

MARCELIT CATANES-CAASI, PETITIONER, VS. BARANGAY BACULUNGAN NORTE, BUGUIAS, BENGUET, HEREIN REPRESENTED BY ITS PUNONG BARANGAY, HONORABLE REGIONAL TRIAL COURT, BRANCH 64, BUGUIA...

Ponente: BALTAZAR-PADILLA, J.

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BALTAZAR-PADILLA, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court challenging the Order[1] dated August 8, 2011 and Order[2] dated July 4, 2012 of Branch 64 of the Regional Trial Court (RTC) of Buguias, Benguet which declared a mistrial of Civil Case No. 93-CV-0793 for Recovery of Possession of Real Property and Damages filed by petitioner against respondent Barangay Baculungan Norte, Buguias, Benguet (hereafter respondent Barangay).

The factual antecedents as gathered from the record[3] are as follows, viz:

"The land in dispute is a portion of a parcel of land with an area of about 6,191 square meters, located at Bano-oy, Baculungan Norte, Buguias, Benguet, bounded on the North by Felomina Calis; on the South by Langgawit Agusdan; on the East by Compalas Licwasen; and on the West by Domas Calis, Lakay Sad-ang and Tibon Limpayos, and covered by Tax Declaration No. 12317 of the plaintiff (petitioner herein) for the year 1992.

The same land was bought by the plaintiff from her mother, Lagayan Catanes, through a Deed of Sale x x x. The land was previously possessed since 1945 by the late Spouses Mariano Almora and Pelag-ang Almora, parents of Lagayan Catanes and grandparents of the plaintiff, before possession thereof was transferred to Lagayan Catanes upon the death of said spouses, sometime in 1974. While in possession of said property, Lagayan Catanes improved the same and then mortgaged it to the Development Bank of the Philippines for the sum of eight thousand six hundred pesos (P8,600.00).

Originally, the land was declared for taxation purposes by plaintiff's grandfather, Mariano Almora from 1963 to 1974, after which, plaintiff's mother took over possession thereof from 1975 until the time she sold the land in 1980 to her daughter, the plaintiff herein, who in turn declared it for taxation purposes beginning the same year (1980).

Plaintiff and her predecessors-in-interest paid the corresponding real estate taxes on the land as shown by official receipts of payment respectively issued to them for the years starting 1963 up to present, as well as by certificates of non-delinquency issued by the Assessor's Office of Buguias, Benguet in 1994 and 1998.

Although plaintiff's grandparents first declared the land for taxation purposes in 1963, they had occupied it since 1945. At the age of nine (9), the plaintiff already used to see the land together with her grandparents. She actually saw her grandparents work on the land as well as the improvements they introduced thereon.

While in possession of the land, plaintiff's grandparents improved the same as pasture land, planted it to (sic) camote and cabbage and pastured animals therein. When the land was transferred to the possession of the

plaintiff's mother, the latter further improved the same and then mortgaged it to the DBP but it was the plaintiff who redeemed the same from mortgagee bank in 1980. During the successive possession of the land by Lagayan Catanes and the plaintiff, the harvests from the land consisted of camotes, potatoes and cabbages which were the crops they planted. After the land was sold to the plaintiff, the right portion thereof was used as a playground by the barangay of Baculongan Norte at the tolerance of the plaintiff.

During all the time that the spouses Almora, plaintiff's grandparents and Lagayan Catanes were in possession [of] and cultivating the land, no protests or complaints whatsoever against their possession was even made by other persons nor were other persons titling the land. Right after the land was sold to her mother, the plaintiff began exercising rights of ownership and possession over the property to the exclusions of all others.

Before declaring the land for taxation purposes, the plaintiff went to the Department of Public Works and Highways (DPWH) and the Community Environment and Natural Resources Office (CENRO) in Buguias, Benguet to verify the status of the land. Upon plaintiff's request, the Department of [Public] Works and Highways issued a Certification to the effect that "the land surveyed for Mrs. Marcelit Caasi is a Public Land and it adjoins the Buguias-Kabayan Road, does not obstruct vehicular traffic nor impede the future expansion of the existing road; that the land is located at Baculongan, Norte, Buguias, Benguet as surveyed by Geodetic Engineer Jose Chiok for Marcelit Caasi containing an area of 1,410 square meters and falls within alienable and disposable lands, block III, Project No. 4, per Land Classification Map No. 798, certified on December 08, 1928.

