

NELITA MORENO VDA. DE BACALING, PETITIONER, VS. HECTOR LAGUDA, HON. VALERIO ROVIRA, JUDGE, COURT OF FIRST INSTANCE AND HON. JUDGE RO-SENDO BALTAZAR, JUDGE, CITY COURT OF ILOILO,...

G.R. No. L-26694. December 18, 1973

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

I.

Nature of the Case

The petitioner seeks a writ of certiorari with preli-minary injunction to annul an Order of Hon. Rosendo Baltazar, as Judge of the City Court of Iloilo, dated June 30, 1966, ordering the demolition of the residential house of petitioner.[1] Assailed likewise is an Order, dated August 25, 1966, of Hon. Valerio V. Rovira, as Judge of the Court of First Instance of Iloilo, station-ed at Iloilo City, approving said demolition.[2]

II.

Facts of the Case

The record of this case discloses the following facts:

Private respondent Hector Laguda is the registered owner of a residential land known as lot No. 3508 situated at La Paz, Iloilo City.[3] Many years back, petitioner and her late husband, Dr. Ramon Bacaling, with the ac-quiescence of private respondent Laguda, constructed a residential house on a portion of said lot fronting Huevana Street, paying a monthly rental of P80.00.[4] Unable to pay the lease rental from July 1959 to September 1961, totalling P2,160.00, an action for ejectment (Civil Case No. 6823) was filed by private respondent Laguda against petitioner in her capacity as judicial administratrix of the estate of her late husband, Dr. Bacaling, in the City Court of Iloilo City.[5] The filing of said case spawned various court suits.

Petitioner on July 23,1962, filed certiorari proceedings in this Court (G. R. No. L-20061), but was dismissed for lack of merit on August 3, 1962.[6] With this setback, petitioner on November 12, 1962, filed with the Court of First Instance of Iloilo a petition for certiorari with preliminary injunction (Civil Case No. 6162) but the same was dismissed on December 1, 1962.[7] Unsuccessful in her motion for reconsideration, petitioner went to the Court of Appeals by way of certiorari (CA-G.R. No. 31882-R) but her petition was dismissed by that Court on March 7,1967.[8]

Suffering from these series of legal reverses, the petitioner entered into a compromise agreement on July 29, 1964, with private respondent Laguda relative to Civil Case No. 6828.[9] Said agreement inter alia, provides as fol-lows:

- Defendant (petitioner herein) agreed to vacate the premises and re-move x x x the residential house therefrom x x x before December 31, 1966;
- For the use and occupation x x x of the said premises x x x from June 1964 to December 31, 1969, the said defendant will pay plaintiff a monthly rent x x x of Eighty (P80. 00) Pesos per calendar month x x x;
- Upon failure of defendant to comply with any x x x provision of the amicable settlement x x x fifty (50) days x x x the plaintiff shall be entitled to 'immediate execu-tion to restore plaintiff in possession of the premises and to recover all the unpaid monthly rents from June 1, 1964 until said premises are vacated' by defendant;
- Defendant' waive her right, under Sec. 6, Rule 39 Rules of Court, to bar enforcement of the execution of the judgment in the case at anytime within one (1) year from December 31, 1969."

In a decision dated July 30, 1964, the City Court of Iloilo City approved the amicable settlement and enjoined the parties to comply with its terms. For failure of the petitioner to satisfy the conditions of the settlement with-in the 50-day period, private respondent Laguda moved for execution which the Court granted on July 7, 1965.[10]

On July 14, 1965, petitioner moved for reconsidera-tion to quash the writ of execution, but before the Court could resolve the motion, petitioner on July 19, 1965, served notice of her intention to take the case to the Court of Appeals.[11] Meanwhile on July 23, 1965, re-spondent Laguda filed an opposition to the petitioner' s July 14, 1965, motion alleging that as judicial administra-trix as of July 29, 1964, she was legally authorized to enter into the amicable settlement which was the basis of the decision dated July 30, 1964, of the City Court of Iloilo sought to be executed and, therefore, her act was binding upon the present judicial administrator, Atty. Roberto Dineros, who replaced petitioner upon her discharge as such on November 28, 1964.[12]

Denying the petitioner's motion for reconsideration and to quash writ of execution on September 30, 1965, the City Court however, held in abeyance the enforcement of the alias writ of execution until the Court of First Instance of Iloilo stamped its imprimatur, considering the pendency of Special Proceedings No. 1469 and of the fact that the properties in-volved therein are in custodia legis.[13] Thereafter, on Octo-ber 25, 1965, private respondent Laguda moved the Court of First Instance of Iloilo in Special Proceedings No. 1469 for the approval of the City Court's order of execution which was granted despite petitioner's opposition.[14] With the denial of petitioner' s motion for reconsideration on December 4, 1965, a petition for certiorari with preliminary injunction was brought before the Court of Appeals (CA-G. R. No. 36939-R) which dismissed the same on January 18, 1966.[15]

