

**BERNARDA NAZAL, ASSISTED BY HER HUSBAND CEFERINO NAZAL,
PETITIONER, VS. HON. FELICIANO BELMONTE, JUDGE CFI OF
BAGUIO AND JUANA F. CATBAGAN, ASSISTED BY HER HUSBAND
BERNARDINO CA...**

G.R. No. L-24410. May 23, 1968

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Original petition for certiorari and prohibition, with preliminary injunction, against respondent, Hon. Feliciano Belmonte, as Judge of the Court of First Instance of Baguio City, to stay the execution of a decision of said court. Upon the filing of said petition and of the posting and approval of the requisite bond, we issued the writ of preliminary injunction prayed for.

The pertinent facts are: Many years ago, a strip of land - commonly known as the MRR Lot - in Baguio City had been reserved for a right-of-way of the Manila Railroad Company - hereinafter referred to as the Company - in connection with a proposed extension of its railroad line. Pending implementation of the proposed extension, several people squatted on the MRR Lot, and, when the line was eventually abandoned, a scramble for the possession of portions of the Lot ensued among the squatters. Herein respondent Juana F. Catbagan and one Faro Cabading had conflicting claims to the possession of a portion known as Lot No. 24-A. Acting as arbiter thereon, the Company granted permission to Catbagan to build north of a path dividing said Lot No. 24 A and to Cabading to build south of said path.

This, notwithstanding, Cabading constructed his house north of the path, in view of which Catbagan filed, against him, Civil Case No. 743 of the Court of First Instance of Baguio, an accion publiciana to recover possession of the northern portion of Lot No. 24-A, as well as damages. In due course, judgment was rendered on June 7, 1960, sentencing Cabading to vacate said portion and remove his building thereon, as well as to pay Catbagan the sum of P500.00, as attorney's fees, in addition to the costs. Cabading sought a review of this decision by the Court of Appeals, but while the appeal was pending before the latter, he sold his aforementioned house to herein petitioner, Bernarda Nazal, who thereafter introduced additional improvements thereon.

Meanwhile, the Company, which claimed ownership over the MRR Lot, dealt with the former squatters as its tenants and collected rentals therefrom until the year 1954, when it stopped its collections. Years later, heeding a clamor from the occupants of said Lot for a direct sale of the portions occupied by them, on May 28, 1963, the City Council of Baguio passed a resolution declaring that the MRR Lot is a public land, disposable through townsite sales applications. Inasmuch as the Company had failed to establish its claim of title to the MRR Lot, on March 30, 1964 a body designated as "Baguio Coordination Committee"[1] recommended to the Director of Lands that the lot be subdivided and its actual occupants allowed to file "the proper public land application." Accordingly, Cabading applied for the purchase of the area on which his house was and, upon its sale to petitioner Bernarda Nazal, the latter took over and pursued the application.

Meanwhile, or on November 9, 1964, the Court of Appeals[2] had affirmed the decision of the Court of First Instance of Baguio in its Civil Case No. 743, and upon the remand of the records thereof to the lower court, then presided over by Judge Feliciano Belmonte, respondent Catbagan moved, on March 4, 1965, for the execution of said decision. Forthwith, or on March 12, 1965, petitioner Nazal filed Civil Case No. 1497 of the Court of First Instance of Baguio against respondent Catbagan, to stay said execution, upon the ground that the land in question is the object of an application of Cabading, whose interest had been conveyed to petitioner, then being processed by the Bureau of Lands. Subsequently, or on March 18, 1965, Nazal filed in Case No. 743 an opposition to Catbagan's motion for execution. This opposition was, on March 29, 1965, overruled by respondent Judge, who then ordered the issuance of the writ prayed for by Catbagan.