Sometime in 1998, while plaintiff was in possession of the contested land after buying the same from her mother, the Barangay officials of Baculongan Norte, Buguias, Benguet constructed without her permission the Barangay Hall and a basketball court for public use on the same property, thereby in effect ousting her of her exclusive possession of the land. She then demanded from the Barangay, through its officials, the restoration of her possession. Since her demand remained unheeded, she reported the matter to the police and eventually asked legal help from the Cabato Law Office, which through lawyer Thomas Rufino initiated the holding of conferences and dialogues between the plaintiff and barangay officials concerned to discuss means of an amicable settlement. Despite efforts at settlement, the parties stood fast (sic) on their irreconcilable claims over the land, hence, the instant suit was filed."

After trial on the merits, the lower court rendered a Decision on November 20, 2002 in favor of petitioner, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered ordering the defendant to vacate the area in dispute, remove its improvements thereon and restore or surrender possession thereof to the plaintiff.

Defendant's counterclaim is hereby DISMISSED.

SO ORDERED."

The aforesaid Decision was appealed to the Court of Appeals which affirmed the same in its May 18, 2007 Decision⁴, disposing as follows:

"WHEREFORE, premises considered, the instant appeal is DISMISSED for lack of merit. Appealed Decision is AFFIRMED in toto.

SO ORDERED."

The said Decision was elevated to the Supreme Court via a petition for certiorari but was dismissed for being the wrong remedy. The Decision became final and executory on March 25, 2008 as per the Entry of Judgment issued by the Supreme Court^[5]. A Motion for Issuance of a Writ of Execution^[6] was thereafter filed by petitioner before the court a quo. An Opposition^[7] thereto was filed by respondent Barangay. The latter alleged that it no

longer occupies the subject property. The Municipal Government of Buguias erected a basketball court and school buildings on the contested property for the use of Bano-oy Elementary School. It likewise offered a relocation survey conducted by the Provincial Engineer's Office in 2007 as newly discovered evidence. It contended that the said relocation survey showed that the lot occupied by the school is entirely separate and distinct from the property in dispute. Hence, such supervening event is sufficient to render the execution of the subject Decision inequitable and unjust. It would cause irreparable damage to the Municipality of Buguias, DPWH and the Department of Education which were not parties to the case and not given their day in court.

A Motion to Conduct Joint Relocation Survey[8] was then filed by respondent Barangay. On February 17, 2009, the trial court issued an Order[9] finding the said motion meritorious. A survey was conducted by the three (3) geodetic engineers appointed by the court a quo which was composed of surveyors-representatives from both parties and from the DENR. The motion for reconsideration filed by petitioner of the said Order[10] was denied in an Order dated May 19, 2009.

In the meanwhile, on July 6, 2010, the respondent court issued an Order[11] with respect to the motion for execution filed by petitioner. The trial court required the parties to file their respective memoranda on the incident since there were still issues to be threshed out as regards the identity of the contested lot. Accordingly, a memorandum was filed by respondent Barangay contending, among others, that there was a mistrial of the case because petitioner allegedly misled the parties and the Court when she claimed that the questioned property covers the lot where the Bano-oy Elementary School is situated. Thus, although the subject November 20, 2002 Decision is already final and executory, its execution would clearly cause grave injustice to respondent Barangay since the lot being claimed by petitioner is not the same lot subject of this controversy.

In an Order[12] dated August 8, 2011, the lower court granted the said respondent Barangay's motion. The said court declared a mistrial of the case and ordered the amendment of the original pleadings. A motion for reconsideration thereof was later filed by petitioner but the same was denied in an Order[13] dated July 4, 2012.

