

HEIRS OF PEDRO AMORES, JR. NAMELY: RODEL AMORES, BERNADETTE AMORES, BABY PALOMA A. PANES, DANIEL AMORES, CARLOS AMORES, RENANTE AMORES AND BEN AMORES, PETITIONERS, VS. HON. JEOF...

Ponente: INTING, J.

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INTING, J.:

This is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court with Prayer for the Issuance of Writ of Preliminary Injunction assailing the Orders dated March 24, 2011[2] and April 15, 2011[3] of the Regional Trial Court, Branch 41, Cagayan de Oro City in Civil Case No. 2011-035.

The facts of the case are as follows:

The property subject of this case is a house and lot located at Pili Balite, Reyes Subdivision, Bugo, Cagayan de Oro City and was previously registered under Transfer Certificate of Title (TCT) No. T-23340[4] in the name of Pedro Amores, Jr. The property was occupied by the spouses Pedro Amores, Jr. and Paloma Amores, along with their children.

Being a member of the Social Security System (SSS for brevity), Pedro availed himself of an SSS housing loan. His wife, Paloma, was made a co-maker of the loan. The loan, as shown in the promissory note[5], was for P33,000.00 and secured by a real estate mortgage[6] over the spouses' family home covered by TCT No. T-23340.

On July 3, 1997, Pedro died leaving Paloma as his surviving spouse and herein petitioners as surviving children. Paloma allegedly notified SSS of the death of her husband and even claimed the death benefits of her husband.

Upon failure of the spouses to pay the loan, SSS on January 29, 1999 foreclosed on the mortgaged property and became the highest bidder at the auction sale. The redemption period expired without Paloma redeeming the subject property. Hence, SSS consolidated its ownership over the house and lot; and TCT No. T-151356[7] was issued in its name.

On August 4, 2004, SSS sent a final demand letter[8] to Paloma requiring the latter to settle the spouses' obligation and to vacate the premises within fifteen (15) days. On August 14, 2006, SSS sent another demand letter[9] addressed to Paloma and Pedro informing them that the purchase proposal of private respondents has been approved. Hence, the Amores spouses were ordered to vacate the premises of the subject lot and house.

On August 29, 2006, a Deed of Conditional Sale[10] was executed by SSS in favor of herein private respondents (the spouses Faburada) over the subject property. On February 12, 2007, private respondents sent a formal demand letter to vacate[11] the premises of the subject property, but Paloma and petitioners refused to do so. Private respondents referred the dispute to the Barangay Lupon of Bugo, Cagayan de Oro City. However, the parties failed to settle amicably, hence, a certification to file action was issued by the Lupon.

On April 10, 2007, private respondents herein filed a Complaint[12] for unlawful detainer against Paloma. They

alleged that being the new owners of the subject property, they are entitled to its actual and physical possession and therefore has the legal right to oust Paloma from the property. They also alleged that they are entitled to receive from Paloma reasonable rentals on the subject property counted from the date Paloma illegally withheld possession of the property until such time that she vacates.

In her Answer[13], Paloma countered that the foreclosure proceedings was null and void as her obligations and that of her husband have been fully satisfied; and that Pedro was already dead long before the foreclosure and period of redemption. Paloma also alleged that applying the principle on the mortgage redemption insurance, the obligations had already been extinguished. Furthermore, she alleged that the Municipal Trial Court in Cities (MTCC) has no jurisdiction since the conferment of possession in foreclosure cases/ sale of foreclosed property is lodged in the Regional Trial Court (RTC).

The case was referred for mediation and judicial dispute resolution but the parties failed to come up with a settlement. Hence, trial ensued.

On December 15, 2010, the MTCC rendered Judgment against Paloma, the dispositive portion of which provides:

WHEREFORE, Judgment is hereby rendered in favor of plaintiff and against defendant:

(1)

Ordering defendant, and all persons claiming right under them to vacate the property subject of this case covered by Transfer Certificate of Title No.T-151356, and to immediately surrender peaceful possession thereof to the plaintiff;

(2)

Ordering the defendants to pay plaintiff the sum of P115,000.00 representing reasonable compensation for the use and enjoyment of the premises reckoned from May 2007 until defendant have actually vacated the property;

(3)

Ordering the defendant to pay attorney's fees in the amount of P10,000.00; and

(4)

To pay the costs of the suit.

