

PRYCE CORPORATION (FORMERLY PRYCE PROPERTIES CORPORATION), PETITIONER, VS. THE HON. OSCAR P. NOEL, JR., ASPRESIDING JUDGE OF BRANCH 25, GENERAL SANTOS CITY, REGIONAL TRIAL COURT...

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This Court Resolves petitioner's Motion for Reconsideratio[1] filed by petitioner on August 17, 2012, praying that Our Decision[2] dated July 25, 2012.

It appears that the issues raised in the instant motion had been carefully considered, evaluated and passed upon by this Court. It was so ruled in this manner:

“First things first, We deny petitioner’s Motion for Leave to File Attached Sur-Rejoinder. The sur-rejoinder by petitioner is no longer needed as the matters that are mentioned there are already found in the Reply.

We also deny private respondents’ Motion for Leave of Court to File Motion to Dismiss Petition (Copy of Motion to Dismiss Attached) for lack of merit. Section 8, Rule 65 of the 1997 Rules of Civil Procedure contemplates of proceedings after the comment is filed, viz:

“After the comment or other pleadings required by the court are filed, or the time for the filing thereof has expired, the court may hear the case or require the parties to submit memoranda. If after such hearing or submission of memoranda or the expiration of the period for the filing thereof the court finds that the allegations of the petition are true, it shall render judgment for the relief prayed for or to which the petitioner is entitled.

The court, however, may dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.”

It is obvious that a motion to dismiss cannot serve as basis for judging the instant case. If We are to dismiss the petition then it must be upon the grounds mentioned under the aforementioned Section 8, such as the petition patently lacking in merit or manifestly resorted for delay or unsubstantial questions not requiring consideration. The principal issue in this certiorari petition is whether or not public respondent acted with grave abuse of discretion in issuing the assailed orders. Its resolution may not be disregarded by the expediency of filing a motion to dismiss. The function of a writ of certiorari is to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess of jurisdiction. It is available only for these purposes and not to correct errors of procedure or mistakes in the judge’s findings or conclusions.

We now tackle the main question.

Did the public respondent act with grave abuse of discretion when he issued the two orders?

Our answer is no.

Section 1, Rule 65 of the Rules of Court reads:

“Petition for certiorari – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.”

Section 2 of Rule 65, states:

“When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.”

In *Eric Yu v. Honorable Agnes Reyes-Carpio and Caroline Yu*, the Supreme Court had the occasion to quote Section 1, Rule 65. “Certiorari as a special civil action is proper when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with grave abuse of discretion, and there is no appeal nor any plain, speedy and adequate remedy at law.” The Supreme Court went on to state that “the writ may be issued only where it is convincingly proved that the lower court committed grave abuse of discretion, or an act too patent and gross as to amount to an evasion of a duty, or to a virtual refusal to perform the duty enjoined or act in contemplation of law, or that the trial court exercised its power in an arbitrary and despotic manner by reason of passion or personal hostility.”

Upon our reading of the July 30, 2007 order, We note that the public respondent did not rule on the prayer to direct petitioner to pay real property taxes. What public respondent did was to direct for the immediate issuance of the writ of execution, which order in effect granted the Omnibus Motion for the Issuance of a Writ of Execution. Since public respondent never stated that the writ of execution shall include payment of accrued realty taxes, We can properly surmise that the writ of execution that shall be issued is in accordance with the terms of the November 13, 1995 decision in Civil Case No. 5545.

On this score, We say that the July 30, 2007 order did not deviate from the fallo, the terms of which are: the declaration that the Memorandum of Agreement dated 20 December 1993 and the Deed of Absolute Sale are rescinded; the directive for Pryce Properties Corporation to execute a Deed of Reconveyance of the property under TCT No. T-62944 in favor of Pesane Animas and to pay attorney’s fees of P 50,000.00 and costs; and for the latter to return the amount of P 1,675,442.16 to the former, a portion of which may be compensated with the damages awarded to her. In *Foundation Specialists, Inc. v. Betonval Ready Concrete, Inc.*, the Supreme Court held that the subject of execution is that decreed in the dispositive portion. The rule was reiterated in *NAPOCOR v. Maruhom*, that the writ of execution must conform strictly to the dispositive portion of the decision sought to be executed. Here in this instant case, petitioner failed to convince us that the order for the issuance of the writ of execution varied the terms of the judgment. As such, We cannot conclude that the order is patently gross and erroneous.

It is a settled rule that the issuance of the writ of execution becomes as a matter of course in enforcing a final and executory judgment. A judgment becomes final and executory by operation of law, not by judicial declaration. The prevailing party is entitled as a matter of right to a writ of execution, and the issuance thereof is a ministerial duty compellable by mandamus. Public respondent acted on the Omnibus Motion by directing that a writ of execution shall issue immediately. It did not require from him the exercise of discretion whether to issue the writ or not as it involves only a ministerial duty. We cannot attribute to public respondent such capricious or whimsical exercise of judgment that would be tantamount to grave abuse of discretion in issuing the order for issuance of the writ of execution.

The claim of petitioner that the order dated July 30, 2007 substantially modified the judgment is more likely caused by the statement of the public respondent that payment of tax liabilities is embodied already on the obligation of the defendant to restore the property to plaintiff. Considering that the final judgment is clear in its disposition, this opinion expressed by the public respondent is unwarranted. Presumptuous as it appears to be, the statement evokes no command. There is no order directing payment of real property taxes by petitioner. What is extant in the assailed order is the grant of the writ of execution. The assailed order does not intend to alter or modify the dispositive portion of the judgment dated November 13, 1995. The judgment to be executed remains the same.

It is true that public respondent referred to supervening events in his order but he was rather equivocal about these. He did not identify what the supervening events are. He referred to supervening events only once in the order and it was not to say that non-payment of realty taxes is the supervening event. Indeed, We have read this portion of the order and We are unable to grasp the particular sense that public respondent wanted to impart.

“While it is true that the Court of origin could not do anything but to implement the final and executory order of the appellate Court, yet in some instances when supervening events requires its action to prevent an injustice, it is permitted to act on the case.”

All told, We think that being vague about supervening events and presumptuous about realty taxes as included in the act of reconveyance are not serious errors in the exercise of jurisdiction that can be equated with grave abuse of discretion. The assailed order, though falling short of the standards on clarity, style and structure, is valid because content-wise, the requirement that a writ of execution shall issue to enforce final and executory judgments has been complied with. In *Eric Yu v. Honorable Judge Agnes Reyes- Carpio and Caroline Yu*, the Supreme Court cited its ruling in *JL Bernardo Construction v. Court of Appeals*, that the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void."

In sum, We find that petitioner failed to prove that the July 30, 2007 order directing the issuance of the writ of execution and the September 21, 2007 order denying the Motion for Reconsideration, were issued with grave abuse of discretion by public respondent. Our finding has the jurisprudential backing in *Silverio v. CA*, where the Supreme Court held that an appellate court's dismissal of the petition (for certiorari) constituted exclusively a judgment on the only point in litigation in the certiorari proceedings- the regularity of the trial court's execution order and writ of execution in terms that the same were issued with jurisdiction and without grave abuse of discretion xxx.[3]

Foregoing considered, movant's motion for reconsideration is hereby DENIED.

SO ORDERED.

Camello, J., Chairperson and Badelles, JJ., concur.

[1] Rollo, p. 291.

[2] Rollo, pp. 271-285.

[3] Rollo, pp. 277-284.

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