On or about March 24, 1965, the Director of Lands filed a motion to intervene in case No. 1497, but before the motion was acted upon, or on April 7, 1965, Nazal instituted the present action against Judge Belmonte and Catbagan. At an auction sale held on November 11, 1965, the disputed area was awarded to petitioner Nazal, and on February 9, 1966, Original Certificate of Title No. P-566, covering said area, was issued to her.

The question for determination in this case is whether or not the judgment in Civil Case No. 743 of the Court of First Instance of Baguio, which is final and executory, ordering Cabading to vacate the land in question and remove his building thereon, as well as to pay sums of money to respondent Catbagan, may be executed against herein petitioner Nazal, as successor-in-interest of Cabading, despite the subsequent sale of the land by the Government to Nazal and the Torrens title to said land issued in her favor.

Although once a decision has become final and executory, it is the ministerial duty of the proper court to order its execution, this rule is subject to exceptions. Indeed, it is well-settled that when, after a judgment has become final and executory, facts and circumstances transpire which render its execution impossible or unjust, the interested party may ask a competent court to stay its execution or prevent its enforcement.[3]

Thus, the stay of execution of a final judgment for a sum of money has been sanctioned to give the judgment debtor an opportunity to set off a money claim that had subsequently accrued in his favor and against the judgment creditor,[4] or where the indebtedness or obligation arising from said judgment had been novated by subsequent agreement.[5]

More directly in point is the case of *Hernandez vs. Clapis*,[6] a forcible entry and detainer case in which a decision was rendered in favor of the plaintiffs and against the defendants. Although the decision was affirmed by the Supreme Court, the execution thereof was objected to upon the ground that, during the pendency of the appeal before said Court, the Secretary of Agriculture and Natural Resources had rejected the sales application of the plaintiffs and allowed the defendants to purchase the land in dispute. In reversing the order of execution issued by the lower court, we said:

"x x x While the decision in the forcible entry and detainer case is final, it can no longer be executed at least in so far as the possession of the land in question is concerned, because, under section 4 of Commonwealth Act No. 141, the Director of Lands has direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact are conclusive when approved by the Secretary of Agriculture; and because the latter had already cancelled the right of plaintiff Maria L. Hernandez to administer the land in question and rejected both her sales application and that of her husband, plaintiff Antonio Hernandez, at the same time giving the defendants the preferential right to apply for said land in virtue of the provisions of Republic Act No. 65. The correctness of the final decision of the Secretary of Agriculture is not herein involved, but it is valid and binding until reversed in a proper proceeding by the court. The situation is not that the judgment in the forcible entry and detainer case has lost its virtuality, but that the plaintiffs had subsequently ceased to be entitled to the

relief awarded by said judgment.

"However, the money judgement in favor of the plaintiffs not being within the scope of the administrative control granted by law to the Director of Lands with reference to public land, may still be enforced by execution." (Underscoring supplied.)

This view was adhered to in *Realiza vs. Duarte*[7] in the following language:

"The situation of appellant Gaspar Duarte, however, is different. On May 31, 1954, or after the entry of judgment, his homestead application was approved by the Director of Lands. In view of this supervening event which occurred after the entry of judgment, it behooved the court a quo to have ascertained if the relationship between appellee and Duarte was changed. In the case of *Compañia General de Tabacos vs. Martinez, et al.*, 29 Phil., 515, 521, which involved an action for revival of judgment, this Court, through Justice, Trent, stated:

'There is by no means any pre-sumption in his (judgment creditor) favor that he is entitled to no less than the exact relief set forth in the first judgment. During a period of five years or more, many events or transactions may have transpired to change the relations of the parties or the right of the judgment creditor to demand the enforcement of his judgment. It is the duty of the court before which the second action is tried to examine any such defenses presented by the defendant and allow their just effect.'

xx xx xx xx

"The land on which Duarte settled may be initially presumed as public land, his home-stead application over it having been approved by the Director of Lands. It is our considered opinion that the approval of his homestead application legalized his possession, and such approval constitutes a justiciable defense against the action for revival of judgment as it necessarily affects the appellee's right of possession of the land from which Duarte was ordered ejected." (Underscoring supplied.)

