

ELENA PERALTA VDA. DE CAINA, PETITIONER, VS. THE COURT OF APPEALS (SIXTH DIVISION), LEONCIO CAINA AND JACINTA CAINA, RESPONDENTS.

G.R. No. L-14567. November 29, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal by certiorari under Rule 46 from a judgment of the Court of Appeals, with a prayer for a writ of preliminary injunction. Upon the filing of the required bond, a writ of preliminary injunction was issued to enjoin the respondents Leoncio Caina and Jacinta Caina from praying for the execution of the decision and the Court of Appeals "from enforcing and executing the decision, Annex 'G' dated September 29, 1958."

On 24 April 1957, the Court of First Instance of Rizal rendered judgment in civil case No- 3708, entitled "Leoncio Caina and Jacinta Caina, plaintiffs, vs. Elena Peralta Vda. de Caina, etc., et al., defendants, Raymunda Damaso, in-tervenor," as follows:

Wherefore, plaintiffs' complaint is ordered dismissed, and judgment rendered declaring defendants, as successors of the deceased Valeriano Caina, to be the real and legal owner of Lot No. 222-C. Piedad Estate Subdivision, covered by Transfer Certificate of Title No. 21702; ordering the annotation, of the deed of sale, Exhibit A— Intervenor, on the back of said Transfer Certificate of Title No. 21702. The counterclaim for actual and moral damages are (is) dismissed, but the Court awards the amount of P500.00 as reasonable attorney's fees in favor of defendants, with costs against plaintiffs. (Annex A.)

On 9 May 1957, the plaintiffs received a copy of the judgment (Annex A). On 5 June 1957 the plaintiffs filed a record on appeal (Annex I), but did not file an appeal bond (Annex D). On 10 June 1957 the defendants filed a motion for execution (Annex B). On 14 June 1957 the plaintiffs filed an opposition thereto dated 13 June 1957, and prayed that the motion for execution be denied and that the plaintiffs be allowed to appeal as paupers,. or, should their plea be denied, they be granted ten days within which to file an appeal bond (Annex C). On 19 July 1957 the trial court entered an order granting the defendants' motion for execution and denying the plaintiffs' motion praying that they be allowed to appeal as paupers or that they be granted ten days within which to file an appeal bond (Annex D). The Court denied the plaintiffs' second and third motions for reconsideration on 10 December 1957 and 18 January 1958 (Annexes E and F).

The plaintiffs filed in the Court of Appeals a petition for a writ of certiorari to annul the orders dated 19 July 1957, denying the plaintiffs' motion to be allowed to appeal as paupers and for extension of time within which to file an appeal bond and granting the motion for execution (Annex D), and 10 December 1957 and 18 January 1958, denying their motions for reconsideration (Annexes E and F); and mandamus to compel the respondent court to allow their appeal- On 29 September 1958 the Court of Appeals rendered judgment granting the writs prayed for (Annex G). On 21 October 1958, the Court of Appeals denied the defendants' motion for reconsideration (Annex H).

On 24 October 1958 the defendants, hereafter referred to as the petitioners, filed in this Court an appeal by certiorari to review and annul the judgment of the Court of Appeals dated 20 September 1958 (Annex G), granting the plaintiffs', hereafter referred to as the respondents, petition for a writ of certiorari and mandamus and resolution dated 21 October 1958 (Annex H), denying the petitioners' motion for reconsideration. The petitioners claim that the Court of Appeals committed a grave abuse of discretion amounting to lack of jurisdiction and that they have no plain, speedy and adequate remedy in the ordinary course of law. They also prayed for a writ of preliminary injunction to enjoin the respondents from seeking the execution of the judgment rendered by the Court of Appeals in their favor and the Court of Appeals from enforcing its judgment of 29 September 1958 (Annex G). As already stated at the beginning of this opinion, on 28 October 1958 this Court granted the writ of preliminary injunction prayed for and on the following day, after the petitioners had filed a bond in the sum of P200, this Court issued a writ of preliminary injunction.

In granting the writs prayed for by the respondents, the Court of Appeals held that although they had not filed an appeal bond, in their motion dated 31 May 1957 (Exhibit A, attached to Annex C), which was filed in the trial court before the expiration of the reglementary period within which to perfect an appeal, they prayed that they be allowed to appeal as paupers, or should their plea be denied, that they be granted ten days within which to file an appeal bond. According to the Court of Appeals, the trial court should have taken into consideration this particular prayer of the respondents.

There is no dispute that the Court of Appeals has original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and processes in aid of its appellate jurisdiction,[1] and the writs of certiorari and mandamus granted by the Court of Appeals in its judgment dated 29 September 1958 (Annex G) were in the exercise of its jurisdiction. However, upon examination of the annexes, it appears that the factual basis for their issuance—the respondents' motion dated 31 May 1957 (Exhibit A, attached to Annex C)—is not supported by the record. It appears that on 9 May 1957, the respondent received notice of judgment rendered by the trial court 24 April 1957 (Annex C and Exhibit A attached thereto); that on 5 June 1957 the respondents filed a record on appeal (Annex I) but did not file an appeal bond (Annex D); and that the respondents' motion dated 31 May 1957 was not filed before the expiration of the reglementary period of thirty days within which to perfect an appeal (which ended on 8 June 1957), but actually on 14 June 1957 (Annex I). As the judgment of the trial court dated 24 April 1957 (Annex A) already had become final and executory, it was its ministerial duty to order the execution of the judgment. The Court of Appeals erred in its pronouncement that the respondents' motion dated 31 May 1957 was filed within the reglementary period for the perfection of the appeal. It was filed beyond such period.

The judgment rendered by the Court of Appeals on 29 September 1958 under review granting the writs prayed for by the respondents is set aside and the writ of preliminary injunction heretofore issued is made final, with costs against the respondents Leoncio Caina and Jacinta Caina.

Paras, C.J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur. ,

Decision set aside.

[1] Section 30, Republic Act No. 296, as amended.

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