PEDRO HINOLAN JR., PETITIONER-APPELLANT, VS. INTESTATE ESTATE OF THE LATE JUAN CAMINOS, REPRESENTED BY NOW ADMINISTRATORS, NAMELY: CRISPINA ESPARCIA AND ZEFRED C. SALIMBOT; HEIR...

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal seeks to reverse the Decision[1] dated December 1, 2011, rendered by the Regional Trial Court (RTC), San Carlos City, Negros Occidental, Branch 59 in SCA No. RTC-1145, the decretal portion whereof, reads:

> "WHEREFORE, in view of the foregoing, the "Petition for Certiorari" is hereby DENIED.
>
> SO ORDERED." (Bold letters in the original)

Factual Antecedents

On September 15, 2011, petitioner-appellant Pedro Hinolan, Jr.[2] filed a Petition for Certiorari[3] under Rule 65 of the Rules of Court before the RTC against respondents-appellees The Intestate Estate of the Late Juan Caminos, (represented by now Administrators, namely: Crispina Esparcia and Zefred C. Salimbot; the Heirs of Amado Parreño Jr. namely: surviving wife Charito S. Parreño and son Dennis Michael Parreño[4] and the Hon. Municipal Trial Court in Cities (MTCC), Escalante City, Negros Occidental, seeking to annul or set aside the Orders of the MTCC dated December 14, 2009[5] and June 15, 2011[6].

The appellant averred that he is the defendant in an ejectment case (unlawful detainer) filed before the MTCC by the appellees docketed as Civil Case No. 587.[7]

On December 18, 2001, the MTCC rendered a Decision[8] against the appellant. Although the appellant appealed the decision to the RTC, he however failed to file a supersedeas bond as required under Sec. 19, Rule 70 of the Rules of Court, to stay the execution of the decision.[9]

On July 5, 2007, the appellees filed a motion for issuance of writ of execution which was opposed by the appellant. The motion was, however, granted by the MTCC on November 21, 2007. Accordingly, the Clerk of Court of the MTCC issued a Writ of Execution[10] dated January 30, 2008.[11]

The appellant filed a Motion for Suspension/Holding in Abeyance Implementation/Execution of the Court's Decision/Writ of Execution[12] but it was denied by the MTCC in an Order[13] dated December 14, 2009, which included the implementation of the Order dated November 21, 2007, the fallo whereof reads:

> "WHEREFORE, the MOTION FOR SUSPENSION/ HOLDING IN ABEYANCE IMPLEMENTATION/EXECUTION OF THE COURTS DECISION/WRIT OF EXECUTION filed by the defendant is hereby denied. Let the Order of this Court dated November 21, 2007 be implemented.
>
> SO ORDERED."

The appellant filed a motion for reconsideration[14] but it was likewise denied by the MTCC in its Order[15] dated June 15, 2011.

Aggrieved, the appellant filed the subject Petition for Certiorari under Rule 65 of the Rules of Court before the RTC seeking to annul the Order of the MTCC dated December 14, 2009 and June 15, 2011.

In response, the appellees filed their Comment[16] on October 24, 2011. They alleged that sometime in 2000, they filed an ejectment case before the MTCC against the appellant which was docketed as Civil Case No. 587.[17]

On December 18, 2011, the MTCC rendered a Decision[18] against the appellant. Aggrieved, they appealed the adverse decision to the RTC-Branch 58, docketed as Civil Case No RTC-764.[19]

On December 4, 2002, the RTC-Branch 58 promulgated a Decision[20] denying the appeal filed by the appellant and affirming in toto the decision of the MTCC. They filed a motion for reconsideration but it was also denied by the court.[21]

Hence, the appellant elevated the case to this Court (Court of Appeals) through a Petition for Review[22] docketed as CA-G.R. SP No. 83194. As of the filing of the comment the case is still pending before this Court.[23]

In the meantime, the RTC-Branch 58 acted on a motion for execution pending appeal filed by the appellees in Civil Case No. RTC-764. The court issued an Order[24] granting the motion and remanded the records of the case to the court of origin for the issuance of a writ of execution.[25]

Upon receipt by the MTCC of the records, the appellees immediately filed a motion for issuance of a writ of execution which was granted by the MTCC in its Order[26] dated November 21, 2007. On January 30, 2008, the MTCC issued a writ of execution[27].

