

**RAYMUNDO A. CRYSTAL, PETITIONER VS. COURT OF APPEALS AND
PELAGIA OCANG, PACITA, TEODULO, FELICISIMO, PABLO, LYDIA,
DIOSCORA AND RODRIGO, ALL SURNAMED DE GRACIA,
RESPONDENTS.**

G.R. No. L-35767. February 25, 1975

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for review of the decision of the Court of Appeals in CA-G.R. No. SP-00506 entitled "Raymundo A. Crystal vs. Hon. Pio B. Ferandos, et al." dismissing the petition for certiorari which sought the annulment and setting aside of the order of the Court of First Instance of Cebu in Civil Case No. R-1666 dated May 31, 1971 directing the issuance of a writ of possession in favor of herein private respondents Pelagia Ocang, et al. of four parcels of land situated at Toledo, Cebu, which said respondents had purchased at an execution sale held in implementation of the judgment in said Civil Case No. R-1666, upon the ground that herein petitioner, as purchaser of the rights of the judgment debtors therein and who had previously taken possession thereof, ceased to have any right to continue in possession when he failed to opportunely exercise the right of redemption in the manner prescribed by the rules.

According to the Court of Appeals, this case arose from the following facts:

"In Civil Case No. R-1666, of the Court of First Instance of Cebu, entitled Pelagia Ocang et al. vs. Vidal Montayre, as administrator of the estate of Nicolas Rafols, judgment was rendered ordering the defendant to pay the plaintiffs P30,609.00 as damages. On appeal, this Court affirmed the decision of the trial court. After the judgment had become final, a writ of execution was issued and five (5) parcels of land belonging to the estate, situated at Toledo, Cebu, were on May 24, 1957 sold at public auction to Pelagia Ocang as the highest bidder for P10,000.00 (Annex "A"). On May 17, 1958, the heirs of Nicolas Rafols assigned their right of redemption over four (4) of the five (5) parcels of land to Raymundo Crystal (Annex "B"), which assignment was approved by the probate court on May 23, 1958. By virtue of the order, Crystal deposited a check for P11,200.00 with the Provincial Sheriff of Cebu on said date and on May 28, 1958, the Provincial Sheriff issued a deed of redemption (Annex "C"). Crystal took possession of the lands and cultivated the same.

In February, 1960, Ocang took possession of the four (4) parcels of land, claiming that since the check for the redemption was dishonored for lack of sufficient funds, the redemption was null and void. Crystal then filed a motion in Civil Case No. R-1666 seeking to cite Ocang in contempt of court.

On June 4, 1960, the trial court denied the motion to hold Ocang in contempt of court, observing that another action, and not contempt proceedings, is the proper proceeding where the validity of the redemption may be raised (Annex "D").

Following the observation of the trial court, Crystal filed Civil Case No. 62-I against Ocang seeking a declaration of ownership in his favor, plus damages.

During the pendency of Civil Case No. 62-I, however, Crystal was able to regain possession of the four (4) parcels of land.

"On June 23, 1969, the trial court in Civil Case No. R-1666 granted a writ of possession of the four (4) parcels of land to Ocang (Annex "F").

Upon Crystal's motion, the trial court set aside the order of June 23, 1969 and annulled the writ of possession issued in Ocang's favor.

Ocang then moved to reconsider the order annulling the writ of possession, which motion was opposed by Crystal. The trial court held in abeyance the various incidents of the case.

Subsequently, Ocang filed an ex-parte motion for the issuance of an alias writ of possession and this was reiterated on August 15, 1970.

On May 31, 1971, the trial court issued an order reviving the order for issuance of a writ of possession dated June 23, 1969 and declaring the definite deed of sale executed by the Provincial Sheriff of Cebu and the writ of possession issued by the clerk of court on June 24, 1969 in full force and effect (Annex "I").

Crystal moved to reconsider the order of May 31, 1971, which was, however, denied by the trial court (Annex "K").

Hence, the present petition for certiorari with preliminary injunction which was given due course. Upon petitioner's filing of a cash bond in the amount of P500.00, a writ of preliminary injunction was issued." (Pp. 24-26, Rec.)

