FLORIDA LAURENCIANO AND VILLAMOR DULZA, PETITIONERS-APPELLEES, VS. DEPARTMENT OF EDUCATION REGION II NUEVA VIZCAYA, REPRESENTED BY ALMA BODINO, RESPONDENT-APPELLANT.

Ponente: SADANG, J.

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SADANG, J.:

Before us is a partial appeal from the Decision[1] dated August 10, 2010 of the Regional Trial Court of Bambang, Nueva Vizcaya, Branch 30, in Civil Case No. 1060.

Antecedents of the Appeal
On September 5, 2005, the Municipal Trial Court (MTC) of Kasibu, Nueva Vizcaya rendered a Decision[2] in favor of respondent-appellant Department of Education (DepEd) in Civil Case No. 55, an action for forcible entry with preliminary mandatory injunction and damages, against defendant spouses Martiniano and Florida Laurenciano and spouses Rolando and Aida Dulza. Said defendants were ordered to vacate the property and surrender possession thereof to DepEd. Defendants' appeal to the RTC was dismissed for failure to seasonably file the requisite memorandum.[3] On December 9, 2005, on motion of DepEd, the MTC issued a writ of execution[4] pending appeal in view of defendants' failure to post the required supersedeas bond. The writ was implemented but the bahay-kubo and other improvements of defendants were not removed. On motion[5] of DepEd, the MTC, on October 5, 2006 issued a writ of demolition[6] for said structures.

Subsequently, DepEd filed a Motion for the Issuance of an Alias Writ of Execution,[7] dated February 17, 2009, alleging that it received information that the defendants are occupying the land. On April 7, 2009, the MTC issued an Alias Writ of Execution.[8] It appears from the Sheriff's Return,[9] dated May 6, 2009, that on April 28, 2009, the alias writ was “DULY SERVED but UNSATISFIED” because defendants did not surrender possession to DepEd and have put up a barbed-wire fence around half of the land and a “temporary camp made with bamboo & Leatherette tarpaulin (tolda).” On motion of DepEd, the MTC issued an Order,[10] dated July 2, 2009 for the issuance of a writ of demolition. On July 22, 2009, a Special Alias Writ of Demolition[11] was issued.

On July 23, 2009, defendant spouses Florida Laurenciano and Villamor Dulza (hereafter, appellees) filed a Petition[12] for annulment of the MTC decision, the Alias Writ of Execution and the Special Alias Writ of Demolition, with prayer for the issuance of a temporary restraining order and preliminary injunction in the RTC of Bambang, Nueva Vizcaya, docketed as Civil Case No. 1060.[13] The RTC granted appellees' prayer for TRO in its Order dated July 29, 2009[14] but denied their application for preliminary injunction.[15]

On August 10, 2010, the RTC rendered the assailed Decision. The fallo reads:

> WHEREFORE, premises considered, the Petition is partially granted. The Decision dated September 5, 2005 is hereby MAINTAINED whereas the Orders granting the issuance of Alias Writ of Execution and Order of Demolition dated July 2, 2009 as well as the Alias Writ of Execution dated April 7, 2009 and the Special Writ of Demolition dated July 22, 2009 are hereby SET ASIDE AND ANNULLED.

SO ORDERED.[16]

Appellant's motion for reconsideration was denied;[17] hence, this partial appeal raising this lone error:[18]

> THE TRIAL COURT ERRED IN ANNULLING THE ORDERS OF THE MUNICIPAL TRIAL COURT OF KASIBU, NUEVA VIZCAYA WHICH GRANTED THE ISSUANCE OF ALIAS WRIT OF EXECUTION, WRIT OF DEMOLITION AND SPECIAL WRIT OF DEMOLITION DESPITE THE FINAL AND EXECUTORY NATURE OF THE JUDGMENT OF THE SAID MUNICIPAL TRIAL COURT.

Because appellees did not file appeal brief as required, the case was deemed submitted for decision.[19]

RULING
The issue to be resolved is whether the RTC erred in setting aside the Alias Writ of Execution and Special Alias Writ of Demolition.

Before resolving the issue, it must be noted that the petition filed by appellees before the RTC is for the annulment of a final judgment of the MTC. There can be no question that the RTC has jurisdiction to annul final judgments of the MTC pursuant to Rule 47 of the Rules of Court. However, before a party can avail himself of Rule 47, it is a condition sine qua non that one must have failed to move for new trial, or appeal from, or file a petition for relief against said judgment through no fault of his own. If he failed to avail himself of these remedies, a party cannot resort to Rule 47, for otherwise, he would benefit from his own inaction or negligence.[20]

In this case, appellee Florida Laurenciano, one of the defendants in the ejectment case, is one of the petitioners in the petition for annulment of the MTC decision, the other being appellee Villamor Dulza. The appeal of the defendants in the ejectment case was dismissed because of their failure to file the requisite memorandum. The RTC could have dismissed the petition to annul judgment outright on said ground with respect to Florida.

In this appeal, appellant, through the Office of the Solicitor General (OSG) contends that final and executory judgment can no longer be attacked by any party and its execution is no longer appealable or not otherwise subject of review; that the assailed orders were necessary to protect the finality of judgments, otherwise, appellee Florida could subject appellant to a never ending litigation by simply transferring her interest to another, such as her son-in-law, appellee Dulza; and that questions about execution of judgment must be settled before the court that issued them because it is said court that has supervisory control over said execution.

The contentions do not persuade.