Thus, the appellant filed with the MTCC a Motion for Suspension/Holding in Abeyance Implementation/Execution of the Court's Decision/Writ of Execution but it was denied by the MTCC in the assailed Order dated December 14, 2009. Appellant filed a motion for reconsideration but it was also denied by the MTCC.

After the appellees filed their comment, the RTC issued the assailed Decision[28] dated December 1, 2011, dismissing the appellant's petition.

The petitioner filed a Motion for Reconsideration (of Decision dated December 1, 2011)[29]. He also filed together with it, on even date, a Verified Motion for Approval of Real Property Injunction Bond (With Manifestation)[30]. Both motions were however denied by the RTC in its Omnibus Order[31] dated January 24, 2012.

On February 7, 2012, the petitioner filed a motion for leave to file a second motion for reconsideration but it was also denied by the RTC for lack of merit in its Joint Order[32] dated March 5, 2012.

Hence, this appeal.

Assignment of Errors

I.
THE RTC ERRED IN AFFIRMING THE ORDER OF THE MTCC DATED DECEMBER 14, 2009, WHICH DENIED THE APPELLANT'S MOTION FOR SUSPENSION/HOLDING IN ABEYANCE IMPLEMENTATION OF THE MTCC'S DECISION AND WRIT OF EXECUTION.

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II.
THE RTC ERRED IN NOT CONSIDERING THE PROVISIONS OF SECS. 4 & 14, RULE 39 AND SEC. 19, RULE 70 OF THE RULES OF COURT AND THE DECISION OF THE SUPREME COURT IN THE CASE OF TERRY V. PEOPLE (G.R. NO. 136203, SEPT. 16, 1999).

III.
THE RTC COMMITTED ERROR IN RENDERING THE DECISION DATED DECEMBER 1, 2011, WHICH DISMISSED THE PETITION FILED BY THE APPELLANT.

The Ruling of this Court

The appeal is bereft of merit.

As the assigned errors are interrelated, the Court shall resolved these simultaneously.

In essence, the appellant argued that the RTC committed reversible error in rendering its Decision[33] dated December 1, 2011 which dismissed his petition for certiorari for lack of merit.

Generally, the findings of fact of the lower courts are entitled to great weight and not disturbed except for cogent reasons. Indeed, they should not be changed on appeal in the absence of a clear showing that the trial court overlooked, disregarded, or misinterpreted some facts of weight and significance, which if considered would have altered the result of the case.[34]

After a judicious examination of the records of this case, together with applicable laws and jurisprudence, We cannot find any compelling reason to depart from the ruling of the RTC. On the contrary, the assailed Decision is in accordance with the Rules of Court and supported with applicable jurisprudence. Thus, We quote the ruling of the RTC with Our imprimatur:

> "From an examination of the facts, it is noteworthy to state that: The Writ of Execution was issued pursuant to and conformably with Section 21, Rule 70 of the Rules of Court as a judgment was already rendered by the Regional Trial Court when such motion for the issuance of a writ of execution was filed by plaintiffs (private respondents herein). The said rule is unequivocal in providing that, in ejectment cases, the judgment of the Regional Trial Court, as an appellate court, is immediately executory notwithstanding the filing of a further appeal. This simply means that neither the filing of a further appeal with the Court of Appeals or the Supreme Court nor the posting of a supersedeas bond can stop the execution of the judgment of the Regional Trial Court.
>
> But, while the decision is immediately executory, it does not become final if a further appeal is taken therefrom. In essence, it is akin to an execution pending appeal under Section 2, Rule 39 of the Rules of Court, the main difference being that the execution under Section 21, Rule 70 is mandatory and ministerial upon the Court and not merely discretionary and upon good reasons shown. But while the said execution is ministerial and mandatory, this does not make the decision rendered by the Regional Trial Court final. Hence, this judgment, being merely executory cannot be considered as one under the aegis of Section 6, Rule 39 which refers to "final and executory" judgments and thus, not subject to the five (5) year prescriptive period. As laid down by the Supreme Court:
> "The five year period provided for by Sec. 6, Rule 39 of the Rules of Court, within which a party may enforce his right to have a judgment in his favor executed by motion, properly commences from the date said judgment becomes final and executor[y]. Section 6, Rule 39 applies to all types of cases notwithstanding the provisions of Section 8 (now 19) and 10 (now 21) of Rule 70, allowing the immediate execution of judgments in unlawful detainer cases. Rule 70 merely means that, in ejectment cases, execution can be had by mere motion as a matter of right after the rendition of judgment therein and is designed to protect the plaintiff's right against further illegal dispossession by the defendant therein. This departs from the general rule in ordinary cases that execution can be had only when the case has been disposed of with finality. While the plaintiff in an ejectment

> case has the right to have the judgment executed even pending appeal, prescription runs against him only upon finality of the judgment. x x x"

In fine, since the Decisions rendered on December 18, 2001 and December 4, 2002 are merely executory, their subsequent execution cannot be made subject to the five year prescriptive period. It is only when an Entry of Judgment is issued by either Court of Appeals or the Supreme Court does the judgment become final and executory and thus its execution or implementation can now be subject of the provisions of Section 6, Rule 39 of the Rules of Court." (Citation omitted) (Underlining in the original)

The appellant argued that the RTC committed reversible in rendering the assailed Decision because it failed to consider secs. 4[35] & 14[36], Rule 39 and Sec. 19[37], Rule 70 of the Rules of Court. He asserted that in this case, to validly execute the decision rendered by the MTCC, the 5-year period to file motion must be reckoned, as provided by Sec. 4, Rule 39, from its rendition. Considering that the appellant did not file any supersedeas bond as required under Sec. 19, Rule 70, the 5-year period to execute the decision of the MTCC by motion should be counted from its rendition on December 18, 2001.

To buttress his claim, the appellants cited the case of Terry vs. People[38] and quoted a portion of retired Justice Regalado's commentaries in his Remedial Law Compendium, Volume I, Civil Procedure, Eight Revised Edition, which We hereunder re-quote to have a better grasp of his argument:

> "The former doctrine was that the entry is not synonymous or necessarily simultaneous with the finality of the judgment or final order. It was understood then that the finality of a judgment or final order, for purposes of appeal or execution, took place by operation of law by the lapse of the reglementary period 15 – or 30 – day period, but the entry thereof may take place thereafter as it is the physical act of actually recording the dispositive portion of the judgment or final order in the book of entries of judgments.
>
> Thus, it was repeatedly held that the finality of the judgment was entirely distinct from its entry and the delay in the latter does not affect the effectivity of the former which is counted from the expiration of the period to appeal. (Munez, et. al. vs. CA, et al., L-46040, July 23, 1987, and cases cited therein).
>
> This amendment in Sec. 2 (Rule 36) makes finality and entry simultaneous by operation of law and eliminates the confusion and guesswork whenever the parties could not have access, for one reason or another, to the book of entries of judgments. It also avoids the usual problem where the physical act of writing out the entry is delayed by neglect or sloth.
>
> Entry of the judgment or final order assumes importance in reckoning some reglementary periods, such as the 5-year period for execution by motion (Sec. 6, Rule 39) or the 6-month period for a petition for a relief (Sec. 3, Rule 38). For this reason and to serve as official records, Rule 136 requires that the clerk of court shall keep a judgment book containing a copy of each judgment rendered by the court in the order of its date, and a book of entries of judgments containing at length in chronological order entries of all final judgments or orders of the court (Sec. 9)." (pp. 381-382, Regalado's Compendium)

The Court is not persuaded. The appellant is merely engaging in nit-picking.

