

JOSE, MACARIA, CRISANTA, PURIFICACION, JUANITO, MANUEL, TERESITA, BENJAMIN, MERCEDITAS, DANIEL, MIGUEL, DOLORES, CONCEPCION, RICARDO, ALL SURNAMED UYTIEPO; LETICIA, PEDRO, HECTO...

G.R. No. L-28671. September 30, 1970

Ponente: CASTRO, J.

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CASTRO, J.:

The respondent Micaela Aggabao, as judgment creditor, caused the sale at public auction of certain properties purportedly belonging to her judgment debtor, one Manuel Uytiepo, Jr. for the satisfaction of a judgment for a sum of money. The petitioners Jose Uytiepo, et al., had sought to hinder this sale by staking third-party claims to the properties levied upon. On account, however, of an indemnity bond posted by Aggabao, the provincial sheriff proceeded with the auction sale, at which the same respondent was the successful bidder.

The petitioners then commenced suit in the Court of First Instance of Negros Occidental (Civil Case 4582) for the annulment of the sheriffs sale. After due hearing was had, that court rendered a decision the dispositive portion of which reads:

"EN MERITOS DE TODO EXPUESTO, el juzgado falla esta causa cotno sigue:

"1. Se declara improcedente, ordenar el traspaso a favor de los demandantes de los lotes Nos. 2304, 2326, 2323, 2322, 2324-A, 2324-C, 2840 y 2722, todo es de la medicion cadastral del Escalante, y en su consecuencia se declara valida la venta en publica subasta de todos y cada uno de dichos lotes a favor de la demandada Micaela Aggabao;

"2. Se declara nula y de ningun valor la venta de nueve diez avas (9/10) del Lote No. 2338 de la medicion cadastral de Escalante en publica subasta por el Sheriff a favor de la demandada Micaela Aggabao;

"3. Se ordena el demandado Manuel Uytiepo, Jr. para que traspase a favor de los demandantes las nueve diez avas (9/10) pro indiviso del Lote No. 2338 mencionado;

"4. Se declara ilegal, nula y de ningun valor la venta en publica subasta de las asignaciones de las cuotas de azucar conocidas como Plantation Audits Nos. 15-34 y 15-34-C asi como el traspase a favor de la referida demandada de dichas cuotas de azucar en los regisjros de la Central del Danao y de la Sugar Quota Administration;

"5. Se declara ilegal, nula y de ningun valor la venta en publica subasta de la tractora Caterpillar, D-2, Diesel 32 H.P.;

"6. Se condena al demandado Manuel Uytiepo, Jr. a pagar a los demandantes en concepto de danos y perjuicios la suma de P70.000.00;

"7. Se ordena a la demandada Micaela Aggabao para que tan pronto como esta sentencia quede firme y ejecutoria, rinda cuenta de las ganancias por ella percibidas por el uso injustificado de las cuotas de azucar

conocidas como Plantation Audits Nos. 15-34 y 15-34-C.

"Las costas se tasaran en contra de los demandados."

On appeal by Aggabao, the Court of Appeals, in CA-G.R. 31232-R, affirmed the decision of the trial court with modifications, as follows:

"WHEREFORE, judgment is hereby rendered by this Court as follows:

"1. Vacating the judgment under appeal in so far as it concerns Lots Nos. 2840 and 2722 of the Escalante Cadastre, remanding the record of this case to the court of origin for further proceedings to determine who the registered owner of the said lots was as of June 28, 1957, when they were levied upon by the Sheriff of Negros Occidental; and thereafter, the court below is instructed to render another decision in conformity with this one;

"2. Modifying the judgment under appeal in the sense that damages in the amount of P1,440.00 per annum from January 27, 1958, with interest at the legal rate from March 18, 1959, the date the second amended complaint was filed, should be, as it is hereby, assessed against defendant Micaela Aggabao and in favor of the plaintiffs;

"3. Confirming the sale to defendant Micaela Aggabao of one-tenth portion each of the two sugar quotas under Plantation Audits Nos. 15-34 and 15-34-C of the Danao Milling District;

"4. Ordering defendant Micaela Aggabao to pay the plaintiffs the sum of P200.00 per month as reasonable rental for her use of the Caterpillar D-2 tractor in question from October 18, 1957; and

"5. Affirming the judgment under appeal in all other respects.

"This decision is without prejudice to any action which herein plaintiffs may deem proper to take against defendant Manuel Uytiepo, Jr. for breach of trust.

"The parties herein shall bear their respective costs in this appeal."

