

**SPOUSES PEDRO G. CEPEDA AND TRINIDAD PAZ CEPEDA,
PETITIONERS, VS. HON. BERNABE B. MENDOZA, IN HIS CAPACITY AS
PRESIDING JUDGE OF BRANCH 23 OF THE REGIONAL TRIAL COURT
OF ROXAS, ...**

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition For Certiorari[1] filed by the Spouses Pedro G. Cepeda and Trinidad Paz Cepeda (“petitioners spouses Cepeda”), imputing grave abuse of discretion on the part of Judge Bernabe B. Mendoza, Presiding Judge, Regional Trial Court, Branch 23, Roxas, Isabela (“RTC”) for issuing the Order dated 6 July 2012[2] and the Order dated 29 August 2012[3] (“assailed Orders”).

The facts are as follows: The petitioners spouses Cepeda are the registered owners of Lot 2037, an agricultural land located at Barrio Barucboc, Municipality of Mallig, Isabela, covered by Transfer Certificate of Title No. T-393350 (“subject property”).[4] Petitioners spouses Cepeda bought the subject property in 2002 from the previous registered owner, the late Rogelio Padilla who had Transfer Certificate of Title No. T-18153 (“TCT No. 18153”) in his name.[5] Petitioners spouses Cepeda are in possession of the subject property. In 2004, Lourdesita Padilla-Tuddao (“respondent Padilla-Tuddao”) filed the Complaint[6] in the RTC against Elaine, Ronnel, Janison, Christopher, Rogel, April, all surnamed Padilla (“respondents Padilla”), and Geronimo and Marisa Ramirez (“respondents Ramirez”), docketed as Civil Case No. 23-774-04, for judicial partition of real properties with recovery of possession and damages. The real properties sought to be partitioned were Lot No. 2004, Lot No. 2205, and Lot No. 2251. On 15 November 2007, the RTC issued the Decision, ruling in favor of private respondent Padilla-Tuddao in Civil Case No. 23-774-04.[7] The dispositive portion of the RTC Decision read:

WHEREFORE, premises considered, JUDGMENT is hereby rendered as follows:

- a. DISMISSING the Complaint in so far as the action for Recovery of Possession is concerned for lack of jurisdiction;
- b. DECLARING the plaintiff LOURDESITA PADILLA-TUDDAO a daughter of Spouses Hermogenes Padilla and Genoveva Valdez-Padilla; and
- c. DECLARING (1) Lot No. 2004 titled under Original Certificate of Title No. P-2685 insofar as the remaining portion of Eighty-nine thousand four hundred and fourteen (89,414) square meters is concerned, (2) Lot No. 2205 with an area of Ninety-nine thousand seven hundred and fifty-seven (99,757) square meters and titled under Transfer Certificate of Title No. T-15510, and (3) Lot 2251 with an area of Ninety-five thousand six hundred and fifty-six (95,656) square meters and titled under Transfer of Certificate of Title No. T-34152 OWNED in common or pro-indiviso by the following:
 - i. One-third (1/3) thereof belonging to the Heirs of Alejandro Padilla;
 - ii. One-third (1/3) thereof belonging to the Heirs of Rogelio Padilla and
 - iii. One-third (1/3) thereof belonging to the plaintiff Lourdesita Padilla-Tuddao.

The parties are encouraged to partition the said three (3) parcels of land by proper instruments of conveyance, and the court shall confirm the partition so agreed upon by the parties, and such partition, together with the order of the court confirming the same, shall be recorded in the registry of deeds of Isabela. Otherwise, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to make the partition, commanding them to partition the same, and all incidental expenses and charges chargeable against said properties before the parties are given their respective shares (Rule 69, Rules of Court).

SO ORDERED.

