows that on March 11, 2014, this Court issued an order granting the Motion for Issuance of Writ of Demolition which was issued after the defendants were given the opportunity to be heard as in fact, the defendants thru their former counsel, Atty. Jonathan G. Talabo, submitted his "Comment and Objection" which is already a compliance to the required opportunity to be heard.

However, because of the now "REJOINDER" filed by the new counsel for defendants, this Court went over again its order dated January 21, 2013 which granted the motion for the issuance of writ of execution pending appeal. It finds no cogent reason to reconsider its stand. This Court still relies on the case of *Alpa-PCM, Inc. vs. Vincent Bulasao, et al.*, which is cited and partly quoted in that order. The matters raised by defendants in the herein subject REJOINDER are matters which if still proper, can best be threshed out in the Court of Appeals. In that REJOINDER, defendants pray that they be given time to file separate civil action for the annulment and cancellation of the Free Patent title irregularly procured by plaintiff. This Court is withholding comment on that.

At any rate, the Rules of Court precisely provides for restitution according to equity in case the executed judgment is reversed on appeal.

WHEREFORE, the prayer of defendants in their rejoinder for time to file separate civil action for the annulment and cancellation of the Free Patent title allegedly irregularly procured by plaintiffs and in effect to hold in abeyance the enforcement of the order for issuance of Writ of Demolition is denied due course.

Let Writ of Demolition be issued and enforced pursuant to the order of this Court dated March 11, 2014.

Furnish a copy of this order to Atty. Roquesa M. Joyo-Alcomendras and Atty. Moreno A. Patindol.

SO ORDERED."

THE ANTECEDENT FACTS

Petitioners are the defendants in Civil Case No. 1137 for Unlawful Detainer filed against them by private

respondents in the Municipal Trial Court in Cities (MTCC) in Toledo City.

After completing proceedings, the MTCC Toledo City rendered an Amended Judgment[3] in favor of plaintiffs, thus:

“WHEREFORE, judgment is hereby rendered for plaintiffs and against defendants, directing that:

1. All defendants vacate Lot No. 5511 and surrender possession thereof to plaintiffs;
2. Each defendant pay plaintiffs the sum of P200.00 a month (spouses to pay P200.00 jointly and not P200.00 each);
3. All defendants jointly and severally pay plaintiffs the amount of P10,000.00 by way of attorney’s fees and litigation expenses.

Costs against defendants.

SO ADJUDGED.”

On appeal, the RTC rendered a Decision[4] affirming, in toto, the Amended Judgment of the MTCC. Petitioners then filed a Petition for Review of the RTC Decision before this Court.

While the Petition for Review was pending, private respondents filed a Motion for Writ of Execution[5] which was granted by respondent court.[6]

After the writ of execution was served upon petitioners, private respondents filed a Motion for Issuance of a Writ of Demolition[7]. Pending resolution of private respondent’s Motion, petitioners, through a new counsel, filed a Rejoinder (Against the Issuance of a Writ of Demolition)[8] and asked for time within which to file a separate civil action for the annulment and cancellation of the Free Patent Title allegedly irregularly procured by private respondents.

On April 15, 2014, respondent court issued its aforequoted assailed Order. Petitioner’s Motion for Reconsideration[9] of the assailed Order was denied by respondent court in its second assailed Order[10] dated July 16, 2014.

Hence, this Petition imputing grave abuse of discretion on the part of respondent court in the issuance of its assailed Orders.

OUR RULING

The petition is without merit.

At the outset, it must be emphasized that this case arose out of an unlawful detainer case filed by private respondents against petitioners. Actions for unlawful detainer are governed primarily by the Revised Rules on Summary Procedure and suppletorily by the Rules of Court. It is clear under Section 21 of the Revised Rules on Summary Procedure that:

“Sec. 21. Appeal. — The judgment or final order shall be appealable to the appropriate regional trial court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the regional trial court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed.” [11]

This provision of law is likewise reflected in Section 21, Rule 70 of the Rules of Court which states:

“Sec. 21. Immediate execution on appeal to Court of Appeals or Supreme Court. – The judgment of the

Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom.”[12]

The above provisions are supplemented and reinforced by Section 4, Rule 39 and Section 8(b), Rule 42 of the Rules of Court which declares:

“Sec. 4. Judgments not stayed by appeal. – Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court. On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support.

The stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party.[13]

x x x x”

”Sec. 8. Perfection of appeal; effect thereof. –

(a) Upon the timely filing of a petition for review and the payment of the corresponding docket and other lawful fees, the appeal is deemed perfected as to the petitioner.

The Regional Trial Court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

However, before the Court of Appeals gives due course to the petition, the Regional Trial Court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Section 2 of Rule 39, and allow withdrawal of the appeal.

(b) Except in civil cases decided under the Rules on Summary Procedure, the appeal shall stay the judgment or final order unless the Court of Appeals, the law, or these Rules shall provide otherwise.”[14]

It is clear from the foregoing provisions that a judgment of the RTC in appeal to it of an ejectment case is immediately executory. That it is immediately executory is emphasized by the fact that no resolutive condition has been imposed that will prevent or stay the execution.[15] Thus, the judgment of the RTC in an ejectment case is enforceable upon its rendition and, upon motion, immediately executory notwithstanding an appeal taken therefrom.

When the RTC (respondent court herein) affirmed, in toto, the Amended Judgment of the MTCC in Civil Case No. 1137 for Unlawful Detainer, such RTC decision is immediately executory without prejudice to any appeal that petitioners may take therefrom. Such characteristic of being immediately executory was precisely the reason why the RTC (respondent court) granted private respondent’s motion for issuance of a writ of execution.

No grave abuse of discretion can, thus, be imputed to respondent court when it issued its assailed Order directing the issuance of a writ of demolition. Such directive is but an adjunct to the writ of execution already granted and served to petitioners after the respondent court affirmed, in toto, the decision of the MTCC.

Verily, where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction. This is so because "grave abuse of discretion" is well-defined and not an amorphous concept that may easily be manipulated to suit one’s purpose. The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only

be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.[16]

Petitioners in this case, failed to show such manifestly patent and gross act of abuse of discretion on the part of respondent court. Truly, conformity with existing rules does not constitute grave abuse of discretion.

WHEREFORE, the petition is DENIED. The assailed Orders dated April 15, 2014 and July 16, 2014 issued by respondent court STAND.

SO ORDERED.

Ingles, J., Chairman, and Lagura-Yap, JJ., concur.

[1] Rollo, page 42.

[2] Rollo, page 44.

[3] Rollo, page 90.

[4] Rollo, page 117.

[5] Rollo, page 124.

[6] Cf. Rollo, page 131.

[7] Rollo, page 132.

[8] Rollo, page 141.

[9] Rollo, page 170.

[10] Rollo, page 44.

[11] Emphasis supplied.

[12] Emphasis supplied.

[13] Emphasis supplied.

[14] Emphasis supplied.

[15] ATO vs. Court of Appeals and Bernie G. Miaque, G.R. No. 173616, June 25, 2014.

[16] Malayang Manggagawa ng Stayfast Phils., Inc. vs. NLRC, et al., G.R. No. 155306, August 28, 2013, citing Yu vs. Judge Reyes-Carpio, G.R. No. 189207, June 15, 2011.

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