As to the check for P11,200.00 delivered by petitioner to the Provincial Sheriff of Cebu to pay for the redemption of the lands herein involved, the Court of Appeals found that:

"... In the present case there is no dispute that the check was not honored. It is claimed by Crystal, the redemptioner, that the check became stale and was consequently dishonored by the bank thereby blaming Ocang for its dishonor. It appears, however, that the check became stale because Crystal opposed its release by the Sheriff to Ocang on the ground that Ocang failed to render an accounting of the rents the latter received during the redemption period." (Pp. 29-30, Rec.)

Bound as this Court is by these facts found by the appellate court, there being no adequate allegation that the same are not supported by substantial evidence, the only issue remaining for Us to resolve is whether or not the Court of Appeals committed an error of law in holding that the redemption purportedly made by petitioner on May 23, 1958 by delivering the aforementioned check for P11,200.00 to the sheriff is a sufficient compliance with the requirement of payment of the redemption price under Section 30 of Rule 39. To properly put in issue whether or not a decision of the Court of Appeals has substantial basis in the evidence, a general allegation to such effect is utterly insufficient if only because the intermediate court should be considered as having duly studied all relevant angles of the case before it, fully conscious of its obligation and responsibility to the parties that its decision should be in accordance with law and justice. Thus, to warrant action on the part of the Supreme Court, the petition for review must allege particular facts and circumstances discernible in the record indicating the supposed inadequate foundation of the appellate court's questioned findings of fact. There are no such allegations in the instant petition. Quite on the contrary, it is worth observing here that it is not disputed by petitioner, indeed he emphasizes, that the sheriff has been keeping the check in question in his possession all the time up to the present, in the sense that allegedly it has been periodically changed to avoid being stale. And this is not as it should be. The sheriff acted irregularly in doing so and, he has thereby prevented its being duly considered as payment. Indeed, in such instances, it is the duty of the sheriff to encash the check without any loss of time in order that corresponding rights of the parties may not be left hanging in uncertainty, and to enable the ones concerned to

proceed in the prosecution or protection of their rights as the resulting situation may demand. What is more, from the extant circumstances, the Court gathers the impression that indeed the same had been or would be dishonored.

The decision under review holds that under Article 1249 of the Civil Code, "the delivery of promissory notes payable to order or bills of exchange or other mercantile documents shall produce the effect of payment only when they have been cashed, or when through the fault of the creditor they have been impaired"; "that a check is one form of a draft or commercial paper" and "its delivery by the debtor to the creditor can only produce the effect of payment if said check is honored by the bank; and that "in the present case there is no dispute that the check (above referred to) was not honored." Upon these premises, We can perceive no legal reason to disagree with the appellate court's conclusion that "the delivery of the check by Crystal (the petitioner) to the sheriff did not constitute a valid redemption."

In so upholding the Court of Appeals, We do not mean to disregard the ruling laid down in *Javellana vs. Mirasol*; 40 Phil. 761, 770-771, to the effect that payment of a redemption price by means of a check for the amount due does not render the redemption invalid. Indeed, the statement in *Javellana* that "the check as a medium of payment in commercial transactions is too firmly established by usage to permit of any doubt upon this point at the present day" (*id.* at p. 771) still holds true. But there is nothing in that ruling that changes the legal concept of a payment by check as defined in Article 1249 of the Civil Code, invoked by the appellate court. In other words, the law is that a check produces the effect of payment only when it has been cashed. In the instant case, the check in question was found by the appellate court to have been dishonored when presented for encashment, and, as observed earlier, no ponderous reason has been shown to enable Us to hold otherwise.