A subsequent appeal to this Court by Aggabao (L-25241) was unavailing.

On January 21, 1967, upon the petitioners' motion, the trial court issued a writ of execution covering the final judgment of the Court of Appeals and of its own insofar as the latter was not vacated or modified by the appellate court. Forthwith, the provincial sheriff levied upon lots 2304, 2306, 2323, 2324-A and 2324-C of the Escalante Cadastre, these five lots being the same parcels adjudicated in favor of Aggabao in the main case but remaining in the possession of the petitioners, to satisfy the money judgment in the latter's favor.

On January 27, 1967, Aggabao filed a motion with the trial court praying: (1) for the issuance of a writ of possession in her favor and against the petitioners covering the lots adjudicated to her in the decisions subject of execution; (2) for the determination, in a hearing, of the registered ownership of lots 2840 and 2722 of the Escalante Cadastre, pursuant to the decision of the Court of Appeals; and (3) for the suspension of the execution proceedings against her until her money liability with respect to the tractor shall have been definitely fixed. This last was premised upon the allegation that even prior to the litigation among the parties, Aggabao had already sold the tractor to the Koppel (Phil.) Inc. It would be unjust, she argued, for the court to assess against her the sum of P200 monthly for the use of the tractor beyond the period of time of her actual possession thereof. Moreover, since the return of the tractor was no longer feasible under the circumstances, the court must first fix the amount which she would have to pay in lieu of the tractor's return, before any execution could be properly carried out relative thereto. This motion was not acted upon by the trial court one way or the other.

After several months, the provincial sheriff set for August 18, 1967 the auction sale of the lots previously levied upon by him. This prompted Aggabao to move the trial court on July 20, 1967 for the suspension of the projected

sale until her motion of January 27, 1967 shall have been resolved. Upon opposition filed by the petitioners, the trial court, in its order of August 4, 1967, refused to recall the earlier writ issued by him. On August 7, 1967 Aggabao filed a motion for reconsideration, containing an offer to file a bond to answer for whatever damages might result in the event the sheriff's sale was stopped, and likewise reiterating anew the need for the court to rule directly on her earlier motion of January 27, 1967. While Aggabao claims that her motion for reconsideration was subsequently denied by the judge in open court, the petitioners insist that no order was ever issued to resolve that motion.

At all events, on August 15, 1967, Aggabao went up to the respondent Court of Appeals on a petition for certiorari and mandamus with a prayer for a preliminary injunction to stop the sale of her properties scheduled for August 18, 1967. The trial court, upon being informed that an injunction order was forthcoming from the respondent appellate court, directed On August 18, 1967 the suspension of the sheriff's sale. Finally, on December 12, 1967, after hearing duly had, the respondent appellate court rendered a decision setting aside the trial court's order of August 4, 1967 and staying the projected sheriff's sale of Aggabao's properties pending determination in the execution proceeding of the latter's rental liability for the use of the tractor, as well as the value thereof, should its return be no longer feasible; likewise, the trial court was directed to issue the corresponding writ of possession in favor of Aggabao covering the lots adjudged to her in the main case. Treating this decision as wholly inequitable, the petitioners came to mis Court on appeal by certiorari.

Four errors are here raised by the petitioners against the foregoing decision of the respondent Court of Appeals.

- The petitioners launch a two-pronged attack against the jurisdiction of the respondent appellate court, to wit: first, the respondent court can issue the auxiliary writs of certiorari and mandamus only "in aid of its appellate jurisdiction." [1] It follows that where, as in the present case, the decision has already become final and executory and is no longer subject to review, there can be no pretense of any appellate jurisdiction of the Court of Appeals or of any corresponding power on its part to issue in an original proceeding auxiliary writs in aid of that jurisdiction; second, the errors assigned by Aggabao involve only questions of law and, as the petitioners impliedly suggest, matters to be adjudicated exclusively by the Supreme Court.

The petitioners are in error on both counts.