The respondent Padilla (defendants in Civil Case No. 23-774-04) appealed to the Court of Appeals via C.A. G.R. No. 91521. On 15 September 2010, the Court of Appeals promulgated the Decision,[8] and affirmed the RTC Decision. The Supreme Court denied the petition for review questioning the Court of Appeals Decision, via the Resolution of 14 February 2011 in G.R. No. 195020.[9]

After the Supreme Court Decision became final and executory on 29 July 2011,[10] respondent Padilla-Tuddao sought to implement the High Tribunal's Decision in G.R. No. 195020, by filing the Motion for Execution[11] in the RTC on 4 October 2011. On 30 April 2012, respondent Padilla-Tuddao filed another Motion for Execution.[12] On 7 May 2012, respondent Padilla-Tuddao filed the third Motion for Execution.[13] Notably, in all three Motions for Execution (signed by Atty. Mariano A. Avecilla), respondent Padilla-Tuddao erroneously replaced "Lot 2251" with "Lot 2037" (subject property) when she quoted the RTC Decision dated 15 November 2007.

In the Order dated 14 May 2012,[14] the RTC denied the Motion for Execution.

On 26 June 2012, the petitioners spouses Cepeda filed in the RTC, the Omnibus Motion A) To Intervene; B) To Admit Attached Complaint-in-Intervention, and; C) To Deter Further Proceedings on the Execution until the Complaint-in-Intervention is Adjudicated with Finality,[15] for the exclusion of the subject property from the implementation of the RTC's Decision in Civil Case No. 23-774-04.

The petitioners spouses Cepeda filed Complaint-In-Intervention[16] and alleged: petitioners spouses Cepeda learned in 2012 that the subject property was included in the parcels of land claimed by respondent Padilla-Tuddao in the Motion for Execution however, the subject property was not among the properties included in the RTC Decision dated 15 November 2007 (affirmed by the Supreme Court); respondent Padilla-Tuddao erroneously included the subject property in the Motions for Execution which she filed in the RTC; respondent Padilla-Tuddao cannot change the decision of the RTC by the mere filing of the Motions for Execution; the respondent Padilla-Tuddao misled the RTC by making it appear that the subject property was included in the parcels of land to be partitioned; the RTC can still correct the inclusion of the subject property in the parcels of land to be partitioned; when the petitioners spouses Cepeda bought the subject property from Rogelio Padilla, there was no notice of lis pendens in TCT No. T-18153 in the name of Rogelio Padilla covering the subject property, hence, the subject property should be excluded from the parcels of land to be partitioned.

The petitioners spouses Cepeda prayed that: 1) the subject property (or Lot 2037) be excluded from the parcels of land to be partitioned in the execution of the RTC's Decision dated 15 November 2007 in Civil Case No. 23-774-04; 2) the raffle of the lots be deferred; 3) the RTC deny the motions for execution of respondent Padilla-Tuddao; and 4) the RTC order respondents Padilla-Tuddao, Padilla, and Ramirez, to pay petitioners spouses Cepeda damages.

In the assailed Order dated 6 July 2012,[17] the RTC denied the motion to intervene ruling that the motion should have been filed before the rendition of judgment.

In the Order dated 29 August 2012,[18] the RTC ordered the distribution of specific parcels of land, including the subject property (or Lot 2037). It also denied the petitioners spouses Cepeda's Motion For Reconsideration.

In the Order dated 15 October 2012,[19] the RTC granted the Motion for the issuance of a writ of execution and ordered the implementation of the Decision dated 15 November 2007, and identified the properties covered by it as Lot 2204, Lot 2205-A, Lot 2205-D, and Lot 2307 (subject property). The dispositive portion read:

WHEREFORE, as prayed for by the plaintiff and over the objection of the defendants, let a writ of execution issued and ordering the Sheriff of this Court, to demand the defendants and all persons claiming rights under them to peaceably vacate, or to forcibly oust them if necessary from, a) Lot 2204-C-1, b) Lot 2205-A, c) Lot 2205-D, and d) Lot 2307-C, their technical descriptions are found on pages 1) 130, 2) 297, c) 290 and 295 and d) 296 of the records, volume II.