Hence, petitioner is before US via the present petition for certiorari raising the following issues, to wit:

I

THE RESPONDENTS HONORABLE REGIONAL TRIAL COURT, BRANCH 64, BUGUIAS, BENGUET AND HONORABLE PRESIDING JUDGE AGAPITO K. LAOAGAN, JR. COMMITTED AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DENYING THE MOTION FOR THE ISSUANCE OF THE WRIT OF EXECUTION OF A FINAL AND EXECUTORY DECISION.

II

THE RESPONDENTS HONORABLE REGIONAL TRIAL COURT, BRANCH 64, BUGUIAS, BENGUET AND HONORABLE PRESIDING JUDGE AGAPITO K. LAOAGAN, JR. ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DECLARING A MISTRIAL IN THE CASE AND ORDERING A NEW TRIAL DESPITE THE FACT THAT THE SAID COURT HAD ALREADY LOST JURISDICTION OF THE CASE AND THE DECISION THERETO HAD ALREADY ATTAINED FINALITY.

Petitioner avers that the subject November 20, 2002 Decision cannot be disturbed since it is already final and executory. It is a hornbook rule that once a judgment has become final and executory, it may no longer be modified in any respect, even if the modification is meant to correct an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land, as what remains to be done is purely ministerial enforcement of execution of the judgment. Since the trial court had already lost jurisdiction to alter the subject Decision, a writ of execution is therefore what remains

to be done.[14]

Petitioner asserts that the location of the disputed property and all improvements erected thereon was duly established and proven during the trial of this case by the testimonies of the witnesses and the pieces of documentary evidence presented by the parties. Thus, respondent Barangay can no longer raise matters which have already been passed upon and decided with finality by the trial court.[15]

Petitioner further maintains that the survey conducted by the Provincial Engineer's Office in 2007 which reflects that the basketball court and the Bano-oy Elementary School are not located in the disputed property cannot be considered as newly discovered evidence. Respondent Barangay lost sight of the fact that in the year 2007, its appeal of the instant case was still pending before the Court of Appeals. It was only when the subject decision was to be executed that the motion to conduct a relocation survey was raised by respondent Barangay for the first time. Thus, at most, the relocation survey is only a new allegation.[16]

For their part, respondents asseverate that the subject decision cannot be executed since the actual occupants of the contested lot are the DPWH and the Bano-oy Elementary School which are not parties in the instant case. Necessarily, the execution of the decision became impossible for the reason that respondent Barangay does not anymore occupy the lot in question. As reflected in the relocation survey, the disputed lot which is currently occupied by the Bano-oy Elementary School is outside of the lot plan which petitioner presented during the trial. The technical description plotted by the committee of geodetic engineers who conducted the relocation survey showed that the litigated property did not cover the area where the Bano-oy Elementary School and the basketball court are erected. The result of the said survey is a newly discovered evidence which is a material evidence that could overturn the decision rendered by the respondent court.[17]

Respondents allege that petitioner, with malice and bad faith, misled the Court into believing that she has a valid claim over the area occupied by the Bano-oy Elementary School and the basketball court. The Court only came to know of such misrepresentation after the relocation survey. Accordingly, it was proper for the court a quo to declare a mistrial to avoid a miscarriage of justice. The basic ground for the grant of a new trial is that there has been a miscarriage of justice. Where an injustice has been done and a further trial is necessary to secure justice, courts have not only the right and inherent power, in its discretion, but also the duty, to grant a new trial.[18]

The petition is imbued with merit.

Jurisprudence is rich on the pronouncement that a motion for new trial upon the ground of newly discovered evidence, is properly granted where there is concurrence of the following requisites, namely: a) the evidence had been discovered after trial; b) the evidence could not have been discovered and produced during trial even with the exercise of reasonable diligence; and c) the evidence is material, and not merely corroborative, cumulative, or impeaching and is of such weight that if admitted, would probably alter the result.[19]

It should be emphasized that the applicant for new trial has the burden of showing that the new evidence he seeks to present has complied with the requisites to justify the holding of a new trial.[20] The only contentious element in the case is whether the evidence could have been discovered with the exercise of reasonable diligence. In *Custodio vs. Sandiganbayan*[21], the Supreme Court expounded on the due diligence requirement, thus:

"The threshold question in resolving a motion for new trial based on newly discovered evidence is whether the [proffered] evidence is in fact a "newly discovered evidence which could not have been discovered by due diligence." The question of whether evidence is newly discovered has two aspects: a temporal one, i.e., when was the evidence discovered, and a predictive one, i.e., when should or could it have been discovered. It is to the latter that the requirement of due diligence has relevance. We have held that in order that a particular piece of evidence may be properly regarded as newly discovered to justify new trial, what is essential is not so much

the time when the evidence offered first sprang into existence nor the time when it first came to the knowledge of the party now submitting it; what is essential is that the offering party had exercised reasonable diligence in seeking to locate such evidence before or during trial but had nonetheless failed to secure it."

WE find that the relocation survey offered by respondent Barangay does not satisfy the aforementioned requisites. This Court notes that although the said evidence was produced only after trial, it could have been conducted before or during the trial of the case had respondent Barangay only exerted reasonable diligence to secure the same. WE observe that despite the knowledge of the importance of the said survey in order to know the metes and bounds of the disputed property, respondent Barangay nonetheless failed to request for the conduct of the relocation survey at the earliest possible opportunity. This was an available option for respondent Barangay before the commencement or even during the trial of the extant case. Consequently, respondent Barangay's act of filing the said motion only when the subject decision was already final and executory cannot certainly be equated with the promptness and reasonable diligence required by law. It gives US an impression that the idea of the relocation survey was a mere afterthought, a last ditch effort to deny petitioner of her possession of the contested property. WE are not persuaded by respondent Barangay's claim of newly discovered evidence, for it appears to US as a dilatory contrivance for its benefit.

As stated by the respondent court in its own November 20, 2002 Decision, there was already a deed of agreement between the relatives of petitioner and the residents of Baculongan Norte that a survey will be conducted on the subject property to delineate its metes and bounds as early as April 4, 1988. However, it did not happen. Likewise, a certain Ceasar Kitayan who was employed as a forester of the DENR Office at Abatan, Buguias, Benguet testified that he issued a certification which was duly annotated at the back of the sketch plan of petitioner stating that the disputed property as surveyed by Geodetic Engineer Jose Chiok falls within the alienable and disposable lands. There was also a certification issued by the DPWH that the contested lot does not infringe the public road, river or stream and that it is alienable and disposable and not part of a military reservation, public park, watershed or the government's forest zone.[22] Under these circumstances, respondent Barangay had the ample chance to request for the relocation survey before or during the trial of this case. The pieces of evidence presented by petitioner should have prompted respondent Barangay to inquire into their veracity while the case was still being tried before the court a quo. It is too late in the day for respondent Barangay to ask for such remedy when the subject decision is already final and executory.

In a case[23], the Supreme Court held that the Rules do not give an exact definition of due diligence, and whether the movant has exercised due diligence depends upon the particular circumstances of each case. Nonetheless, it has been observed that the phrase is often equated with reasonable promptness to avoid prejudice to the defendant. In other words, the concept of due diligence has both a time component and a good faith component. The movant for a new trial must not only act in a timely fashion in gathering evidence in support of the motion; he must act reasonably and in good faith as well. Due diligence contemplates that the defendant acts reasonably and in good faith to obtain the evidence, in light of the totality of the circumstances and the facts known to him.

Petitioner insists that the subject decision has acquired finality and may no longer be modified in any respect. Thus, the issuance of a writ of execution becomes a ministerial duty of the trial court.

WE agree with this contention.

The High Court consistently rules that based on the immutability of judgment principle, the execution of the dispositive portion of the final rulings of the Supreme Court should no longer be disturbed except when there is a supervening event that transpired after judgment has become final and executory or to new circumstances that develop after the judgment has acquired finality.[24] WE find that the relocation survey is not a supervening event nor an exceptional circumstance which can affect or change the substance of the judgment and renders its

execution inequitable. As WE have expostulated, the said evidence cannot be taken as a newly discovered evidence. It could have been presented by respondent Barangay before or during the trial of this case with the exercise of due diligence.