As regards the first, we have repeatedly held that while as a general rule, no appeal can lie from an order of execution of a final judgment, an appeal can nevertheless be invoked in those instances where the tenor of execution "varies the terms of the judgment and does not conform to the essence thereof or when the terms of the judgment are not entirely clear and there is room for interpretation and the interpretation given by the trial court as contained in its order of execution is wrong, in the opinion of the defeated party." [2] In the case at bar, while there is no pending decision on the merits in the trial court, still there is the execution proceeding wherein the issue has been raised as to whether the order of execution tended to vary the essence of the final judgment. The order of the trial court authorizing the continuance of the execution sale without amending the writ of execution it issued constituted its decision on that issue, for it settled the same in a manner that would become final and executory unless appropriate steps were taken to counteract it. [3]

Aggabao's objection to the order of execution is founded upon facts claimed by her to have rendered the literal execution of the dispositive portion of the judgment patently unjust and inequitable. This same objection necessitates the appreciation of evidence and, as it was, a factual issue respecting the true value of the tractor had already been raised by the parties in their respective pleadings (estimated by the petitioners at P50,000 and by Aggabao at P5,000). Under these circumstances, any intended appeal from the execution proceeding would have to be lodged with the respondent Court of Appeals. If Aggabao chose to apply with the respondent court for the

auxiliary writs of certiorari and mandamus, in the absence of any plain, adequate and speedy remedy in the ordinary course of law, to correct alleged "jurisdictional" errors of the trial court, then that choice was properly made.

As regards the claim that the issues raised by Aggabao in her action filed with the respondent Court of Appeals involve only questions of law and are therefore exclusively reviewable by this Court, the petitioners apparently confuse the remedy of special civil action of certiorari under Rule 65 of the Rules of Court in relation to Section 30 of the Judiciary Act as amended and an appeal by certiorari under Rule 45 also of the Rules of Court in relation to the fourth paragraph of Section 17 of the same Act. The first is a remedy available in the Court of Appeals, in aid of its appellate jurisdiction, essentially to correct errors of jurisdiction or abuse of jurisdiction amounting to lack of jurisdiction. The second lies exclusively within the competence of this Court for the review of errors of inferior courts involving only questions of law. The remedy which Aggabao availed of was the first, and it placed in issue the jurisdiction of the trial court to authorize the continuance of the execution sale against her properties. While this may involve only questions of law, its resolution nonetheless lies within the prerogative of the respondent Court of Appeals since, as already discussed, that Court has the underlying authority to issue the auxiliary writs prayed for, incidental to its exercise of its appellate jurisdiction.

- The petitioners point out that the respondent appellate court should have refrained from giving due course to Aggabao's petition before the trial court had had the chance to reflect upon the motion for reconsideration of August 17, 1967 and render a ruling thereon. The record shows, however, that Aggabao's objections to the order of execution of the trial court were twice aired by her before that court. The first was her motion of January 27, 1967 for the amendment of the writ of execution and, the second, her urgent motion of July 20, 1967 for the suspension of the projected sheriff's sale of her properties. There is no doubt that the trial court considered the identical grounds alleged in these two motions before it issued its order of August 4, 1967 authorizing the continuance of the scheduled sale. And to our mind, the rule that the attention of the lower court must first be called to the alleged error so that rectification, if proper, may be made before certiorari proceedings may be resorted to, has been substantially satisfied under the circumstances of this case. The motion for reconsideration filed by Aggabao was superfluous, containing as it did the same arguments embodied in the two motions mentioned above.[4] Moreover, she had to act with dispatch to stop the threatened sheriff's sale which was fast approaching, it appearing to her that the trial court would not act in time to either sustain or deny her motion for reconsideration.

- It was error, the petitioners point out, for the respondent appellate court to have ordered the further determination, in the execution proceeding, of the rental liability of Aggabao for the use of the tractor, as well as of the value thereof, should its return be no longer feasible. This order, it is argued, tends to revise the clear and final mandate of the decision in CA-G.R. 31232-R where Aggabao was assessed the fixed sum of P200 per month as reasonable rental for her use of the tractor until its return to the petitioners.

It is well to remember, however, that every court has the inherent power "to amend and control its process and orders so as to make them conformable to law and justice." [5] Further, it is settled that when after judgment has become final and executory, facts and circumstances supervene which render its execution impossible or unjust, the interested party may ask a competent court to stay its execution or prevent its enforcement or to modify or alter the judgment to harmonize the same with justice and the facts. [6] In the present case, there appears to be no dispute as to the fact that Aggabao had already sold the tractor in question to a third party sometime following its delivery to her by the provincial sheriff. The Court of Appeals, in CA G.R. 31232-R, was evidently not apprised of this fact and could not have taken consideration thereof when it ruled that Aggabao should pay the petitioners

the sum of P200 as monthly rental for her use of the tractor until its restoration to the petitioners. Restoration now appears to be an impossibility and, as observed by the respondent court, to hold Aggabao liable for rentals forever would render the judgment a patent absurdity. It becomes imperative, therefore, for the trial court to determine in the execution proceeding pending before it the full liability of Aggabao with respect to the tractor, without in any way departing from the essence of the final judgment, before execution on that account can be properly carried out.