On April 14, 1966, the respondent City Judge of Iloilo City issued an alias writ of execution upon representa-tions of private respondent Laguda, copies of which were served by the sheriff upon the petitioner and Atty. Roberto Dineros in his capacity as judicial administrator of the estate of the deceased, Dr. Ramon Bacaling, in Special Proceedings No. 1469.[16]

On June 30, 1966, a Special Order of Demolition was issued by the respondent City Judge upon motion of private respondent Laguda and over petitioner' s opposition, subject, however, to the approval of the Court of First Instance of Iloilo in Special Proceedings No. 1469.[17] Upon the denial of petitioner' s motion for reconsideration, respondent Laguda on July 12, 1966, filed a manifestation in the Court of First In-stance of Iloilo in Special Proceedings No. 1469, praying for the confirmation of the Order to demolish the house under custodia legis.[18]

On August 4, 1966, petitioner interposed an opposi-tion alleging:

- That she was no longer in con-trol of the estate funds when the stipu-lated obligations in the amicable settle-ment became due and payable;

- That the residential house to be demolished is worth P35,000.00 for which she is entitled to reimbursement as a builder in good faith, in addition to reasonable expenses they may incur in transferring the same to another place; and
- That the guardian ad litem of the minor children was not notified of the motion for the issuance of an order of demolition;[19]

On August 25, 1966, respondent Laguda by way of reply disputed petitioner's claim and supported the legality of the court's ruling.[20] On the same date, the probate court in Special Proceedings No. 1469 approved the order of demolition of the house in controversy.[21] Impugning the said Order as violative of the provisions of Sec. 14, Rule 39, of the Rules of Court, and of the constitutional mandate on due process, petitioner moved to reconsider the same but the motion was denied by the Court on September 26, 1966.[22] Frustrated in her effort to set aside the Order of Demolition, petitioner brought this present action of certiorari with preliminary injunction. Upon giving due course to the petition, this Court issued a temporary restraining order on October 21, 1966, to prevent the enforcement of the order of demolition in Special Proceedings No. 1469 of the Court of First Instance of Iloilo, but when served upon the respondents, the building in question was already partially demolished.[23] Upon petitioner's posting a bond of P1, 000.00, this Court on November 10, 1966, issued a writ of preliminary injunction restraining the herein respondents from proceeding with the order of demolition, until further orders.[24]

III

Issues of the Case

The issues raised in the instant petition boil down to the following:

- Whether or not the acts of the petitioner as judicial administratrix prior to her discharge or removal are valid and binding upon her successor;
- Whether or not petitioner is a builder in good faith and, therefore, entitled to reimbursement, and/or reasonable expenses that may be incurred in transferring the house to another place;
- Whether or not due process was denied to the minor children of deceased Ramon Bacaling and petitioner in connection with the motion for the issuance of the order of demolition.

IV.

Discussion

Petitioner claims before this Court that since she was no longer the judicial administratrix of the estate of her later husband, Dr. Ramon Bacaling, and was no longer in control of estate funds when the stipulated obligations in the amicable settlement became due and payable, the special order of demolition could not be enforced.

Such a view is not tenable. Under Section 3, Rule 82 of the Rules of Court, petitioner's lawful acts before the revocation of her letters of administration or before her removal shall have the same validity as if there was no such revocation or removal. It is elementary that the effect of revocation of letters testamentary or of administration is to terminate the authority of the executor or administrator, but the acts of the executor or administrator, done in good faith prior to the revocation of the letters, will be protected, and a similar protection will be extended to rights acquired under a previous grant of administration.[25]

In connection with the petitioner's contention that she be considered a builder in good faith and, therefore, entitled to reimbursement in addition to reasonable expenses that may be incurred in transferring the house to another place, the same cannot stand legal scrutiny. The rule is well-settled that lessees, like petitioner, are not

possessors in good faith, because they knew that their occupancy of the premises continues only during the life of the lease, and they cannot as a matter of right, recover the value of their improvements from the lessor, much less retain the premises until they are reimbursed. Their rights are governed by Article 1678 of the Civil Code which allows reimbursement of lessees up to one-half of the value of their improvements if the lessor so elects.[26]

It is next urged by petitioner that there was denial of due process for failure of private respondent to notify the guardian ad litem of the minor children of the deceased, Ramon Bacaling, of the motion for execution.

A perusal of the pleadings yields the conclusion that petitioner failed to meet the burden of demonstrating that there was denial of due process. On the contrary, there is evidence to show that Acting Fiscal Alfonso Illemerger, guardian ad litem of the minor children of the late Ramon Bacaling, has been duly apprised of the issuance of the as-sailed special order to demolish, as shown by the certification of the counsel for petitioner at the foot of his opposition dated August 4, 1966,[27] filed with the Court of First Instance of Iloilo, and as also shown by the certification of private respondent's counsel at the foot of his opposition dated September 15, 1966,[28] likewise filed with the same Court.