Let copies of this Order be furnished Attys. Mariano A. Avecilla and Ramorella P. Lodriguito-Caranay, as well as the Hon. Antonio M. Eugenio and Mr. Agapito M. Taddao.

Roxas, Isabela, October 15, 2012.

Thus, this Petition, making the following assignment of errors:

A.

THE PUBLIC RESPONDENT GRAVELY ABUSED HIS DISCRETION IN DENYING PETITIONERS' MOTION TO INTERVENE AND TO ADMIT COMPLAINT-IN-INTERVENTION.

B.

THE PUBLIC RESPONDENT GRAVELY ABUSED HIS DISCRETION IN ORDERING THE DISTRIBUTION OF THE LOTS TO HEREIN PRIVATE RESPONDENTS BY RAFFLE.

The pivotal issue is whether the RTC acted with grave abuse of discretion when it included the subject property (Lot 2037) in the real properties to be partitioned among the respondents Padilla-Tuddao, Padilla, and Ramirez in the Order dated 15 October 2012 which granted the motion for the issuance of a writ of execution to implement the RTC Decision dated 15 November 2007.

PETITION FOR CERTIORARI[20]

The petitioners spouses Cepeda answer in the affirmative. The RTC acted with grave abuse of discretion when it included the subject property in the real properties to be partitioned among the respondents Padilla-Tuddao, Padilla, and Ramirez in the Order dated 15 October 2012 which granted the motion for the issuance of a writ of execution.

The Petition for Certiorari[21] thrusts: the decision of the RTC dated 15 November 2007, which ordered the partition of parcels of land among private respondents, and later affirmed by the Supreme Court, did not include the subject property; respondent Padilla-Tuddao erroneously included the subject property in the enumeration of lots to be partitioned among the respondents Padilla-Tuddao, Padilla, and Ramirez; if the RTC continues to include the subject property in the partition, it would be tantamount to a collateral attack on the TCT No. T-393350 of petitioners spouses Cepeda; the partition of the subject property would be a violation of the property rights of the petitioners spouses Cepeda without due process of law.

COMMENT[22] (by Atty. Mariano A. Avecilla)

The Comment does not discuss this matter.

COMMENT TO PETITION FOR CERTIORARI[23] (by Atty. Ramorella P. Lodriguito-Caranay)

The respondents Padilla answer in the affirmative. The RTC acted with grave abuse of discretion when it included the subject property in the real properties to be partitioned among the respondents Padilla-Tuddao, Padilla, and Ramirez in the Order dated 15 October 2012 granting the motion for the issuance of a writ of execution.

The Comment to Petition for Certiorari[24] thrusts: the Decision of the RTC, which was affirmed by the Court of Appeals and the Supreme Court, ordered the partition of Lot 2004, Lot 2205, and Lot 2551; when private respondent Padilla-Tuddao filed the Motion for Execution, she erroneously quoted the RTC Decision by including Lot 2037 as part of the properties to be partitioned.

The parties submitted their respective memoranda (i.e.: respondent Padilla-Tuddao's Compliance;[25] petitioners spouses Cepeda's Memorandum [for Petitioners])[26] reiterating their arguments.

THE COURT'S RULING

The petitioners spouses Cepeda raise the matter of whether they could intervene in the case before the RTC even if the motion for intervention was filed after the RTC had rendered judgment (in this case the motion was filed after the Supreme Court Decision on the Petition for Review had become final). There is however no necessity to rule on this issue because intervention would be irrelevant as we shall order the implementation of the RTC Decision dated 15 November 2007 by correctly excluding Lot 2037.

With respect to the pivotal issue, we rule in the affirmative. The RTC acted with grave abuse of discretion when it issued the Order dated 15 October 2012, which granted the prayer for the issuance of a writ of execution and included Lot 2037 among the lots to be partitioned even if the Decision dated 15 November 2007 did not include Lot 2037.