Pursuant to Section 19, Rule 70 of the Rules of Court, execution shall issue immediately upon motion unless an appeal has been perfected and the defendant to stay execution files a supersedeas bond in the amount of P125,000.00 approved by this court and executed in favor of the plaintiff to answer for the reasonable rents, damages and costs, and unless defendant deposit with the appellate court the reasonable compensation due from time to time.

SO ORDERED.

Aggrieved, Paloma filed an appeal before the RTC on January 31, 2011. Private respondents filed a motion for execution pending appeal. Paloma failed to put up a supersedeas bond as required by the Rules of Court. Hence, on March 14, 2011, the RTC issued a Writ of Execution[14]. On March 21, 2011, Paloma and her children as heirs of Pedro Amores, filed a Very Urgent Motion to Quash Writ of Execution.

On the same date or on March 21, 2011, the court a quo issued a Judgment affirming the decision of the MTCC, the fallo of which reads:

WHEREFORE, premises considered, the assailed Judgment is AFFIRMED in toto.

No pronouncement as to costs.

So Ordered.

On March 24, 2011, the court a quo issued an Order ruling on the motion filed by Paloma and herein petitioners, viz:

Considering that the appeal was already denied in the decision of this court dated March 21, 2011, the Very Urgent Motion to Quash Writ of Execution filed by the heirs of Pedro Amores, Jr. has been rendered moot and academic.

SO ORDERED.

Petitioners herein filed a Motion for Reconsideration[15] of the Order but it was denied by the court a quo in its Order[16] dated April 15, 2011.

Hence, the instant petition for certiorari filed by petitioners raising the following assignment of errors[17], viz:

I.

THE RESPONDENT COURT, RTC BRANCH 41, GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT FINDING THAT THERE WAS NON-JOINDER OF INDISPENSABLE PARTIES.

II.

THE RESPONDENT COURT, RTC BRANCH 41, GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ISSUING A WRIT OF EXECUTION TO ENFORCE A VOID JUDGMENT.

III.

THE RESPONDENT COURT, RTC BRANCH 41, GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DID NOT CONSIDER PETITIONERS' COLLATERAL ATTACK OF A VOID JUDGMENT.

IV.

THE RESPONDENT COURT, RTC BRANCH 41, GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN SUMMARILY DENYING THE MOTION FOR RECONSIDERATION WHEN THE GROUNDS THEREOF HAVE NOT BEEN PASSED UPON NOR CONSIDERED.

On June 14, 2011, this Court dismissed the instant petition for failing to strictly comply with Rule 65 and other related provisions of the Rules of Court.[18] Petitioners filed a Motion for Reconsideration and Motion to Admit Amended Petition[19]. In a Resolution[20] dated October 21, 2011, this Court resolved to reconsider and reinstate the instant petition.

Private respondents filed their Comment[21] to the petition. Petitioners filed their Reply[22] on December 5, 2011. On March 9, 2012, this Court issued a Resolution[23] denying petitioners' prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction.

Our Ruling

The petition is bereft of merit.

First, petitioners argue that they derived their right of ownership and possession over the subject property from their father; and the right is transmitted to them from the moment of his death. Their possession and ownership is

independent from that of their mother, Paloma. Hence, the filing of the complaint without impleading them is fatally flawed as they are indispensable parties to the suit. Consequently, as they were not properly impleaded, the judgment of the MTCC and the RTC are therefore null and void.

Petitioners also contend that the period within which to file an unlawful detainer case is one (1) year from the time of unlawful deprivation or withholding of possession. Since private respondents claim that they derived their alleged right to the subject property from the deed of conditional sale executed by SSS in their favor, they are, thus, bound by the actions of their predecessor-in-interest. Since SSS has consistently sent notices to vacate to Paloma as early as 2004, the right to file the ejectment case has therefore long prescribed.

Petitioners also argue that the RTC did not bother to consider their arguments in the motion to quash the writ of execution. It precipitately denied the motion on the alleged flimsy excuse that it was already moot and academic. When a writ of execution affects the interest of persons not parties to the case and assails the same, the court that issued the writ must conduct a hearing to determine the nature of possession of the persons affected thereby.

The contentions deserve scant consideration.

