

RICARDO LU AND VENUS M. LU, PETITIONERS, VS. NUMERIANO L. VALERIANO, AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-51001. January 18, 1982

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-08792, Valeriano vs. Sayo, setting aside the writ of immediate execution purportedly issued under Section 2 of Rule 39 of the Revised Rules of Court in Civil Case No. C-6551, Valeriano vs. Manila Banking Corporation, after the said trial court had rendered, upon motion of petitioners herein, an amended judgment dismissing therein plaintiff's (herein respondent Valeriano) complaint for rescission of a contract of sale and sentenced plaintiff to deliver possession of and pay rentals to herein petitioners for the real property or premises in question.

The trial court had earlier rendered a decision on November 13, 1978 dismissing plaintiff's complaint without costs and without pronouncement as to the payment of damages and expenses of litigation. Immediately after receipt of the decision, or on November 17, 1978, the plaintiff, herein private respondent, filed his notice of appeal, on November 23, 1978 his appeal bond and subsequently, in due time, his record on appeal. Meanwhile, under date of November 16, 1978, herein petitioners, the Lus, for short, filed a motion for reconsideration seeking judgment on their counterclaim for possession and rentals. This, the herein private respondent opposed. On December 14, 1978, the trial court, whose presiding judge then had succeeded Judge Serafin Salvador, who had retired, rendered the amendatory judgment above-referred to, the dispositive portion of which reads:

"WHEREFORE, the instant action is hereby dismissed without costs.

"On the counterclaim of defendants Ricardo Lu and Venus Lu, judgment is hereby rendered ordering plaintiff and any one claiming right under him to vacate the four (4) lots in question, more particularly described in T.C.T. Nos. C-9142, C-9143, C-9144 and C-9145 of the Registry of Deeds of Caloocan City and turn over possession thereof to defendants Ricardo Lu and Venus Lu. Plaintiff is further ordered to pay said defendants the amount of P10,000.00 a month as reasonable compensation for the use and occupation of the four (4) lots in question, since January 26, 1978 until he vacates the said premises.

"There is no pronouncement as to the payment of damages, as well as expenses of litigation.

"SO ORDERED." (P. 169, Record.)

On December 19, 1978, the Lus filed a motion for immediate execution upon the grounds that (1) they had purchased the land in question precisely for the use of the Phil-Jap Industrial and Manufacturing Corporation, 86% of the capital of which indisputably was theirs, engaged (a) in the sale of second hand machineries and (b) in the manufacture of automobile and motorcycle spare parts, and for want of space had to use part of the public street in front of their factory bodega to keep or put some of their machineries, to the inconvenience of the public and the traffic on said street, thereby incurring the ire of the authorities of Caloocan City who threatened to take action against them, including the cancellation of their permit and closure of their factory; (2) the appeal of

Valeriano, herein respondent, was purely dilatory; and (3) they were ready, willing and able to file a bond of P240, 000.00 to answer for damages that may be suffered by Valeriano.

In opposition, Valeriano alleged that it was not the Lus but the corporation, not a party in the case, that needed the immediate possession and that the appeal was not dilatory and discussed lengthily the alleged errors of the amended judgment. Incidentally, upon motion of the other defendant therein, Manila Banking Corporation, a motion for reconsideration and completion of the decision of Judge Salvador was also timely filed praying for judgment on their counterclaim, and over the opposition of Valeriano, on January 17, 1979 the trial court further amended the amended decision of December 14, 1978, by finding the grounds therefor as well taken and modifying the dispositive portion thus:

"WHEREFORE, the instant action is hereby dismissed without costs.

"On the counterclaim of defendants Ricardo Lu and Venus Lu, judgment is hereby rendered ordering plaintiff and anyone claiming right under him to vacate the four (4) lots in question, more particularly described in T.C.T. Nos. C-9142, C-9143, C-9144 and C-9145 of the Registry of Deeds of Caloocan City and turn over possession thereof to defendants Ricardo Lu and Venus Lu. Plaintiff is further ordered to pay said defendants the amount of P10,000.00 a month as reasonable compensation for the use and occupation of the four (4) lots in question, since January 26, 1978 until he vacates the said premises.