Petitioner complains that the Court of Appeals gravely abused its discretion when it decided the question of validity of the redemption in dispute, considering that the issue raised in the petition before it was solely about the alleged lack of jurisdiction of the trial court to issue a writ of possession in Civil Case No. R-1666, while Civil Case No. 62-T, which was precisely filed upon order of the court in the former case for the specific purpose of threshing out the issue of validity of petitioner's redemption, is still pending and undecided. Indeed, it is true that when private respondents were charged with contempt for having taken possession of the subject properties after "the check for redemption was dishonored for lack of sufficient funds," (p. 2, Decision, Court of Appeals, Annex A of the Petition) the trial court observed that another action not contempt proceedings is the proper remedy, and pursuant to said observation, petitioner filed Civil Case No. 62-T.[1] Thus, while the point raised by petitioner appears to be well taken, on the other hand, the question of whether or not the order of the trial court of May 31, 1971 reviving the writ of possession dated June 23, 1969 which declared definite the deed of sale in favor of respondents has legal basis necessarily involves the validity of the redemption made by petitioner. The trial court must have found it indispensable to resolve that issue in ruling on the right of possession which was being pressed upon it with apparent urgency.

Under these peculiar circumstances and taking into account that from what appears in the records of this case, it is, in the mind of the Court, improbable that a different conclusion will result if We should leave the main controversy to be determined in a final judgment in Civil Case No. 62-T,[2] in the interest of justice, the Court has decided to put an end here and now to the quest of private respondents for satisfaction of the judgment they had secured in Civil Case No. 1666 against the estate of Nicolas Rafols almost two decades ago by affirming the intermediate court's decision which is not without substantial support in the evidence before it. After all, petitioner stands to suffer no material loss in the premises inasmuch as the P11,200 check which he delivered to the sheriff is still just an unencashed check which he can get back and cancel anytime, while the other alleged payments amounting to P10,114.00 stated in the petition are, in strict legal contemplation, irrelevant, assuming they have been actually made, the same having taken place long after the period for redemption had expired. If at all, these

alleged payments strongly imply that actually, in the mind of petitioner himself, the check in question was not after all effective as a redemption. Considerations of equity and justice compel Us to overlook in this case the technical flaws in the procedure observed both by the trial court and the Court of Appeals, it being apparent to Us that to prolong this litigation further would not alter its final outcome.

With respect to the point of jurisdiction raised by petitioner in connection with the action of the trial court of passing in Civil Case No. 1666 on the efficacy of the redemption when that issue is precisely the subject of Civil Case No. 62-T, We do not find petitioner's contention to be sufficiently well taken. Whether the validity of a redemption of property sold under a judgment of a court should be determined by the court that rendered the judgment or by another court in a separate proceeding is not actually a question of jurisdiction in its absolute sense. Indeed, it is not juridically proper that the court that has rendered the judgment should be exclusively deprived of authority to clear up matters related to the ultimate satisfaction thereof.

There is in fact no law categorically providing a judgment debtor or a redemptioner or anyone acting in the place of either of them must have to file a separate action whenever his right to the property is not respected. The jurisprudential rule to such effect is founded more on convenience to avoid keeping open for an indefinite time the case wherein the judgment has been rendered. Ideally, a case should be deemed terminated insofar as the court that has taken cognizance thereof is concerned the moment the entry of satisfaction of judgment is made pursuant to Section 46 of Rule 39. As a general rule, therefore, any question that arises after such entry should be the subject of another action, particularly when third parties become involved. Obviously, the issues to be resolved in such subsequent proceedings are usually bound to be different from those of the main action. And with such new parties and issues, it stands to reason that a new action in which the regular course of procedure in actions may be observed would serve the interests of justice better. But that is not to say that the court that rendered the judgment would be really acting without jurisdiction if it proceeds taking cognizance of the controversy regarding the redemption when it finds that more compelling circumstances demand that it should so act, lest more injustice might result from further delay in the final resolution of the issue and after all, it is already obvious that the ultimate result would inevitably be the same and, moreover, due process has already been accorded to all parties concerned.

Withal, it cannot be said that the court from which the judgment proceeds is altogether excluded by the rules from acting on matters subsequent to the execution sale, if only because the sheriff who conducts the sale and to whom payment of the redemption price may be made by virtue of Section 31 of Rule 39 is under the supervision and control of the court, and, accordingly, his acts in connection therewith are proper subjects of direction, scrutiny and correction when necessary, by the court, upon complaint or reference to it by any of the parties. Then also, the judgment debtor whose property has been the object of the levy ordered by the court is not a stranger to the original proceeding, and should he need protection in the enforcement of his right of redemption it should be but natural that the same court should have the authority to grant him relief as long as everyone concerned is duly heard before action is taken.

