

EUGENIO GARINGAN, ERLINDA GARINGAN, DANILO GARINGAN, CELIA REQUIMIN, GIRLIE TUBBAN, NELSON GARINGAN, NELY GARINGAN AND MILAGROS PADER, PETITIONERS, V. JUDGE RAYMOND REYNOLD LAUI...

Ponente: BARZA, J.

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BARZA, J.:

In this petition for certiorari, petitioners Eugenio, Erlinda, Danilo, Nelson, Nely (all surnamed Garingan), Girlie Tubban, Celia Requimin and Milagros Pader seek to nullify the Resolutions of the Regional Trial Court, Branch 1 of Tuguegarao City, Cagayan, dated May 2, 2012 and June 19, 2012. The first Resolution[1] granted the motion of private respondent Angelina Ligan to implement the writ of execution in Civil Case Nos. 2331 and 2332. The Resolution[2] dated June 19, 2012, denied petitioners' motion for reconsideration.

The factual antecedents are as follows:

Petitioners filed before the court a quo two cases for Reconveyance with Damages against respondent and Miguel Cabbadu docketed as Civil Case No. 2331 and against Basilia Ligan and Jaime Bunagan docketed as Civil Case No. 2332. Civil Case No. 2331 involves Lot No. 7834 and Lot No. 835, while Civil Case No. 2332 involves Lot No. 7853. These cases were tried together and in a Joint Decision[3] rendered by the court a quo on April 25, 1994, it found that petitioners are not entitled to a reconveyance of the lands because they failed to prove their ownership thereto. Consequently, the cases were dismissed.

Petitioners appealed to this Court but was dismissed by the Special Seventh Division on November 11, 1994, for non-payment of docket fees.[4] This had become final and executory, hence, on December 10, 1994, an Entry of Judgment[5] was issued.

Respondent and her co-defendants filed before the court a quo a Motion for Execution which was granted in the Order dated October 17, 1996.[6] Accordingly, a Writ of Execution addressed to the Provincial Sheriff of Cagayan was issued by the Clerk of Court on September 29, 1998.[7]

On August 4, 2005, respondent filed before the court a quo a Petition for Indirect Contempt, docketed as Special Civil Action No. 8602. The basis of said action was the alleged implementation of the aforesaid Joint Decision wherein petitioners already vacated the lots and possession was transferred to respondent but petitioners re-entered the lots and unlawfully took possession of the same. To support her allegation, respondent presented retired Sheriff Jacinto Cuntapay, who testified that he implemented the Writ of Execution on November 11, 1998, but the Sheriff's Return evidencing the turnover of the possession of the subject lots was missing from the original records of the case with the court a quo. Instead, a Certificate of Delivery of Possession was presented, certifying that by virtue of a Writ of Execution, possession of Lot Nos. 7834 and 7835 was delivered to respondent.

On October 29, 2009, the court a quo rendered its Decision[8] finding petitioners guilty of indirect contempt and ordered their imprisonment until they surrender possession to respondent.

Petitioners appealed to this Court under docket no. CA-G.R. CR No. 33164. On February 28, 2011, the Ninth Division of this Court rendered its Decision^[9] granting petitioners' appeal and dismissed the petition for indirect contempt. Contrary to the findings of the court a quo, this Court declared that respondent failed to prove that petitioners actually vacated the lots and possession was transferred to respondent.

There is nothing in the record that would show that respondent appealed the said decision of the Court of Appeals.

On March 5, 2012, respondent filed before the court a quo a Motion to Implement Writ of Execution.^[10] After hearing the said motion, the court a quo issued the assailed Resolution dated May 2, 2012, disposed that:

WHEREFORE, the motion is hereby granted. The Sheriff of this Court is directed to fully implement the Writ of Execution issued in the above-entitled cases dated September 29, 1998 and to submit his report thereon within the period provided under the rules.^[11]

Petitioners filed a motion for reconsideration but this was struck down in the other assailed resolution dated June 19, 2012.^[12]

Petitioners submit the lone issue for the consideration of this Court:

WHETHER OR NOT THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN HE ISSUED THE RESOLUTIONS GRANTING THE MOTION TO IMPLMENT A WRIT OF EXECUTION WITH THE SOLE PURPOSE OF EXECUTING A DECISION WHICH HAD BECOME FINAL AND EXECUTORY AS FAR BACK AS DECEMBER 10, 1994.^[13]

Petitioners aver that the court a quo committed grave abuse of discretion when it granted respondent's Motion to Implement Writ of Execution which seeks to implement a more than 17 years old decision. According to petitioners, the issuance of a writ of execution does not toll the running of the prescriptive period within which to execute a decision by mere motion and/or by action, neither can a writ of execution issued within the five-year period be executed after the lapse of the period provided for by law to execute a decision.^[14]

There is merit in the petition.

Section 6, Rule 39 of the Revised Rules of Court provides:

Section 6. Execution by motion or by independent action. — A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

The statute of limitations referred to in the above section is found in Article 1144 of the Civil Code, which provides:

Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

If We read Section 6, Rule 39 of the Rules of Court together with Article 1144 of the Civil Code, We would see that the winning party in litigation has a period of five years from the date of entry of judgment to execute said judgment by motion, and another five years to execute it by action. Section 6, Rule 39 of the Rules of Court provides that a motion for the execution of a final judgment or order may be filed within five years from the date

of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action.[15]

The court a quo committed error when it declared that:

“From the records of these cases, it appears that there was already a writ of execution issued by the Court on September 29, 1998 upon motion of the defendants in the above cases. Unfortunately, the writ of execution was not fully implemented. Considering that there was no full implementation of the writ, the movant then has the right to have the right fully implemented otherwise the final decision rendered by this Court and that of the Court of Appeals would be rendered futile and nugatory. Interest of justice and equity dictate such full implementation of the writ.

