

ANGEL VILLARICA AND NIEVES PALMA GIL VILLARICA, PLAINTIFFS AND APPELLEES, VS. CONCEPCION PALMA GIL, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. L-15799. August 31, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

These are two (2) related cases.

In conformity with a compromise agreement entered into by the parties in Civil Case No. 1160 of the Court of First Instance of Davao, entitled "Concepcion Palma Gil vs. Nieves Palma Gil and Angel Villarica"—these defendants are hereafter referred to as the appellants herein—said court rendered judgment on April 7, 1954, the dispositive part of which reads:

"A la vista de los datos expuestos, el Juzgado dicta sentencia condenando a la demandada, Nieves Palma Gil de Vilarica, cumpla con los terminos del documento (Exh. 'A'), ordenando a aquella que otorgue los documentos necesarios traspasando a favor de la demandante, 256 metros cuadrados con 20 centimetros del Lote No. 59-C, descrito mas particularmente en el certificado de transferencia de titulo No. 432.

"Ordena a la demandada que dentro del plazo de un (1) año, a contar desde la promulgacion de esta decision, construya el edificio mencionado en el (Exh. A) en Lote No. 59-C, y otorgue los documentos necesarios cediendo a favor de la demandante el usufructo vitalicio de las rentas de una mitad del indicada edificio.

"Con las costas contra de la demandada."

On appeal, this decision was on October 24, 1955, affirmed by the Court of Appeals (CA—G.R. No. 13417-R), except as to the date from which the period of one (1) year within which Nieves Palma Gil—hereinafter referred to as Miss Gil— was to construct the building referred to in the decision of the lower court, would begin, which was to be "from the entry of final judgment" in the case, instead of from the promulgation of the original decision of the court of first instance. In due course, the lower court issued on February 16, 1956, the corresponding writ of execution, which was returned by the office of the provincial sheriff with the statement that the defendant Nieves Palma Gil—hereinafter referred to as Mrs. Villarica—"refused to execute a document of reconveyance". On motion of Miss Gil the provincial sheriff was, on April 27, 1956, authorized, therefore, to execute said document. Thereupon, the sheriff caused the aforementioned Lot No. 59—C, which has an area of over 800 square meters, to be surveyed and subdivided into subdivision Lots Nos. 59-C-1 and 59-C-2, containing 256 and 573 square meters, respectively, and executed on May 11, 1956 a deed conveying said Lot No. 59-C-1 to Miss Gil. Upon her motion, soon thereafter, or on July 7, 1956, the lower court ordered the issuance of an alias writ of execution for the satisfaction of her bill of costs, aggregating P350.75, for the services of the surveyor (P150.00), the preparation of the deed of transfer (P200.00) and documentary stamps (P0.75). The appellants sought a reconsideration of said order, but their motion was denied on September 10, 1956. On May 17, 1957, Miss Gil filed a motion, which was granted on May 25, 1957, praying that an alias writ of execution be issued directing Mrs. Villarica to construct the

building mentioned in the decision above quoted. Said alias writ of execution, issued on May 30, 1957, was returned, however, on September 17, 1957, with the information that "the defendants refused to abide by the Order in the writ of execution".

In the meantime, the provincial sheriff had, also caused Lot No. 59-C to be further subdivided into subdivision Lots Nos. 59-C-1, 59-C-2, 59-C-3 and 59-C-4, with an area of 215, 38, 13 and 560 square meters, respectively, and, purporting to act in accordance with the aforementioned decision and with the order of the court of April 27, 1957, had executed on July 11, 1957, in favor of Miss Gil a deed of transfer of said subdivision Lots Nos. 59-C-1 and 59-C-2, with an aggregate area of 254 square meters. On August 28, 1957, appellants moved that the sheriff be compelled to "report * * * regarding his actuations with respect to" said order of April 27, 1956, "and that he be examined regarding the same", but the motion was denied in an order dated September 7, 1957. A reconsideration thereof having been denied, appellants filed a notice of appeal and the corresponding record on appeal, which was docketed in the Court of Appeals as CA-G.R. No. 22438-R.

While these proceedings were taking place, or on or about June 20, 1956, Miss Gil had instituted Civil Case No. 2246 of the Municipal Court of Davao City to eject the appellants from the land conveyed by the sheriff to the former and to recover damages. Judgment having been rendered therein, on October 4, 1956, against the herein appellants, a motion for the immediate execution of said judgment was filed by Miss Gil on October 9, 1956. Soon, thereafter, or on October 24, 1956, appellants instituted Civil Case No. 2151 of the Court of First Instance of Davao against Miss Gil, the Provincial Sheriff of Davao, the Judge of the Court of First Instance of Davao, first branch, the Municipal Judge of Davao City, and the Register of Deeds thereof. In the complaint therein filed, appellants alleged that the subdivision made of Lot No. 59-C was illegal; that the conveyance by the sheriff of a specific portion thereof to Miss Gil arbitrary, as well as unlawful; that the registration of the corresponding deed of conveyance in favor of Miss Gil should not be allowed; and that the judgment rendered in the unlawful detainer case is contrary to law, for which reason it was prayed that said deed of conveyance, as well as the proceedings in the unlawful detainer case and those held in Civil Case No. 1160 in connection with the execution of the decision therein, be declared null and void, and that Miss Gil be sentenced to pay compensatory and moral damages, aside from attorney's fees and costs. On December 21, 1956, Illuminada U. Pacetes, who had allegedly purchased the interest of Miss Gil in and to the land in dispute, was allowed to intervene in said Case No. 2151. A motion to dismiss the complaint therein having been filed, the court granted said motion and dismissed the complaint, upon the ground that the error committed by the sheriff in subdividing Lot No. 59-C and in conveying a portion thereof to Miss Gil, without judicial approval, may be corrected in the aforementioned Civil Case No. 1160; that the Municipal Court of Davao City had jurisdiction over the unlawful detainer case; and that such errors, if any, as may have been committed in deciding the same, may be corrected only by appeal from the decision of said municipal court. Hence, this appeal by the appellants, which was docketed as CA-G.R. No. 22008-R of the Court of Appeals. Subsequently, the latter certified said case CA-G.R. No. 22088-R, as well as case CA-G.R. No. 22438-R to this Court, upon the ground that the issues raised in both raise purely questions of law. Said cases have been docketed in this Court as G. R. No. L-15799 and L-15801, respectively.