V.

Conclusion

The petitioner is not entitled to the writ of certiorari. In the case at bar, there is absolutely no showing that the respondent courts acted so "arbitrarily", "despotically" or "capriciously" as to amount to lack of jurisdiction in issuing the questioned orders.

"Grave abuse of discretion" which is a ground for certiorari means "such capricious and arbitrary exercise of judgment as is equivalent, in the eyes of the law, to lack of jurisdiction." [29] Even mere abuse of discretion is not sufficient by itself to justify the issuance of a writ of certiorari. For that purpose the abuse of discretion must be grave and patent, and it must be shown that it was exercised arbitrarily or despotically, which is not the case made out by the present petition.[30]

There is something more to be said about the nature and apparent purpose of this case which has its genesis in the case for illegal detainer (Civil Case No. 6823) brought before the Iloilo City Court. What transpired therein presents a glaring example of a summary proceeding which was deliberately protracted and made to suffer undue delay in its disposal. It was originally filed on September 13, 1960; [31] it reached the appellate courts five (5) times, twice before the Court of Appeals [32], once before the Court of First Instance of Iloilo [33], and twice before this Court. [34] The present petition smacks of a dilatory tactic and a frivolous attempt resorted to by petitioner to frustrate the prompt termination of the ejectment case and to prolong litigation unnecessarily. Such conduct on the part of petitioner and her counsel deserves the vigorous condemnation of this Court, [35] because it evinces a flagrant misuse of the remedy of certiorari which should only be resorted to in cases of lack of jurisdiction or grave abuse of discretion by an inferior court. A recourse of this kind unduly taxes the energy and patience of courts and simply wastes the precious time that they could well devote to really meritorious cases.

VI.

Judgment

IN THE LIGHT OF THE FOREGOING CONSIDERATIONS, the instant petition should be, as it is hereby, dismissed.

The writ of preliminary injunction issued by this Court on November 10, 1966, is immediately set aside. [36]

Treble costs against petitioner for the reasons above set forth.[37]

Makalintal, C.J., Ruiz Castro, Teehankee, Makasiar, and Palma, JJ., concur.

[1] Record, p. 14.

[2] Id., pp. 26-27.

[3] Id., p. 15.

[4] Record, p. 15.

[5] Id., p. 73.

[6] Id., pp. 54-55.

[7] Id., pp. 55; 76.

[8] Id., p. 55; 78-80.

[9] Record, p. 55; 66.

[10] Id., pp. 81-83; 84.

[11] Record, p. 56; 85-87.

[12] Id., p. 56; 88-89.

[13] Id., pp. 56-57.

[14] Record, p. 57; 91.

[15] Id., p. 58; 101; 102-106.

[16] Id., p. 59; 72.

[17] Id., p. 2; 14.

[18] Record, p. 3; 19.

[19] Id., p. 4; 22-23.

[20] Id., p.5; 22-25.

[21] Id., p. 5; 26-29.

[22] Record, p. 6; 37.

[23] Id., pp. 41-42.

[24] Id., pp. 43-44.

[25] *Rebhan v. Mueller*, 114 Ill. 343, 2 N.E. 75, 55 Am. Rep. 869, cited in 21 Am. Jur. 465; *Francisco*, Revised Rules of Court, Vol. V-5, p. 91.

[26] *Racaza v. Susana Realty, Inc.* 18 SCRA 1172, 1177-1178, citing *Lopez, Inc. v. Phil. & Eastern Trading Co.*, 98 Phil. 348.

[27] Record, pp. 22-27.

[28] *Id.*, pp. 69-71.

[29] *Abad Santos v. Prov. of Tarlac*, 67 Phil. 480; *Hamog v. Sec. of Agriculture*, G. R. No. L-13456, Jan. 30, 1960.

[30] *Tavera Luna Inc. v. Nable*, 72 Phil. 278; *Palma & Ignacio v. Q & S Inc. et al.*, 17 SCRA 97, at p. 100. To the same effect: *Villa-Rey Transit, Inc. v. Bello*, 7 SCRA 735; *Abig v. Constantino*, 2 SCRA 299.

[31] Record, p. 54.

[32] *Id.*, p. 55; 58.

[33] *Id.*, p. 55.

[34] *Id.*, pp. 54-55.

[35] *Uypuanco v. Equitable Bank*, 27 SCRA 1272; *J. P. Juan & Sons, Inc. v. Lianga Industries, Inc.* 28 SCRA 807; *Pajares v. Abad Santos*, 30 SCRA 748; *Orbe v. Inting*, 37 SCRA 584.

[36] Record p. 43.

[37] *Atlas Consolidated Mining & Dev. Corp. v. WCC*, 33 SCRA 132.

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