

ALBERTO TIONGCO HAW OTHERWISE KNOWN AS ALBERTO TIONGCO HAO, PETITIONER-APPELLANT, VS. HON. FELICITAS O. LARON-CACANINDIN, PRESIDING JUDGE, METROPOLITAN TRIAL COURT OF MANILA, BR...

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

This is an Appeal[1] by petitioner-appellant Alberto Tiongco Haw a.k.a. Alberto Tiongco Hao from the Decision[2] dated 01 December 2010 of the Regional Trial Court of Manila, Branch 08 which denied Alberto Tiongco Haw's petition for certiorari with application for preliminary injunction and damages.

ANTECEDENTS

An action for Ejectment was filed by Manotok Services, Inc. against the Heirs of Edna Hao, represented by Jose Magno Delos Reyes and herein petitioner-appellant Alberto Tiongco Haw. A Decision[3] was rendered by the Metropolitan Trial Court of Manila, Branch 19 on 13 October 2005, the dispositive portion of which states:

“WHEREFORE, premises considered, judgment is hereby rendered:

1. Ordering the defendants Heirs of Edna Hao represented by Mr. Jose Magno delos Reyes and Alberto Tiangco Hao and all such other persons claiming rights under them to vacate and peacefully surrender to the plaintiff the physical possession of the leased premises located at Lot 10, Block 1, Juan Luna, Tondo, Manila;
2. Ordering the defendants to pay the plaintiff the amount of one hundred fifty one thousand two hundred pesos (P151,200.00), representing rental arrearages from January 1996 to April 2004;
3. Ordering the defendants to pay the plaintiff the amount of one thousand five hundred twelve pesos (P1,512.00) representing reasonable compensation for the use and occupancy of the leased premises from May 2004 and every month thereafter until such time the defendants and all persons claiming rights under them actually vacate and surrender the possession of said premises to the plaintiff; and
4. Ordering the defendants to pay the plaintiff the amount of ten thousand pesos (P10,000.00) as and for attorney's fees plus cost of suit.

SO ORDERED.”

On appeal, the Regional Trial Court of Manila, Branch 39 affirmed the decision of the Metropolitan Trial Court.[4]

The Decision became final and executory. The case was then remanded to the Metropolitan Trial Court.

Manotok Services, Inc. filed a Motion for Execution which was granted by the Metropolitan Trial Court. Thereafter, the Writ of Execution was served, but despite service of notice to pay, vacate, and remove structures made on the subject premises, the heirs of Edna Hao refused to comply.

Subsequently, Manotok Services, Inc. filed a Motion for Demolition and a Writ of Demolition was issued on 18 August 2009.[5]

An Urgent Motion to Quash Writ of Execution And/Or Demolition was filed by the Heirs of Edna Hao, but the Metropolitan Trial Court denied the same.[6]

A Motion for Reconsideration was then filed by the Heirs of Edna Hao. The Metropolitan Trial Court denied the said motion in an Order dated 26 May 2010.[7]

The Orders of the Metropolitan Trial Court denying the Urgent Motion to Quash Writ of Execution And/Or Demolition and Motion for Reconsideration became the subject of the petition for certiorari with application for preliminary injunction and damages before the Regional Trial Court of Manila, Branch 08.

In a Decision dated 01 December 2010, the assailed decision in the instant appeal, the Regional Trial Court denied the petition filed by Alberto Tiongco Haw.

Hence, this Appeal where petitioner-appellant raised the following issues[8]:

“1. WHETHER OR NOT THE MTC HAS LOST ITS JURISDICTION TO ADD OR TO MODIFY A FINAL AND EXECUTORY JUDGMENT.

2. WHETHER OR NOT THERE WAS GRAVE ERROR AND ABUSE OF DISCRETION OF THE METROPOLITAN TRIAL COURT OF MANILA BRANCH 19 AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION.”

