

**ROBUSTIANO CARAGAO, GORGONIA JAYME, ISABEL GARCIA
HERNANDEZ AND HER HUSBAND BARTOLOME HENANDEZ,
AUGUSTO, SOFRONIO, ENCARNACION, ROSALINA, JUAN, ANTONIO,
CARMELITA AND ARSENIO, T...**

G.R. No. L-4665. October 17, 1952

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is a special action of certiorari to annul and set aside an order for immediate execution issued on March 3, 1951, by the Honorable Cirilo Maceren, judge of the Court of First Instance of Davao, in Civil Case No. 288 of that court entitled G. P. Sebellino, as Administrator of the Estate of Jose Caragao vs. Robustiano Caragao, et al. In the judgment rendered after trial the court found that petitioner herein Robustiano Caragao had secured the transfer to himself of three parcels of land, registered in the name of the intestate Jose Caragao under certificates of title Nos. 331, 608, and 2715, which he sold to his co-petitioners in this proceeding, the first to Isabel Garcia and Bartolome Hernandez, the second to Josefa Caragao, and the third to Gorgonia Jayme. As a result of the conveyances the lands, according to the decision, are now registered in the names of the purchasers under Transfer Certificates of Title Nos. 206, 207, and 208. The court, however, found that the intestate had left a daughter by the name of Laureana Caragao by his first wife named Catalina Baligya, and it, therefore, ordered the cancellation of the new transfer certificates of title in the names of the petitioners, and the issuance of new ones in lieu thereof in the name of Jose Caragao, deceased and that defendants vacate the lands and pay Jose Caragao's share in the products thereof in the amount of P6,000. (Annex A.)

The judgment was rendered on December 28, 1950, and on January 6, 1951, the plaintiff moved for the immediate execution of the judgment (Annex B). Opposition to the motion was registered by the defendants (Annex C). On February 3, 1951, the court granted the motion for immediate execution, but upon motion for reconsideration, it set aside its first order by another dated February 10, 1951, which, in part, reads as follows:

* * *. It appearing that the plaintiff offers no objection to the filing of the supersedeas bond to answer for damages, the order of the court dated February 3, 1951, is hereby set aside and defendants are ordered to file a bond of P6,000 to answer for damages.

The defendants seem to have filed the bond, but opposition to this was registered by the plaintiff on the ground that it was insufficient, and the latter thereupon filed a coimterbond for P10,000. Subsequently, the plaintiff also filed a motion for reconsideration dated February 20, 1951, praying that the original order for the execution of the judgment be reinstated. On March 2, 1951, the court set aside its order of February 10, 1951, and directed anew the issuance of an execution, thus:

* * *. It having been shown that the property would be properly taken care of and administered by the plaintiff herein for the better preservation and protection of same and inasmuch as the issuance of a writ of execution having been determined in its order of February 3, 1951, the order of this court dated February 10, 1951, is

hereby set aside, and let execution issue in this case upon filing by the plaintiff of a bond in the total sum of P8,000, and an additional bond of P1,000 to be filed by the plaintiff G. P. Sebellino as embodied in the order of this court of February 3, 1951.

It is against this order that the present action is filed, petitioners contending that after the filing of the supersedeas bond, the execution of the judgment could not be justified by the reason expressed in the order, i.e., that the property could be better preserved or protected in the possession of the plaintiff.

The general rule is that the execution of a judgment is stayed by the perfection of an appeal. While provisions are inserted in the Rules to forestall cases in which an executed judgment is reversed on appeal, the execution of the judgment is the exception, not the rule. And so execution may issue only "upon good reasons stated in the order." The grounds for the granting of the execution must be good grounds. (*Aguilos vs. Barrios, et al.*, 72 Phil., 285) It follows that when the court has already granted a stay of execution, upon the adverse party's filing a supersedeas bond, the circumstances justifying execution in spite of the supersedeas bond must be paramount; they should outweigh the security offered by the supersedeas bond. In this last case, only compelling reasons of urgency or justice can justify the execution. (*Ibid.*)

The "good reason" stated in the order subject of this proceeding is "the better preservation and protection of the property." But we find from the record that the properties are three parcels of land. And we are at a loss to understand how and why they could be better preserved if in the hands of the administrator. Besides, the judgment shows that the lands are in the hands of the petitioners, who already have titles thereto, and as there is nothing to indicate that they were acquired in bad faith, the presumption arises that the purchasers are possessors in good faith. It seems, therefore, that the execution of the judgment, after the giving of the supersedeas bond, can not be justified, there being no urgent or compelling reasons for granting the same. We, therefore, hold that the execution was granted with grave abuse of discretion.

The petition is, therefore, granted, and the order of the respondent judge of March 2, 1951, is set aside, and that of February 10, 1951, revived. With costs against the respondents.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, and Bautista Angelo, JJ., concur.

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