"On the counterclaim of defendant Manila Banking Corporation, judgment is hereby rendered ordering plaintiff to pay defendant Manila Banking Corporation the sum of P1,250.00 as reasonable rental of 5/6 of the property covered by T.C.T. No. 216989 of the Registry of Deeds of Quezon City, from February 16, 1976 until he and/or his relatives or privies vacate the said property.

"There is no pronouncement as to the payment of damages, as well as expenses of litigation.

"SO ORDERED." (Pp. 239-240, Record.)

In regard to the two aforequoted amended judgments, Valeriano kept completely silent. He did not file any manifestation nor motion of any kind relative thereto, much less did he take any step to appeal therefrom.

And so, there are now two main issues submitted to Us for resolution, namely: (1) Did not the failure of Valeriano to move accordingly for the protection of his interests in relation to the amended and reamended decisions have the effect of making the reamended decision which incorporated the original and the amended decisions final and executory, thus rendering useless completely his appeal from the original decision?; and (2) Did the Court of Appeals err in holding that the trial court gravely abused its discretion in granting the immediate execution of the amended decision insofar as the award of possession of the premises in question to the Lus is concerned?

Notwithstanding that both parties would want Us to rule squarely on whether or not Valeriano's appeal of the original decision may no longer be given due course, We have opted to postpone final resolution of that issue later after the Court of Appeals has reviewed the evidence. In other words, We hold now that the appeal of the original decision may be considered by the Court of Appeals particularly on the factual issues of whether or not (1) the arrangement between Valeriano and the management of Manila Banking and the receipt from him of P500,000.00 by an officer thereof "as full payment" of his obligation was indeed subject to approval by the board of directors of the Bank; (2) the offer and payment whether in whole or in part by the Lus of a higher price were made on or before July 29, 1977; and (3) Valeriano failed to match the higher offer, all of which details formed part of the circumstances that would justify or not the sale by the Bank of the property to the Lus. By then, there would be more basis in law and in equity for the Court to determine whether or not the procedural point raised by petitioner as to the finality of the amended judgment, a point which is not only of substantial but could even be of jurisdictional nature, would be fair and just.

Now, on the issue of immediate execution which, to be sure, is the real matter before Us, it is Our considered opinion that the trial court did not commit any grave abuse of discretion in granting the same, contrary to the finding and holding of the Court of Appeals. Trite to say, this question is primarily addressed to the sound discretion of the trial court. On this score, petitioners herein presented evidence, without contradiction by respondent, that they needed the premises very badly. That petitioners owned only 86% of the capital stock of the Phil-Jap Manufacturing Corporation which owned the machineries which had to be kept in the streets is too technical and thin a thread, unrealistic, indeed, to use as an excuse for holding that petitioners did not have the required interest in the immediate execution. It is unnecessary for Us to indulge in any disquisition in this connection of the doctrine on piercing the veil of corporate fiction. We are faced with the cold fact that the Lus needed the property for the business in which they were undeniably the persons most interested and affected in a very substantial degree. What would hurt the corporation would indubitably hurt them most, fiction or no fiction vis-a-vis the corporation.

Besides, petitioners offered and did file a bond of P240,000.00 to answer for any damages the respondent might suffer. Actually, as We see the record, Valeriano's pretension of damages has very little leg to stand on. His supposed business in the premises, according to the extant evidence, did not or was no longer existing on the dates material in this controversy.

Furthermore, more or less, the trial court was in a fairly good position to opine whether or not the appeal of Valeriano would be dilatory only. There is always a degree of presumption of correctness in the decisions of trial courts. Statistically speaking, there is warrant for the conclusion that only an insubstantial number of them are reversed on appeal. In this particular case, a cursory glance at the pleadings of the parties and decisions of the trial court and the Court of Appeals evinces, in Our view, that that presumption has not been sufficiently overcome even prima facie by private respondent.

Altogether, these three circumstances We have just discussed constitute the good reasons for the execution pending appeal allowed by Section 2 of Rule 39. It was a legal error for the Court of Appeals to have held otherwise.

IN VIEW OF ALL THE FOREGOING, the judgment of the Court of Appeals is hereby reversed and the immediate writ of execution issued by the trial court is hereby upheld and declared enforceable effective immediately. Costs against respondent.

Abad Santos, De Castro, and Ericta, JJ., concur. Escolin, J., in the result. Aquino, J., no part. Concepcion, Jr., J., on leave.

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