An analogous situation obtains in connection with the inclusion or exclusion of properties in or from the inventory submitted for the approval of the probate court in the course of settlement of the estate of a deceased person. As a general rule, questions of ownership of said properties raised whether by third parties or by any of the heirs contesting that of the estate of the deceased are said to be outside of the jurisdiction of said court. Even so, the Supreme Court has ruled that when the parties interested in such issue are all heirs, it is optional to them to submit to the probate court the question of title to property, and when so submitted, said probate court may definitely pass judgment thereon, the reason being that questions of collation or advancement are generally inevitably involved therein, and these are matters which are proper to be passed upon in due course of administration. In

Bernardo vs. Court of Appeals, G.R. No. L-18148, February 28, 1963, 7 SCRA 367, the Court ruled thus:

"The petitioners-appellants contend that the appellate court erred in not declaring that the probate court, having limited and special jurisdiction, had generally no power to adjudicate title and erred in applying the exception to the rule.

"In a line of decisions, this Court consistently held that as a general rule, question as to title to property cannot be passed upon on testate or intestate proceedings, (*Bauermann vs. Casas*, 10 Phil. 386; *Devese vs. Arbes*, 13 Phil. 274; *Franco vs. O'Brien*, 13 Phil. 359; *Guzman vs. Anog*, 37 Phil. 71; *Lunsod vs. Ortega*, 46 Phil. 644; *Ongsingco vs. Tan & Borja*, G.R. No. L-7635, July 25, 1955; *Raquial vs. Anihan*, No. L-4377, January 23, 1953; *Mallari vs. Mallari*, G.R. No. L-4656, February 23, 1953.) except where one of the parties prays merely for the inclusion or exclusion from the inventory of the property, in which case the probate court may pass provisionally upon the question without prejudice to its final determination in a separate action. (*Garcia vs. Garcia*, 67 Phil. 353; *Guinguing vs. Abuton*, 48 Phil. 144.) However, we have also held that when the parties interested are all heirs of the deceased, is optional to them to submit to the probate court a question as to title to property, and when so submitted, said probate court may definitely pass judgment thereof (*Pascual vs. Pascual*, 73 Phil. 561; *Mañalac vs. Ocampo, et al.*, 73 Phil. 661); and that with the consent of the parties, matters affecting property under judicial administration may be taken cognizance of by the court in the course of intestate proceeding, provided interests of third persons are not prejudiced (*Cunanan vs. Amparo*, 80 Phil. 229, 232).

"In the light of this doctrine, may it be said correctly that the trial court as well as the Court of Appeals erred in upholding the power of the probate court in this case to adjudicate in the testate proceedings, the question as to whether the properties herein involved belong to the conjugal partnership of Eusebio Capili and Hermogena Reyes, or to the deceased husband exclusively?

