

SUSANA DE LA CERNA LAINGO, TEODORO DACUYAN, ELENA DACUYAN AND SAMSON DACUYAN, PETITIONERS, VS. DAMIAN CAMILO AND/OR JUAN MAGALLANES, RESPONDENTS.

G.R. No. L-35833. June 29, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The issue raised in this petition is whether or not the execution ordered by the respondent court conforms to the final judgment embodied in the decision of the Court of Appeals in CA-G.R. No. 43920-R.

The petitioners filed a complaint as plaintiffs in Civil Case No. 5438 of the Court of First Instance of Davao to recover a seven hectare portion of a twenty-two hectare parcel of land in Malita, Davao.

The disputed property is part of a homestead applied for by Gaudencio Dacuyan married to Susana dela Cerna and awarded in 1934 to the "heirs of Gaudencio Dacuyan" because the applicant had died in the meantime. The title was registered in October, 1934. In 1942, the widow Susana de la Cerna describing herself as "half owner of the conjugal property" sold seven (7) hectares of the land to Damian Camilo, respondent in this case. Camilo, in turn, sold the land in 1966 to the other respondent, Juan Magallanes.

The dispositive portion of the decision in the reivindicacion case states:

"WHEREFORE, judgment is hereby rendered:

"1. Dismissing the complaint;

"2. Divesting the plaintiffs of ownership over seven hectares of the southern side of the land covered by Original Certificate of Title No. 1175 of the Register of Deeds of Davao, more particularly, the portion described in the deed of sale executed by Susana Cerna de Laingo on November 20, 1972, in the presence of Jorge Agonias and Juan Magallanes and acknowledged before Atty. Ramon M. Kimpo, and the accompanying sketch marked as Exhibits 1 and 1-A, respectively and vesting the same in Juan A. Magallanes, Filipino, married to Fedilina Neri, Filipina, and residing at Malita, Davao;

"3. Directing the plaintiffs to allow Juan Magallanes to have the aforesaid land surveyed; and,

"4. Sentencing the plaintiffs jointly and severally to pay the defendants P3,000.00 as attorney's fees, with costs."

Upon appeal by the petitioners, however, the Court of Appeals modified the lower court's decision. The dispositive portion of the appellate decision reads:

"IN VIEW WHEREOF, this Court is constrained to modify as it now modifies the judgment appealed from: the sale to appellees is held to be valid only as to an undivided seven (7) hectares not of the specific portion now litigated; appellants are entitled to co-possession thereof with appellees until the undivided seven (7) hectares to which appellees are entitled are definitely segregated thru partition; the adjudication of attorney's

fee is set aside; no more pronouncement as to cost."

After the judgment of the Court of Appeals had become final and executory, the petitioners filed the necessary motion with the Court of First Instance of Davao to issue a writ of execution placing them in co-possession with the private respondents of the seven (7) hectares being litigated.

The private respondents filed a counter motion for the issuance of a writ of execution praying that the petitioners be ordered to execute a project of partition among the heirs and while doing so, segregate the seven (7) hectares purchased and possessed by them from the date of the document of sale. The petitioners, however, opposed the counter motion emphasizing that the execution of judgment referred to an action for recovery of possession of a specific seven (7) hectares of land and not to an action for partition of property.

The respondents countered with a rejoinder which admitted that the judgment, while ambiguous, confirmed their rights over seven (7) hectares of land sold to them. Since they have been in possession of a specific seven (7) hectares of land on which they planted coconuts already bearing fruits, the most equitable execution according to them was for those seven (7) hectares to be the seven hectares adjudged in the decision.

The Court of First Instance decided the matter by issuing a writ of execution allowing the respondents to enjoy possession over the entire twenty-two (22) hectares with the petitioners. The questioned order, the second paragraph of which is assailed in this petition reads:

"On motion of the plaintiffs, through Atty. Ampig, and without objection of Atty. Latorilla, counsel for the defendant, let a writ of possession issue with respect to the seven (7) hectares, subject matter of the suit, by allowing the plaintiffs to enjoy with the defendants possession of the same.

"On oral motion of Atty. Latorilla, let a writ of possession issue with respect to the remainder of the twenty-two (22) hectares by allowing the defendants to enjoy with the plaintiffs possession of the rest of the twenty-two (22) hectares.

SO ORDERED."

Two motions for reconsideration having been denied, the petitioners raised the case to us directly on a pure legal issue which they state as follows:

THE COURT A QUO OR THE RESPONDENT JUDGE ERRED IN ORDERING THE ISSUANCE OF A WRIT OF POSSESSION WITH RESPECT TO THE REMAINDER OF THE TWENTY TWO (22) HECTARES BY ALLOWING THE DEFENDANTS TO ENJOY WITH THE PLAINTIFFS POSSESSION OF THE REST OF THE TWENTY TWO (22) HECTARES AND IN DENYING THE TWO (2) MOTIONS FOR RECONSIDERATION OF THE SAID ORDER.