To the same effect is *De los Santos vs. Rodriguez, et al.*[8] We quote from the decision therein rendered:

"It the time of the rendition of the decision in CA-G.R. No. 18912-R, the question whether or not said portion was to be part of her homestead had not as yet been definitely settled. Accordingly, it became necessary to determine in that case who shall meanwhile be in possession. The aforementioned question was finally decided in favor of Rodriguez, in the order of the Director of Fisheries, dated February 27, 1959. There-after he is, therefore, the party entitled to said possession. In other words, the decision in CA-G.R. 18912-R may no longer be executed, not because the decision in CA-G.R. 32970-R has annulled it, but because of events subsequent to the first decision, which events have changed materially the situation between the parties. x x x.

"As early as *Molina vs. De la Riva* (8 Phil., 569. See, also, *Behn Meyer & Co. vs. McMicking*, 11 Phil., 276; *Warner, Barnes & Co. vs. Jaucian*, 13 Phil. 4; *Espiritu vs. Crossfield and Guash*, 14 588; *Flor Mate vs. Lichauco and Sali-nas*, 36 Phil., 809; *De la Costa vs. Celofax*, 67 Phil., 685) the principle has been laid down that, when, after judgment has become final, facts and circumstances transpire which render its execution impossible or unjust, the interest-ed party may ask the court to modify or alter the judgment to harmonize the same with justice and the facts.

"For this reason, in *Amor vs. Judge Jose* (77 Phil. 703), we used the following language:

'The Court cannot refuse to issue a writ of execution upon a final and executory judgment, or quash it, or order its stay, for, as a general rule, parties will not be allowed, after final judgment, to object to the execution by raising new issues of fact or of law, except when there had been a change in the situation of the parties which makes such execution inequitable; or when it appears that the controversy has never been submitted to the judgment of the court; or when it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or issued against the wrong party, or that judgment debt has been paid or otherwise satisfied; or when

the writ has been issued without authority.'

"Since, events posterior to the rendition of the decision in CA-G.R.18912-R have reversed the legal position of the parties therein, the trial Court committed a grave abuse of discretion, amounting to excess of jurisdiction in issuing the writ of execution complained of, insofar as Lot 880 is concerned. x x x." (Underscoring supplied.)

Moreover, in the administrative proceedings relative to the disposition of the land of the public domain involved in the present case, respondent Catbagan neither object to the sales application of Faro Cabading nor applied for the purchase of said land. He did not even notify the Director of Lands of the suit regarding the possession of said land. Considering that said proceedings bind all claimants of lands they admit to be part of the public domain, and that an original certificate of title has already been issued in favor of petitioner Bernarda Nazal, it is obvious that respondent Catbagan is now barred from asserting and/or enforcing the possessory right previously adjudged in her favor, although the money portion of the judgment in question may still be executed.

WHEREFORE, the writ of certiorari prayed for should be as it is hereby granted and the order of respondent Judge of March 29, 1965, annulled, but only in so far as the ejectment from and the recovery of possession of the disputed land is concerned, without special pronouncement as to costs.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

[1] Composed of the Director of Lands, the Baguio City Mayor, its City Engineer, the Director of Parks and Wild Life, a representative of the Chairman of the Baguio City Planning Board, a representative of the Director of Forestry, and the Chief, Land Management Division, Bureau of Lands.

[2] T.s.n CA-G.R. No. 28601-R.

[3] Ocampo vs. Sanchez, 97 Phil., 473; City of 4 Butuan vs. Judge Ortiz, -18054, December 22, 1961.

[4] Chua A.H. Lee vs. Mapa, 51 Phil., 624.

[5] De la Costa vs. Cleofas, 67 Phil., 687.

[6] 98 Phil., 684.

[7] L-20527, August 31, 1967.

[8] L-23170, January 31, 1968.

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