Well-settled is the rule that foreclosure proceedings have in their favor the presumption of regularity and the burden of evidence to rebut the same is on the petitioners.[24] Being a disputable presumption, the same is valid unless controverted by evidence.[25] In the absence therefore of any proof to the contrary, the presumption that official duty has been regularly performed stays.[26]

In the case at bar, petitioners and Paloma never questioned the foreclosure proceedings nor filed any action before the RTC to prove that the foreclosure proceedings was irregular, invalid, or that petitioners were deprived to participate in the proceedings. Such being the case, there was therefore no issue when the SSS consolidated its ownership over the house and lot and consequently registered it under its name in TCT No. T-151356. Since SSS rightfully owned the subject house and lot, it had all the right to execute the deed of conditional sale in favor of private respondents. To note, paragraph 5 of the Deed provides that the use and administration of the subject house and lot as well as the right to the possession thereof is given to the private respondents. Also, paragraph 3 of the Terms and Condition on Sale of SSS Acquired Assets Under Negotiated Sale[27] also provides that "the buyers-plaintiffs shall undertake the responsibility of acquiring by peaceful means the possession and enjoyment of the property without seeking the assistance of the SSS". As such, private respondents are without doubt the proper parties-in-interest in the ejectment case before the MTCC.

Moreover, in the case of *Javelosa v. Court of Appeals*[28], the Supreme Court ruled, viz:

Under the Rules, if the mortgaged property is not redeemed within one year from the foreclosure sale, the purchaser at public auction is entitled to possession of the property. To obtain possession, the vendee or purchaser may either ask for a writ of possession or bring an appropriate independent action, such as a suit for ejectment, which private respondents did. The RTC case assailing the public auction sale of the property and seeking annulment of mortgages did not preclude the filing of an ejectment case against petitioner. We have consistently ruled that the pendency of an action for annulment of sale and reconveyance (which necessarily involves the issue of ownership) may not be successfully pleaded in abatement of an action for ejectment, the issue in the latter being merely physical possession. To be sure, private respondents' most effective remedy was to file a separate action for unlawful detainer against petitioner. They cannot ask for a writ of possession from the RTC where the case for annulment of mortgage and foreclosure sale is pending because after the mortgagee was able to consolidate his title on the land and a new title issued in his name, petitioner was able to obtain an Order from the RTC directing the mortgagee (predecessor-in-interest of private respondents) to desist from further enforcing the foreclosure proceedings.

In the instant case, private respondents therefore properly filed an unlawful detainer case against Paloma Amores

since it is clear that the latter is the one occupying the subject property before and after the same was transferred to the ownership of SSS. As it has been ruled by the Supreme Court, the vendee or purchaser may bring an ejectment suit to obtain possession of the property. An action for unlawful detainer exists when a person unlawfully withholds possession of any land or building against or from a lessor, vendor, vendee or other persons, after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied.[29] The only issue to be resolved in an unlawful detainer case is physical or material possession of the property involved, independent of any claim of ownership by any of the parties involved.[30] As can be gleaned from the provisions of the deed of conditional sale, the right of possession as well as the use and administration of the subject property was already given by SSS to private respondents. As such, private respondents have the legal personality to file the unlawful detainer case against Paloma. Furthermore, considering that petitioners herein never brought any action to question the foreclosure proceedings, thus presumed valid and regular, the filing of the ejectment case against Paloma was proper considering that not only was she the co-maker of the loan but was also the actual possessor of the subject house and lot.

As a consequence to the favorable judgment obtained by private respondents before the MTCC, the granting of private respondent's motion for execution became the court a quo's ministerial duty upon Paloma's failure to file the sufficient supersedeas bond.[31] Section 19, Rule 70, of the Rules of Court clearly imposes such duty, viz:

Section 19. Immediate execution of judgment; how to stay same. — If judgment is rendered against the defendant, execution shall issue immediately upon motion, unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as determined by the judgment of the Municipal Trial Court. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the Municipal Trial Court, with the other papers, to the clerk of the Regional Trial Court to which the action is appealed.

As a general rule, a judgment in favor of the plaintiff in an ejectment suit is immediately executory, in order to prevent further damage to him arising from the loss of possession of the property in question.[32] To stay the immediate execution of the judgment while the appeal is pending, the foregoing provision requires that the following requisites must concur: (1) the defendant perfects his appeal; (2) he files a supersedeas bond; and (3) he periodically deposits the rentals which become due during the pendency of the appeal.[33] The failure of the defendant to comply with any of these conditions is a ground for the outright execution of the judgment, the duty of the court in this respect being "ministerial and imperative." Hence, if the defendant perfected the appeal but failed to file a supersedeas bond, the immediate execution of the judgment would automatically follow. Conversely, the filing of a supersedeas bond will not stay the execution of the judgment if the appeal is not perfected. Necessarily then, the supersedeas bond should be filed within the period for the perfection of the appeal.[34]