The reasons given by the Court of Appeals for not granting undisputed ownership of the seven (7) hectares already possessed by the respondents are:

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"3. - CONSIDERING: Now, as to this that while it is true that the Land Tax Declaration in the name of the heirs of Gaudencio Dacuyan Exh. 3 was afterwards cancelled and reduced from its area of 22 hectares to 15 hectares under Exh. 3-A the remaining seven (7) hectares coming to be declared in the name of the buyer Camilo Damian under Exh. 5-A, 5-B, 5-C and 5-D, yet a scrutiny of these documents would not show any participation of the other children of Gaudencio and Susana namely Teodoro, Elena and Samson the co-plaintiffs in this case not even any proof that they were informed of the sale; neither is there any evidence present in the record positive in character that they had ever consented to a physical segregation of the seven (7) hectare portion sold by Susana unto Camilo so that the point of laches is without any basis; it is true that

Camilo and afterwards in 1966 his succession-in-interest Juan Magallanes had been in possession apparently exclusive since the sale to Camilo in 1942 under Exh. 1 but the trouble is that exclusive possession by a co-owner cannot give rise to prescription; the law has always been to the effect that between co-owners prescription cannot run, *Cortez v. Oliva*, 33 Phil. 480 and in order for prescription to run between themselves the repudiation of co-ownership must be clearly manifested which is not at all the case here bearing in mind the undisputed fact that Camilo Damian did not even attempt to register Exh. 1 nor notify said other children of Gaudenio Dacuyan and tell them he was claiming the seven (7) hectare portion as solely his own; and neither should it be overlooked that the title being a Torrens title it cannot be the subject matter of prescription; this will mean that notwithstanding the possession apparently exclusive of Camilo Damian for more than twenty (20) years over the seven (7) hectare portion, he cannot under the law be permitted to claim absolute ownership therein; and as a corollary neither can his successor-in-interest Juan Magallanes but since Susana was entitled to at least 11 hectares; therefore her sale of seven (7) hectares if undivided would have been valid, but a sale by her of this specific portion litigated could not bind her co-plaintiffs; and this being the final result the adjudication of attorney's fees must have to be discarded;

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The judgment of the Court of Appeals, with the foregoing reasons for a seemingly ambiguous judgment calling for a future segregation of seven (7) hectares out of the twenty-two (22) hectares, has long become final and executory.

We agree with the petitioners that the execution ordered by the court of first instance did not conform to the final judgment being executed.

We stated in *Phil-American Accident Insurance Co., Inc.* (97 SCRA 811) -

"The questioned Order cannot be sustained. The judgment which was sought to be executed ordered the payment of simple 'legal interest' only. It said nothing about the payment of compound interest. Accordingly, when the respondent judge ordered the payment of compound interest he went beyond the confines of his own judgment which had been affirmed by the Court of Appeals and which had become final. Fundamental is the rule that execution must conform to that ordained or decreed in the dispositive part of the decision. Likewise, a court can not, except for clerical errors or omissions, amend a judgment that has become final. (*Jabon, et al. v. Alo, et al.*, 91 Phil. 750 [1952]; *Robles v. Timario, et al.*, 107 Phil. 809 [1960]; *Collector of Internal Revenue v. Gutierrez, et al.*, 108 Phil. 215 [1960]; *Ablaza v. Sycip, et al.*, 110 Phil. 4 [1960].) (Italics supplied)

At the same time, the mode of execution desired by the petitioners would be unfair to the respondents and not in keeping with the disposition really ordained by the Court of Appeals. As stated in *Macabuhay v. Manuel* (101 SCRA 835) where we cited *Padua v. Robles* (66 SCRA 485):

"x x x that the meaning, operation and consequences of a judgment must be ascertained like any other written instrument and that a judgment rests on the intention of the Court as gathered from every part thereof including the situation to which it applies and the attendant circumstances."

A reading of the decision and its background facts shows that the controversy litigated and passed upon by the Court of Appeals was confined to the ownership of seven (7) hectares of land which forms part of the twenty two (22) hectares parcel of land covered by a torrens title in the name of the petitioners.

The Court of Appeals ruled that the respondents are entitled to seven (7) hectares of the property but not necessarily the seven (7) hectares possessed by them. They are entitled to co-possession with appellees until the undivided seven (7) hectares are definitely segregated through partition.

For us to now rule that the respondents will enjoy co-possession with the petitioners over seven (7) hectares which belongs to the former would be inequitable even as actual co-possession over twenty two (22) hectares would not

conform to the final judgment. There is the other consideration that segregation of the definite seven (7) hectares must await the partition among the heirs, a procedure outside the control of the respondents.

We, therefore, rule that the co-possession mentioned in the Court of Appeals judgment refers to the right of the respondents, already certain and vested but not yet specific, over any seven (7) hectares of the property, in effect ranging but not specific over the entire property. However, in the meantime that the partition is not effected and the boundaries of the seven (7) hectares not spelled out, the respondents shall continue to possess the seven (7) hectares they have held since the litigated sale and enjoy all its fruits. They will have no share of the fruits of the other fifteen (15) hectares nor its enjoyment but neither shall the petitioners have any share in the fruits or enjoyment of the seven (7) hectares held by the respondents. It would be in the interests of all concerned if the partition of the property among the heirs is effected immediately and the respondents are finally given their definite seven (7) hectares as provided in the appellate judgment.

WHEREFORE, the petition is hereby GRANTED. The second paragraph of the questioned order is DELETED. The respondents shall continue to exclusively possess and enjoy the seven (7) hectares actually held by them in accordance with the terms of this decision until a partition is effected and their share is definitely segregated.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and De La Fuente, JJ., concur.

Melencio-Herrera, J., on official leave.

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