Significantly, Sec. 6, Rule 39, clearly provides:

> Sec. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations. (Emphasis Ours)

It is clear from Sec. 6, Rule 39, that the 5-year period will apply only to a final and executory decision. In this

case, it is never disputed that the decision of the MTCC has not yet attained finality for the simple reason that the Decision of the RTC which affirmed it, is still a subject of a petition for review before this Court (Court of Appeals). How can a Decision which is still pending for review by a higher court be considered as final and executory? It would be absurd and even preposterous to consider the 5-year period rule contemplated under Sec. 6, Rule 39 to a decision which has not attained finality and is still pending for review before a higher court.

Likewise, the appellant's reliance in the case of Terry v. People (supra) and portions of Justice Regalado's discussion are misplaced because these discussions refer to a final and executory decision and not a decision which is still a subject of a review as in this case.

All told, We find no reversible error in the assailed Decision of the RTC.

WHEREFORE, the appeal is DENIED. The Decision dated December 1, 2011, rendered by the Regional Trial Court, San Carlos City, Negros Occidental, Branch 59 in SCA No. RTC-1145 is AFFIRMED in toto.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

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[1] Records, pp. 173-177, penned by Presiding Judge Kathrine A. Go

[2] Appellant for brevity

[3] Records, pp. 1-12

[4] Appellees for brevity

[5] Records, p. 13

[6] Records, pp. 16-17

[7] Culled from the petition, supra note 3

[8] Only pages 1, 2, 17 and 18 were attached in the petition; See Records, pp. 18-21

[9] Culled from the petition, supra note 3 (at p.2)

[10] Records, pp. 22-25

[11] Culled for the Petition, supra note 3 (at p.3)

[12] Records, pp. 26-33

[13] Records, p. 13

[14] Records, pp. 34-38

[15] Records, pp. 16-17

[16] Records, pp. 71-84

[17] Id. at p. 72

[18] Records, pp. 85-102

[19] Culled from appellees' Comment, Records, pp. 71-84 (at pp. 72-73)

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[20] Records, pp. 103-121

[21] Culled from appellees' Comment, Records, pp. 71-84 (at p. 73)

[22] Records, pp. 122-145

[23] Culled from appellees' Comment, Records, pp. 71-84 (at p. 73-74)

[24] Records, pp. 150-151

[25] Culled from appellees' Comment, Records, pp. 71-84 (at p. 74)

[26] Records, pp. 152-154

[27] Culled from appellees' Comment, Records, pp. 71-84 (at p. 74)

[28] Supra note 1

[29] Records, pp. 178-182

[30] Records, pp. 183-187

[31] Records, pp. 209-210

[32] Records, pp. 238-239

[33] Supra note 1

[34] Villanueva v. Court of Appeals, G.R. No. 107624, January 28, 1997

[35] 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.

[36] Sec. 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 the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties

[37] Sec. 19. Immediate execution of judgment; how to stay same. -If judgment is rendered against the defendant, execution shall issue immediately upon motion, unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as determined by the judgment of the Municipal Trial Court. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before

the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the Municipal Trial Court, with the other papers, to the clerk of the Regional Trial Court to which the action is appealed.

All amounts so paid to the appellate court shall be deposited with said court or authorized government depositary bank, and shall be held there until the final disposition of the appeal, unless the court, by agreement of the interested parties, or in the absence of reasonable grounds of opposition to a motion to withdraw, or for justifiable reasons, shall decree otherwise. Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the appellate court, upon motion of the plaintiff, and upon proof of such failure, shall order the execution of the judgment appealed from with respect to the restoration of possession, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on the merits.

After the case is decided by the Regional Trial Court, any money paid to the court by the defendant for purposes of the stay of execution shall be disposed of in accordance with the provisions of the judgment of the Regional Trial Court. In any case wherein it appears that the defendant has been deprived of the lawful possession of land or building pending the appeal by virtue of the execution of the judgment of the Municipal Trial Court, damages for such deprivation of possession and restoration of possession may be allowed the defendant in the judgment of the Regional Trial Court disposing of the appeal.

[38] G.R. No. 136203, Sept. 16, 1999

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