We observe, however, that the respondent appellate court has restricted the extent of Aggabao's liability with respect to the tractor to the mere payment of rentals for her use of that machine and the payment of its value should its restoration be no longer feasible. This would seem unjust because, as can be gathered from the records, on October 18, 1957, when Aggabao's rental obligation was supposed to have commenced, she was no longer in possession of the tractor, having sold it to a third party a month earlier or on September 17, 1957. Her use of the tractor which is the basis of her rental liability was therefore non-existent and, under the tenor of the respondent court's decision, her liability would necessarily be limited to the return of the tractor or the payment of its value. Ultimately, we are faced with the problem of giving effect to the final judgment of the Court of Appeals in CAG.R. 31232-R respecting the tractor. In resolving this, we may very well be guided by the following considerations: first, it is the clear intendment of the decision in CA G.R. 31232-R that Aggabao should pay damages for unjustly depriving the petitioners of their right to the possession and use of the tractor; and second, bad faith must continuously hound Aggabao for her having disposed of the tractor notwithstanding the existence of a third-party claim over the same timely presented by the petitioners. Upon the other hand, this Court must take into account, too, of the fact that in her motion of January 27, 1967, Aggabao made an offer to pay the amount which the trial court might fix in lieu of the return of the tractor to the petitioners. If she has not paid the tractor's value to this date, it is by reason of the trial court's refusal to hold a hearing for the determination of the same.

In sum, it is the sense of this Court, and we so hold, that it would be in essential accord with the decision in CA G.R. 31232-R to order Aggabao to pay the petitioners the sum of P200 per month from October 18, 1957, the date fixed in the judgment against her, up to January 27, 1967, the date which marked her offer to compensate the petitioners for the non-return of the tractor, as damages. This, of course, is in addition to her paying the value which the tractor had, in the ordinary course of its use, on January 27, 1967.

- The petitioners question the propriety of the respondent appellate court's order withholding their right to execute upon the properties of Aggabao but enforcing that portion of the judgment favorable to the same respondent wherein a writ of possession is ordered issued for the delivery to her of lots 2304, 2306, 2323, 2324-A and 2324-C by the petitioners who appear to be in current possession thereof. This complaint has no basis. The petitioners are not being deprived of their right to execute upon Aggabao's properties. As soon as the trial court has fixed her liability with respect to the tractor, the petitioners can enforce their money judgment upon those properties unless, in accordance with Section 30 of Rule 39 of the Rules of Court, Aggabao chooses to pay the amount required by the execution.

The petitioners likewise insist that until Aggabao has fully satisfied their money judgment against her, they cannot be compelled by writ of possession to yield the lots adjudicated in her favor in the main case. The petitioners do not, however, cite the rule or statute that grants them such possessory lien over their debtor's properties. Aggabao's money obligation does not appear to have any direct and efficient relation to the land in question. The judgment against her is in the nature of a compensation for the damages suffered by the petitioners as a result of the unjustified sheriff's sale of certain property items. Upon the other hand, her right to the possession of the lots in question springs from that ownership which was established in her favor by final judgment. No factual basis exists for the operation of the laws on possessory lien.

ACCORDINGLY, the judgment appealed from is affirmed, with the sole modification that the trial court should determine, in the execution proceeding, the value which the tractor had on January 27, 1967, after deducting reasonable allowance for depreciation, and, thereafter, order the respondent Aggabao to pay the same, plus the sum of P200 per month from October 18, 1957 to January 27, 1967. No pronouncement as to costs.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Fernando, Barredo and Makasiar, JJ., concur.

Teehankee, J., in the result.

Concepcion, C.J., and Villamor, J., are on official leave.

[1] Section 30, The Judiciary Act of 1948, as amended.

[2] Socco vs. Vda. de Leary, L-19461, October 31, 1964, 12 SCRA 326;

[3] De los Santos vs. Rodriguez, L-23170, January 31, 1968, 22 SCRA 451, 455.

[4] Locsin vs. Climaco, L-27319, January 31, 1969, 26 SCRA 816, 832-833.

[5] Rule 135, Sec. 5, Rules of Court; Dimayuga vs. Raymundo, 42 O.G. 2121.

[6] De los Santos vs. Rodriguez, supra; Cobb-Perez vs. Lantin, L-22320, May 22, 1968, 23 SCRA 637, 642-643; De la Costa vs. Cleofas. 67 Phil. 686.

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