A decision which has become final and executory can no longer be challenged, and it must be enforced in accordance with its terms and conditions.[27] The writ of execution must conform substantially to every essential particular of the judgment promulgated. It must conform, more particularly, to that ordained or decreed in the dispositive portion of the decision.[28] An order of execution which varies the tenor of the judgment, or for that matter, exceeds the terms thereof is a nullity.[29]

It is not disputed that in the RTC Decision dated 15 November 2007 (affirmed in toto by the Court of Appeals, and the Supreme Court), the RTC ordered the partition of three lots, i.e.: Lot 2204, Lot 2205, and Lot 2251. Then, in the Order dated 29 August 2012, the RTC included in its discussion Lot 2004, Lot 2205, Lot 2204, and erroneously, Lot 2037. In the RTC's Order dated 15 October 2012, the RTC granted the issuance of a writ of execution to implement the RTC Decision, and again erroneously included Lot 2037 as among the lots to be partitioned.

Clearly, the Order dated 15 October 2012 was void, because it changed the dispositive portion of the RTC's Decision in Civil Case No. 23-774-04 by including the subject property (Lot 2037) in the real properties to be partitioned.

On a final note, the Court is dismayed at the blatant act of respondent Padilla-Tuddao, with the aid of her counsel Atty. Mariano A. AVECILLA, in filing three Motions for Execution with the erroneous replacement of "Lot 2251" with "Lot 2037," in the alleged verbatim recital of the RTC Decision dated 15 November 2007. The Court reminds Atty. Mariano A. AVECILLA of his duty as a lawyer to not knowingly misquote or misrepresent the text of a decision or authority[30] in any pleading and proceeding in the future.

The Court rules as follows: 1) GRANTS the Petition for Certiorari filed by the Spouses Pedro G. Cepeda and

Trinidad Paz Cepeda; 2) SETS ASIDE the Order dated 6 July 2012, the Order dated 29 August 2012, and the Order dated 15 October 2012, of the Regional Trial Court, Branch 23, Roxas, Isabela; 3) DIRECTS the issuance of a writ of execution to conform to, and implement the Decision dated 15 November 2007, and particularly excluding Lot 2037 in the list of three properties identified as owned in common and ordered to be partitioned; and 4) WARNS Atty. Mariano A. Avecilla that a repetition of the same or similar act in the future will be dealt with more severely.

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

- [1] C.A. Rollo, p. 3.
- [2] C.A. Rollo, p. 42.
- [3] C.A. Rollo, p. 41.
- [4] C.A. Rollo, p. 44.
- [5] C.A. Rollo, p. 55.
- [6] C.A. Rollo, p. 46.
- [7] C.A. Rollo, p. 56.
- [8] C.A. Rollo, p. 69.
- [9] C.A. Rollo, p. 80.
- [10] C.A. Rollo, p. 81.
- [11] C.A. Rollo, p. 83.
- [12] C.A. Rollo, p. 201.
- [13] C.A. Rollo, p. 204.
- [14] C.A. Rollo, p. 86.
- [15] C.A. Rollo, p. 90.
- [16] C.A. Rollo, p. 99.
- [17] C.A. Rollo, p. 134.
- [18] C.A. Rollo, p. 211.
- [19] C.A. Rollo, p. 222.
- [20] C.A. Rollo, p. 3.
- [21] Ibid.
- [22] C.A. Rollo, p. 225.
- [23] C.A. Rollo, p. 183.

[24] Ibid.

[25] C.A. Rollo, p. 263.

[26] C.A. Rollo, p. 269.

[27] Mt. Carmel College v. Resuena, G.R. No. 173076, 10 October 2007, citing Abott v. NLRC, 229 Phil. 229, 233 (1986).

[28] Spouses Golez v. Spouses Navarro, G.R. No. 192532, 30 January 2013, citing Solidbank Corp. v. Court of Appeals, 428 Phil. 949, 957-958 (2002).

[29] Ibid., citing General Milling Corporation-Independent Labor Union (GMC-ILU) v. General Milling Corporation, G.R. Nos. 183122 and 183889, 15 June 2011.

[30] Rule 10.02 – A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.

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