"At the outset, let it be clarified that the matter at issue is not a question of jurisdiction, in the sense advanced by appellants that the trial court had completely no authority to pass upon the title to the lands in dispute, and that its decision on the subject is null and void and does not bind even those who had invoked its authority and submitted to its decision because, it is contended, jurisdiction is a creature of law and parties to an action can not vest, extend or broaden it. If appellants' contention is correct, then there can be no exception to the no-jurisdiction theory. But as has been stated in the case of *Cunanan vs. Amparo* (supra) the Supreme Court speaking through Mr. Justice Pedro Tuason: 'Determination of title to property is within the jurisdiction of Courts of First Instance. The responding Soriano's objection (that the probate court lacked jurisdiction to order the delivery of the possession of the lots to the estate) relates exclusively to the procedure, which is distinct from jurisdiction. It affects only personal rights to a mode of practice (the filing of an independent ordinary action) which may be waived'. Strictly speaking, it is more a question of jurisdiction over the person, not over the subject matter, for the jurisdiction to try controversies between heirs of a deceased person regarding the ownership of properties alleged to belong to his estate, has been recognized to be vested in probate courts. This is so because the purpose of an administration proceeding is the liquidation of the estate and distribution of the residue among the heirs and legatees. Liquidation means determination of all the assets of the estate and payment of all the debts and expenses. (*Flores vs. Flores*, 48 Phil. 982.) Thereafter, distribution is made of the decedent's liquidated estate among the persons entitled to succeed him. The proceeding is in the nature of an action of partition, in which each party is required to bring into the mass whatever community property he has in his possession. To this end, and as a necessary corollary, the interested parties may introduce proofs relative to the ownership of the properties in dispute. All the heirs who take part in the distribution of the decedent's estate are before the court, and subject to the jurisdiction thereof, in all matters and incidents necessary to the complete settlement of such estate, so long as no interests of third parties are affected. (*Garcia vs. Garcia*, 67 Phil. 353, 355.)"

Similarly, in the case at bar, it was herein petitioner who first submitted to the court in Civil Case No. 1666 a motion to declare private respondents in contempt of said court when the latter took possession of the subject

property, claiming that since the check for the redemption purported to be exercised by the former was dishonored for lack of funds, such redemption was null and void. It is true the trial court at that time opined that the appropriate remedy is a separate action and that following that observation petitioner filed Civil Case No. 62-T, but when, during the pendency of said separate case, petitioner was able to regain possession of the property, the issue of possession pressed by private respondents in Civil Case No. 1666 acquired a character of urgency, and inasmuch as anyway, in the aborted contempt proceedings all the parties had already been fully heard the court in the latter case, which is actually the same one having cognizance of Civil Case 62-T, must have realized that it would be best in the interest of a more expeditious administration of justice and a more speedy disposition of the controversy to resolve the urgent issue of possession by determining already in Civil Case No. 1666 the basic question relative to the validity of the redemption made by petitioner by means of the check in dispute. It must be admitted that in a sense such a step was inconsistent with the court's prior pose about an independent suit, apart from its being a deviation from the general rule aforementioned to. The peculiar circumstances of this case, however, properly justified the resort to the exception to said rule, for all the parties in the two actions are exactly identical, the issues and the evidence are also the same ones in both cases, and even the court and the judge are one and the same, hence no one could have been caught unaware by the result that eventually developed. No one can complain that he has not had his day in court in regard to the matter in dispute.

Petitioner tries to explain that the reason why the motion of respondents to withdraw his check was denied by the court was because the latter have not made an accounting of the rents and profits they have received from the property in question during the period of redemption as required by Section 34 of Rule 39. Again, such explanation cannot lend strength to the cause of petitioner. There is nothing in the record to show that any "demand in writing" was ever made upon respondents by either the petitioner or the administrator of the estate of Nicolas Rafols from whom said petitioner acquired the right of redemption for "a written and verified statement of the amounts of the rents and profits thus received" "before the expiration of the time allowed for such redemption" as specifically enjoined by that very provision of the rules being relied upon by petitioner. From what can be gathered from the record, even if there had been any step in this direction taken by petitioner, the same came too late after the redemption period to be of any legal significance.

As to the motion for contempt filed by petitioner, the allegations whereof have been duly denied by the respondents, the Court deems it unnecessary to resolve the same, considering that anyway the restraining order invoked is being ordered lifted in this decision and in their answer to said motion, accompanied by affidavits and other documents not impugned by petitioner, respondents deny having entered the properties herein involved in violation of said order. Resolving said motion would only make difficult the healing of the wounds of controversy borne by the parties.

WHEREFORE, the decision under review is affirmed. The restraining order heretofore issued is ordered lifted. No costs.

Fernando, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.

[1] The only available information there is as to what happened with this case is from a telegram of private respondents to the Chief Justice dated December 18, 1974 to the effect that the same had been dismissed on October 19, 1974.

[2] As stated in Footnote 1 hereof appears to have been already decided at least in the same trial court in favor of respondents.

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