When a judgment is final and executory, it becomes immutable and unalterable.[21] The judgment may no longer be modified in any respect, except to correct clerical errors or to make nunc pro tunc entries. The court which rendered judgment has the ministerial duty to issue a writ of execution. The parties may not object to the execution by raising new issues of fact or law, except under the following circumstances: 1) the writ of execution varies the judgment; 2) there has been a change in the situation of the parties making execution inequitable or unjust; 3) execution is sought to be enforced against property exempt from execution; 4) it appears that the controversy has been submitted to the judgment of the court; 5) the terms of the judgment are not clear enough and there remains room for interpretation thereof; or 6) 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 the judgment debt has been paid or otherwise satisfied, or the writ was issued without authority.[22]

In this case, the RTC ruled that the MTC decision was already fully implemented when the alias writs were issued. The RTC opined that the re-entry of the defendants is another act of dispossession which gives rise to a separate cause of action.

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In the alias writ of execution, dated April 7, 2009, the MTC states the factual bases thereof thus:

> x x x x x x x x x
> WHEREAS, as per Sheriff's Return of Service, the plaintiffs were successfully placed in physical possession on the landholding and the Court consequently granted the Issuance of a Writ of Demolition anent the hut still left standing thereon which was built by defendants.
>
> WHEREAS, the Motion for issuance of Alias Writ of Execution was filed by the plaintiffs on February 17, 2009 due to the fact that the defendants and some other persons claiming under them have again fraudulently entered the land owned by the Muta Elementary School.
>
> WHEREAS, after the said Motion was given due course, the Court granted the issuance of an Alias Writ of Execution. (underscoring supplied)
>
> x x x x x x x x x

At the hearing for the issuance of injunctive relief in Civil Case No. 1060 (petition to annul the MTC decision), appellee Dulza testified that in December 2006 his house on the subject land was demolished but he returned in 2008 to farm the land and to construct a house thereon.[23] This admission is corroborated by the police blotter on the intrusion and illegal occupancy of the land by appellees in November 2008.[24] It affirms DepEd's allegation in its motion for issuance of alias writ of execution that it received a letter on November 20, 2008 apprising it of said illegal occupancy.[25]

It is clear from the foregoing that the original writs of execution and demolition had been fully implemented. The structures put up by the defendants in the ejectment case were demolished and appellant was put in physical possession of the property. However, two years later, the defendants returned to the land together with appellee Dulza. Such was the situation when the alias writ of execution and special writ of demolition were issued by the MTC.

The general rule is that “(a) case in which an execution has been issued is regarded as still pending so that all proceedings on the execution are proceedings in the suit. There is no question that the court which rendered the judgment has a general supervisory control over its process of execution, and this power carries with it the right to determine every question of fact and law which may be involved in the execution.”[26] However, after the judgment has been fully satisfied, it is axiomatic that the case is deemed terminated once and for all.[27] Thus, in this case, after appellant was placed in possession of the subject land pursuant to the judgment, the MTC lost jurisdiction over the execution proceedings. Indeed, there are no more proceedings to speak of because they were terminated by the full implementation of the original writ of execution and demolition. The ruling of the RTC must therefore be sustained.

Appellant has only itself to blame for not fencing its property after it was placed in possession thereof and in not preventing the defendants or other persons acting under them from re-entering the land. The proper remedy of appellant is to initiate a petition for indirect contempt[28] against appellees for disobeying or disrespecting the decision of the MTC. With respect to Dulza, there must be proof that he acted under the authority of Florida; otherwise, appellant must file the proper action for recovery of possession against him.

WHEREFORE, the appeal is DENIED. The Decision, dated August 10, 2010, of the Regional Trial Court of Bambang, Nueva Vizcaya, Branch 30, in Civil Case No. 1060 is AFFIRMED.

SO ORDERED.

Librea-Leagogo, J., Chairperson, and [*]Valenzuela, JJ., concur.

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[*] Vice J. Amy C. Lazaro-Javier, who is on leave, per Office Order No. 38-15-RSF dated February 3, 2015.

[1] Record, pp. 157-163.

[2] Id. at 12-18.

[3] Id. at 92.

[4] Id. at 8-9.

[5] Id. at 41-42.

[6] Id. at 10-11.

[7] Id. at 30-37.

[8] Id. at 19-20.

[9] Id. at 94.

[10] Id. at 6-7.

[11] Id. at 95.

[12] Id. at 1-4.

[13] Id.

[14] Id. at 59-60.

[15] Id. at 71-74.

[16] RTC-Decision, supra note 1 at 162.

[17] Id. at 149-150.

[18] Id. at 40.

[19] Resolution dated February 23, 2012

[20]

[21] Philippine Economic Zone Authority v. Borreta, G.R. No. 142669, 15 March 2006, 484 SCRA 664, 670; citing Mayon Estate Corp. v. Altura, G.R. No. 134462, October 18, 2004, 440 SCRA 377.

[22] PEZA v. Borreta, supra citing Reburiano v. Court of Appeals, G.R. No. 102965, January 21, 1999, 301 SCRA 342. Also eee Philippine Amusement and Gaming Corporation (PAGCOR) v. Rufino G. Aumentado, Jr., G.R. No. 173634, July 22, 2010, citing PEZA v. Borreta

[23] TSN, August 13, 2009, pp. 4-5.

[24] Id. at 35 and 177.

[25] Record, p. 34 and p. 176.

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[26] Vda. De Paman v. Señeres, 115 SCRA 709

[27] Freeman, Inec. v. Securities and Exchange Commission, 233 SCRA 735 (1994)

[28] Section 3, Rule 71 of the Revised Rules of Court:

SECTION 3. Indirect contempt to be punished after charge and hearing. — After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) x x x x x x x x x

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto; (Underscoring supplied).

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