It is also worth noting that petitioners' cited grounds for the quashal of the writ of execution, one of them is that the judgment of the MTCC is void and not binding to herein petitioners, are matters properly threshed out in an appeal. While the Rules of Court deliberately makes no express reference to a motion to quash a writ of execution, the jurisdiction of courts to entertain such motions has long been upheld, on the premise that every court has the inherent power for the advancement of justice to correct errors of its ministerial officers and to control its own process.[35] While there are grounds entrenched in jurisprudence for the quashal of a writ of

execution, yet such quashal rests largely in the discretion of the court, that will be exercised in the furtherance of justice.[36]

In the instant case, the court a quo found the motion to quash the writ moot in view of its judgment affirming the decision of the MTCC. A petition for certiorari will prosper only if grave abuse of discretion is alleged and proved to exist.[37] "Grave abuse of discretion," under Rule 65, has a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.[38] For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross.[39] In this case, a showing of such grave abuse of discretion is sorely wanting. Furthermore, although petitioners alleged grave abuse of discretion, such issues involve errors of judgment which are not reviewable in a certiorari proceeding.[40] As held in the case of *Ligot v. Republic*[41] citing *People v. Court of Appeals*[42]:

In a petition for certiorari, the jurisdiction of the court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence such as errors of judgment. Errors of judgment of the trial court are to be resolved by the appellate court in the appeal by and of error or via a petition for review on certiorari in this Court under Rule 45 of the Rules of Court. Certiorari will issue only to correct errors of jurisdiction. It is not a remedy to correct errors of judgment. An error of judgment is one in which the court may commit in the exercise of its jurisdiction, and which error is reversible only by an appeal. Error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari. Certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law. As long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 45 of the Rules of Court.

WHEREFORE, the petition is hereby DENIED. The Orders dated March 24, 2011 and April 15, 2011 of the RTC, Branch 41, Cagayan de Oro City in Civil Case No. 2011-035 are AFFIRMED.

SO ORDERED.

Camello, (Chairperson), and Perez, JJ., concur.

[1] Rollo, pp. 3-23

[2] Rollo, p. 27, penned by Hon. Judge Jeoffre W. Acebido

[3] Rollo, p. 28

[4] Rollo, pp. 29-30

[5] Rollo, p. 31

[6] Rollo, pp. 32-35

[7] Rollo, pp. 55-56

[8] Rollo, p. 188

[9] Rollo, p. 57

[10] Rollo, pp. 50-52

- [11] Rollo, p. 58
- [12] Rollo, pp. 45-49
- [13] Rollo, pp. 6065
- [14] Rollo, pp. 71-72
- [15] Rollo, pp. 89-91
- [16] Rollo, p. 28
- [17] Rollo, pp. 105-106
- [18] Rollo, p. 92
- [19] Rollo, pp. 93-96
- [20] Rollo, pp. 195-196
- [21] Rollo, pp. 203-226
- [22] Rollo, pp. 231-236
- [23] Rollo, pp. 242-244
- [24] Century Savings Bank v. Samonte, G.R. No. 176212, October 20, 2010 citing Cristobal v. Court of Appeals, 384 Phil. 807, 814 (2000); Ong v. Premier Dev't Bank, G.R. No. 159615, February 9, 2011
- [25] Supra
- [26] Supra
- [27] Rollo, p. 54
- [28] G.R. No. 124292, December 10, 1996
- [29] Samelo v. Manotok Services, Inc., G.R. No. 170509, June 27, 2012
- [30] Supra
- [31] Ferrer v. Rabaca, A.M. No. MTJ-05-1580, October 6, 2010
- [32] Chua v. Court of Appeals, G.R. No. 113886, February 24, 1998
- [33] Supra
- [34] Supra
- [35] Reliance Surety and Insurance Company v. Amante, G.R. No. 150994, June 30, 2005
- [36] Supra
- [37] Land Bank of the Philippines v. Pagayatan, G.R. No. 177190, February 23, 2011
- [38] Supra
- [39] Supra
- [40] Julie's Franchise Corp. v. Ruiz, G.R. No. 180988, August 28, 2009

[41] G.R. No. 176944, March 6, 2013

[42] G.R. No. 144332, June 10, 2004

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