Appellants maintain that the lower court erred:

- In Case G. R. No. L-15799; (1) in authorizing the provincial sheriff to execute the corresponding deed of conveyance, despite the absence of any showing that appellants had failed to execute said deed within the specified time and the fact that, according to the sheriff's return, only Mrs. Villarica had refused to execute said deed; (2) in not ordering the sheriff to submit to the court for approval all of his actuations, as well as the deed of conveyance executed by him; (3) in not declaring that the sheriff had no authority to specify, determine and survey a specific portion of Lot No. 59-C; (4) in not cancelling and declaring null and void the deeds of transfer

executed by the sheriff on May 11, 1956 and July 11, 1957; (5) in not declaring said acts of the sheriff contrary to law and violative of the due process clause; and (6) in issuing the order of July 7, 1956, authorizing the issuance of an alias writ of execution for the recovery of the costs.

- In case G. R. No. L-15801: (1) in holding that the errors, irregularities and arbitrary acts of the sheriff could only be corrected in Case No. 1160; and (2) in not nullifying the proceedings in the unlawful detainer case.

Relying upon section 10 of Rule 39 of the Rules of Court, appellants argue that the lower court erred in authorizing the sheriff on April 27, 1956 to execute the required deed of conveyance in favor of Concepcion Palma Gil, for the decision sought to be executed allegedly gave appellants one (1) year within which to comply therewith, and said period did not expire until August 16, 1956. This is not true. Said period of one (1) year was given for the construction of the building mentioned in said decision, not for the execution of said deed of conveyance. Besides since Mrs. Villarica had unqualifiedly refused to execute such deed, it would have been unnecessary to wait for the expiration of said period, even if there had been one therefor.

It is urged that Angel Villarica had not refused to execute the aforementioned instrument. However, he was merely a formal party in case G. R. No. L-15801, he having been included as defendant therein as the husband of Mrs. Villarica, the main party defendant, the property involved in the litigation being claimed by her sister Miss Gil as part of the estate left by their (Mrs. Villarica and Miss Gil's) parents. He could not have executed, therefore, the requisite deed, without the concurrence of Mrs. Villarica.

The other errors assigned in G. R. No. L-15801 are, however, well taken substantially. The decision therein rendered and the writ of execution issued did not state what specific portion of Lot No. 59-C was to be conveyed to Miss Gil. The sheriff had no authority, therefore, to determine such portion and, accordingly, the lower court erred in denying appellants' motion to the effect that the sheriff be ordered to submit a report on his actuations in connection with the execution of the deed of conveyance of a particular portion of Lot No. 59-C, in order that the propriety of the subdivision thereof and of the conveyance of subdivision Lots Nos. 59-C-1 and 59-C-2, could be passed upon. The lower court, likewise, erred in granting ex-parte the motion of Miss Gil for an alias writ of execution to satisfy the costs, including the fees of the surveyor for the subdivision of said Lot No. 59-C and those of the sheriff for the execution of the deed of conveyance in favor of Miss Gil.

The appeal in case G. R. No. L-15801 is, upon the other hand, untenable. The relief against the questioned acts of the sheriff, in connection with the execution of the decision in Civil Case No. 1160, should be sought in such case, by appeal from the order of the lower court denying said relief and this is the object of G. R. No. L-15799.

Similarly, said acts of the sheriff did not affect the jurisdiction of the Municipal Court of Davao City over the unlawful detainer case against appellants herein. The decision therein rendered by said court was valid and binding, and appellants' remedy was, consequently, to appeal from said decision, not to bring a separate action for its annulment.

Wherefore, the decision appealed from in Case G. R. No. L-15801 is affirmed, with costs against the appellants, and the order of the lower courts, in case G. R. No. L-15799, dated September 7, 1957, is reversed, and the records of said case are remanded to the Court of First Instance of Davao for further proceedings, not inconsistent with this decision. Appellee, Concepcion Palma Gil shall pay the costs of the appeal in said case G. R. No. L-15799. It is so ordered.

Bengzon, C. J., Padilla, Reyes, J. B. L., Barrera, Paredes, Dizon, De Leon, and Natividad, JJ., concur.
Bautista Angelo, J., on leave.

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