OUR RULING

The petitioner-appellant averred that the Writ of Demolition issued by the Metropolitan Trial Court did not reflect the dispositive portion of the 13 October 2005 Decision and the Order of Execution because the said writ added the words “No. 3063 Maliklik Street” before the phrase “Lot 10, Block 1 situated at Juan Luna, Tondo, Manila”. [9]

He further asseverated that there was no evidence introduced in the lower court to show that Lot 10, Block 1, Juan Luna, Tondo, Manila is the same as 3063 Maliklik Street, Tondo, Manila. Alberto Tiongco Haw pointed out that once a decision becomes final and executory, the Metropolitan Trial Court cannot modify it anymore.[10]

On the other hand, Manotok Services, Inc. argued that an ocular inspection was conducted by order of the Regional Trial Court. A hearing was then conducted relative to the report on the ocular inspection. It was duly established that Lot 10, Block 1 and the parcel of land with an address at No. 3063 Maliklik Street, Tondo, Manila

are one and the same.[11]

Respondent-appellee Manotok Services, Inc. posited that the dismissal of the petition by the Regional Trial Court is proper since the issuance of the subject orders of the Metropolitan Trial Court was in consonance with the rule that once a judgment becomes final and executory, it is the ministerial duty of the courts to order its execution.[12]

The subject Writ of Demolition dated 18 August 2009 reads in part:

“NOW, THEREFORE, you, with the aid of proper authorities, are hereby commanded to destroy, demolish or remove, or to commence the work of destruction or removal of the structures or improvements constructed and built by defendants Heirs of EDNA HAO represented by Mr. JOSE MAGNO DELOS REYES and ALBERTO TIANGCO HAO and all such persons claiming rights under her, on the subject property designated as No. 3063 Maliklik St., Tondo, situated at Lot 10, Block 1, Juan Luna, Tondo, Manila.”[13]

It can be gleaned that the subject writ merely emphasized that the demolition be limited to the property at 3063 Maliklik Street situated at Lot 10, Block 1, Juan Luna, Tondo, Manila. Thus, it did not vary the tenor of the 13 October 2005 Decision of the Metropolitan Trial Court which ordered the heirs of Edna Hao to vacate and surrender to Manotok Services, Inc. the physical possession of the leased premises located at Lot 10, Block 1, Juan Luna, Tondo, Manila.

Furthermore, to ferret out the truth, the Regional Trial Court appointed surveyors for the ocular inspection of the subject property by virtue of an Order dated 20 July 2010.[14] The appointment of surveyors was upon the agreement of the parties.[15] The report and testimony of court-appointed surveyors Gabriel Dolor and Elmer Guanlao show that Lot 10, Block 1 has an address of 3063 Maliklik St., Tondo, Manila.[16]

It must be mentioned at this juncture that the petitioner-appellant was given numerous opportunities to prove his case both in the Metropolitan Trial Court and the Regional Trial Court. The final judgment and the regularity of the procedure conducted by the court a quo should not be defeated by allegations of impropriety of the Writ of Demolition. No grave abuse of discretion can be attributed to the court which issued the subject writ since Alberto Tiongco Haw was not deprived of his day in court, as he was heard and had exhaustively presented his evidence and arguments in support of his contention.

Needless to say, the issuance of the Writ of Demolition is necessary to do justice to respondent-appellee who has been deprived of possession of the subject property by reason of the continued refusal of petitioner-appellant to remove his house thereon and restore possession of the premises to respondent-appellee Manotok Services, Inc. The prevailing party can have the final and executory decision executed as a matter of right and it is the duty of the court a quo to issue a writ of execution, and the corresponding writ of demolition, to effect full implementation of the said decision.

It is unfortunate that the final judgment still awaits implementation because of the dilatory scheme on the part of the losing litigant. It is in the interest of justice that We write *finis* to this litigation.[17]

In fine, We find no cogent reason to deviate from the ruling of the Regional Trial Court.

WHEREFORE, the instant appeal should be, as it is, hereby DENIED. The assailed Decision dated 01 December 2010 of the Regional Trial Court of Manila, Branch 08 is AFFIRMED.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Rollo, pp. 105-123.

[2] Ibid., pp. 7-19.

[3] Ibid., pp. 97-98.

[4] Ibid., pp. 83-88.

[5] Ibid., pp. 100-101.

[6] Ibid., pp. 102-103.

[7] Ibid., p. 104.

[8] Ibid., p. 110.

[9] Ibid., p. 106.

[10] Ibid., p. 107.

[11] Ibid., p. 32.

[12] Ibid.

[13] Ibid., p. 101.

[14] Ibid., p. 15.

[15] Ibid.

[16] Ibid., pp. 16-17.

[17] Choithram Jethmal Ramnani, et. al. vs. CA, G.R. No. 85494, July 10, 2001.

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