More importantly, prescription has not yet set-in since the motion to implement the writ is not covered by Section 6, Rule 39 of the 1997 Rules of Civil Procedure. The aforesaid rule states:

x x x x x

It is very clear from the foregoing rule that it is a final and executory judgment which cannot be enforced by motion or by action once it is barred by the statute of limitations. This rule does not apply to the implementation of a writ of execution such as in the case at bar.

Here, movant does not seek to implement the decision as envisioned by Section 6, Rule 39 as the decision was already partially implemented through the issuance of this Court of a writ of execution on September 29, 1998. Rather, movant seeks to complete the execution of said unfinished implementation by asking the Court to carry into effect the writ of execution which it previously issued.

The prescriptive period for the enforcement of a judgment by ordinary action is ten (10) years computed from the time the judgment became final, and the lifetime of a writ of execution is sixty (60) days after its receipt by the officer.[16] Since the writ of execution is only valid for 60 days, it is an error for the court a quo to state that this can still be implemented several years after this has been issued.

The Joint Decision became final and executory on December 10, 1994. Although the Motion for Execution by respondent was granted on October 17, 1996, this was never implemented. Respondent attempted to prove that the writ of execution was enforced by filing, on August 4, 2005, a Petition for Indirect Contempt. In said petition, respondent alleged that petitioners already vacated the properties but the latter re-possessioned the same. However, in the decision of the Ninth Division of this Court, it was ruled that respondent failed to show that petitioners actually vacated the property and the Certificate of Delivery of Possession executed by the Sheriff was not considered. The Decision of this Court stated in part:

Appellee's evidence to prove that the decision had already been executed on November 11, 1998 are the self-serving testimonies of appellee, retired Sheriff Jacinto Cuntapay and geodetic Engineer Oscar Barit, including the undated Certificate of Delivery of Possession. These, however, fell short of the degree of evidence required by law.

x x x x x

In contrast, appellants were able to establish that notwithstanding the Joint Decision dated April 25, 1994, they remained in possession of the subject lots as appellee failed to execute the same. x x x[17]

Having been established that the Writ of Execution dated September 29, 1998, issued to enforce the Joint Decision of the court a quo, was not implemented, We hold that the Motion to Implement Writ of Execution filed by respondent on March 5, 2012, seventeen (17) years after the joint decision which became final and executory on December 10, 1994, can no longer be granted.

The rule is that the court could issue a writ of execution by motion within five (5) years from finality of the decision. A writ of execution issued after the expiration of that period is null and void. There is a need for the interested party to file an independent action for revival of judgment. The judgment may be enforced after the lapse of this period and before the same is barred by the statute of limitations, by instituting an ordinary civil action. "The reason is that after the lapse of the five-year period, the judgment is reduced to a mere right of action, which judgment must be enforced, as all other ordinary actions, by the institution of a complaint in the regular form. Such action must be filed within ten (10) years from the date the judgment became final." [18]

Considering that the original writ of execution was issued on September 29, 1998, the court a quo could no longer grant the Motion to Implement Writ of Execution as this could be done only within the period of 5 years from the finality of the decision.

The Court has pronounced in a plethora of cases that it is revolting to the conscience to allow someone to further avert the satisfaction of an obligation because of sheer literal adherence to technicality; that although strict compliance with the rules of procedure is desired, liberal interpretation is warranted in cases where a strict enforcement of the rules will not serve the ends of justice; and that it is a better rule that courts, under the principle of equity, will not be guided or bound strictly by the statute of limitations or the doctrine of laches, when to do so, manifest wrong or injustice would result. These cases, though, remain exceptions to the general rule. The purpose of the law in prescribing time limitations for enforcing judgment by action is precisely to prevent the winning parties from sleeping on their rights. This Court cannot just set aside the statute of limitations into oblivion every time someone cries for equity and justice. Indeed, "if eternal vigilance is the price of safety, one cannot sleep on one's right for more than a 10[th] of a century and expect it to be preserved in pristine purity." [19]

WHEREFORE, the petition is GRANTED. The assailed Resolutions dated May 2, 2012 and June 19, 2012, are ANNULLED and SET ASIDE.

SO ORDERED.

Abdulwahid (Chairperson) and Cruz, JJ., concur.

[1] Annex "A", p. 102, rollo.

[2] Annex "B", p. 104, rollo.

[3] pp. 117-122, rollo.

[4] Annex "F", p. 41, rollo.

[5] Annex "G", p. 42, rollo.

[6] Annex "H", p. 43, rollo.

[7] Annex "I", pp. 44-46, rollo.

[8] Annex "J", pp. 47-52, rollo.

[9] Annex "K", pp. 53-66, rollo.

[10] Annex "L", p. 68, rollo.

[11] pp. 20-21, rollo.

[12] Supra at note 2.

[13] p. 233, rollo.

[14] p. 14, rollo.

[15] Alejandro Ty, et al. vs. Queen's Row Subdivision, Inc., et al., G.R. No. 173158, December 4, 2009.

[16] Santa-Cruz vs. Court of Appeals, G.R. No. 120176, July 20, 2001.

[17] pp. 64-65, rollo.

[18] Loreño Terry vs. People of the Philippines, G.R. No. 136203, September 16, 1999.

[19] Ernesto Villeza vs. German Management And Services, Inc., G.R. No. 182937, August 8, 2010.

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