WE hold that petitioner as the prevailing party is entitled as a matter of right to the execution of the November 20, 2002 Decision of the respondent court which is already final and executory. To deprive her of the execution of the judgment would work injustice to her who had been conclusively declared the rightful possessor of the property in dispute. Jurisprudence dictates that the doctrine of finality of judgments is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional errors, the judgments of the court must become final at some definite date fixed by law.[25] Once a judgment becomes final, it is basic that the prevailing party is entitled as a matter of right to a writ of execution the issuance of which is the trial court's ministerial duty.[26]

Furthermore, it does not escape OUR attention that respondent Barangay declared that it does not anymore occupy the disputed lot. If this is the case, there exists no just or valid cause for respondent Barangay to oppose the execution of the trial court's Decision. Considering that as per allegations of the said Barangay, the property in litigation is registered under the Department of Public Works and Highways (DPWH) and presently occupied by the Municipal Government of Buguias which erected school buildings and basketball court thereon, it is the DPWH or the Municipal Government of Buguias that is the proper party to resist the execution of the court a quo against it. It is a well-settled rule 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.[27]

In the assailed Order of August 8, 2011, the lower court held, viz:

"x x x execution of the affirmed judgment of this Court became impossible, on the part of the Defendant Barangay, for the reason that it is not the present possessor thereof, or unjust on the part of the registered owner, DPWH and the present occupant, the Banooy Elementary School, as they were not made parties to the case."

Since the respondent Barangay has already vacated the subject lot, the interested party to oppose the execution of the subject Decision will either be the DPWH or the Municipal Government of Buguias. Surprisingly, however, neither of them is taking legal action to prevent their eviction from the property in litigation.

In sum, the RTC gravely abused its discretion when it issued the herein challenged twin Orders. Grave abuse of discretion means such capricious and whimsical exercise of judgment as would amount to lack of jurisdiction; it contemplates a situation where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by, or to act at all in contemplation of law.[28] Such is present here when the lower court extended an unwarranted liberality to respondent Barangay in granting its motion for new trial in the interest of justice.

WHEREFORE, premises considered, the instant Petition is GRANTED. The impugned Orders dated August 8, 2011 and July 4, 2012 of the respondent court are REVERSED and SET ASIDE for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

SO ORDERED.

Tijam, (Chairperson), and Reyes-Carpio, JJ., concur.

[1] Rollo at 132-133.

[2] Rollo at 143-146.

[3] Rollo at 59-62. Decision dated November 20, 2002.

[4] Rollo at 84-95.

[5] Rollo at 98-100.

[6] Rollo at 101-102.

[7] Rollo at 105-107.

[8] Rollo at 108-109.

[9] Rollo at 110.

[10] Rollo at 119-120.

[11] Rollo at 121.

[12] Rollo at 132-133.

[13] Rollo at 143-146.

[14] Rollo at 19-25. Petition.

[15] Rollo at 25-27. Petition.

[16] Rollo at 27-34. Petition.

[17] Rollo at 163-165; 166. Comment.

[18] Rollo at 165. Comment.

[19] Orda et al. vs. Court of Appeals et al., G.R. No. 92625, December 26, 1990.

[20] Cabarlo vs. People, G.R. NO. 172274, November 16, 2006.

[21] G.R. Nos. 96027-28, March 8, 2005.

[22] Rollo at 61-62. Decision dated November 20, 2002.

[23] Manuel Ybiernas et al. vs. Ester Tanco-Gabaldon et al., G.R. No. 178925, June 1, 2011.

[24] See Roman Catholic Archbishop of Caceres vs. Heirs of Manuel Abella, G.R. No. 143510, November 23, 2005.

[25] See Coca-Cola Bottlers Philippines, Inc. Sales Force Union-PTGWO-Balais vs. Coca-Cola Bottlers Philippines, Inc., G.R. No. 155651, July 28, 2005.

[26] See Spouses Henry O and Pachita Cheng vs. Spouses Jose Javier and Claudia Dailisan, G.R. No. 182485, July 3, 2009.

[27] Nazal vs. Belmonte, G.R. No. L-24410, May 23, 1968.

[28] Jonas Taguam vs. COMELEC et al., G.R. No. 184801, July 30, 2009.

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