

## **HEIRS OF FLORENCIO ADAZA, NAMELY: RUSTICA ADAZA, DAHLIA ADAZA-JARANTILLA, OSCAR ADAZA, ROSELLER ADAZA, OCARLITO ADAZA, AND ERLITO ADAZA, PETITIONERS, VS. THE REGIONAL TRIAL COUR...**

Ponente: CONTRERAS, J.

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### **CONTRERAS, J.:**

This is a Petition for Certiorari[1] under Rule 65 of the Revised Rules of Civil Procedure assailing the Resolution[2] dated August 30, 2012 of the Regional Trial Court, Branch 10, Dipolog City (lower court) denying petitioner's motion for reconsideration.

The salient facts are:

The controversy arose from Civil Case No. 5337 for recovery of possession, ownership and damages with prayer for issuance of writ of preliminary injunction filed by herein respondents against petitioners. In the complaint filed by respondents on November 6, 1998, they averred that they are the heirs of Rosalia Pialago who died without issue on April 7, 1978. During the lifetime of Rosalia Pialago, she and her husband, Gregorio Buhia, Jr., owned, acquired and possessed the subject land designated as Lot No. 3386, Pls-40, northern portion, located at Dohinob, Pres. Manuel A. Roxas, Zamboanga del Norte, with an area of 49,000 square meters. The subject land had been involved in a suit that had been decided by the RTC, Branch 7 of Zamboanga del Norte on October 5, 1989, declaring respondents to be the lawful owners of the same. The said decision was affirmed by this Court and on October 23, 1992, respondent Gregorio Buhia, Jr. was installed to the possession of the subject lot. Sometime in 1995, petitioners entered and usurped the eastern portion of the subject lot consisting of 25,770 square meters. Petitioners, aside from depriving the respondents of their rightful possession, claimed ownership over the same. They refused to return the possession of the subject lot to respondents. On December 8, 1998, petitioners filed an Answer to the Complaint.[3]

On July 23, 1998, the lower court held an initial pre-trial conference and directed the creation of a Survey Committee composed of the CENRO of Dipolog City and one representative of each party. The committee was tasked to relocate Lot Nos. 3386 and 3387 and to determine the actual occupation of the petitioners therein and to submit its report to the lower court.[4]

On November 16, 2007, the case was again called for a pre-trial conference but none of the petitioners including their counsel attended the conference. For their failure to appear at the pre-trial and submit pre-trial brief, petitioners were declared as in default. Consequently, respondents were allowed to present evidence ex parte.[5]

One of respondents' evidence was a report on the relocation survey, which was conducted on October 20, 1999. The significant portion thereof reads: the land occupied by the petitioner is within the land of respondents, Lot No. 3386, Pls-40 covered by Transfer Certificate of Title No. T-56578 registered in the name of Gregorio Buhian Jr., married to Rosalia Pialago; Lot No. 3387, Pls-40 was no longer relocated because petitioners have no possession or occupation of such land; petitioners' claim that they were tenants of a certain Juliet Adaza in Lot

No. 3387, Pls-40 was baseless because Lot No. 3387 was registered in the name of Christie L. Opulentissima and Chona L. Opulentissima, covered by TCT No. T-51010 registered in the Registry of Deeds for the Province of Zamboanga del Norte.[6]

Thereafter, the lower court rendered the Decision dated August 22, 2008 ordering petitioners and whoever is in possession of the subject land to vacate and restore the possession thereof to respondents being the rightful owners of the subject land. The decision, for failure of petitioner to file a motion for reconsideration or appeal, attained finality on September 19, 2008, per Entry of Judgment issued on even date.[7]

After the lapse of almost three (3) months after the finality of the Decision dated August 22, 2008, petitioners filed a Petition for Relief from Judgment, Order and Writ of Execution on the ground of deprivation of their day in court and excusable negligence.[8] However, such petition was denied by the lower court. On June 11, 2009, petitioner filed a Petition for Certiorari before this Court docketed as CA-G.R. SP No. 03006-MIN assailing the denial of their petition for relief from judgment.[9]

Meanwhile, the lower court issued a Resolution[10] dated May 24, 2012 granting respondents' motion for issuance of an order of demolition and the order of demolition was thereby issued. Petitioner thereafter filed on June 5, 2012 a Motion for Reconsideration on the Resolution dated May 24, 2012. This motion was in turn denied by the lower court in the assailed Resolution[11] dated August 30, 2012, the dispositive portion[12] of which reads:

WHEREFORE, premised on the foregoing, the Court resolves to DENY the defendants' Motion for Reconsideration on the Resolution of May 24, 2012, for lack of merit.

SO ORDERED.

Petitioners subsequently filed their second petition for certiorari seeking the annulment of the above-cited Resolution dated August 30, 2012 and raising the following grounds:[13]

- THE RESPONDENT COURT HAD ACTED IN EXCESS OF ITS JURISDICTION WITH GRAVE ABUSE OF DISCRETION IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION PRAYING FOR SUSPENSION OF THE ISSUANCE ORDER OF DEMOLITION ON REASON OF JUDICIAL COURTESY.
- THE RESPONDENT COURT HAD ACTED IN EXCESS OF ITS JURISDICTION WHEN IT IGNORED THE PROVISION OF SECTION 13, RULE 39, 1997 RULES OF CIVIL PROCEDURE WHICH IS OF JUDICIAL NOTICE AND ARTICLE 153, FAMILY CODE.
- THE RESPONDENT COURT HAD ACTED IN EXCESS OF ITS JURISDICTION WHEN IT DELIBERATELY IGNORED THE FACT AS ESTABLISHED IN THE HEARING OF THE MOTION FOR ISSUANCE OF AN ORDER OF DEMOLITION THAT PRIVATE RESPONDENTS HAD NO RIGHT TO ASK FOR DEMOLITION OF THE PETITIONERS' HOUSES THAT ARE ALL LOCATED AT THE SOUTHERN PORTION OF LOT 3386, PLS-40, SINCE PER DECISION IN CIVIL CASES NO. 3657 AND 5167 PRIVATE RESPONDENTS WERE AWARDED THE NORTHERN PORTION ONLY.

Recently, this Court has rendered a Decision dated March 14, 2013 on CA-G.R. SP No. 03006-MIN resolving that the lower court had not committed grave abuse of discretion in denying petitioners' petition for relief from judgment. Petitioners apparently filed a motion for reconsideration but the same was denied on July 12, 2013. Thus, the March 14, 2013 Decision has attained finality and an Entry of Judgment had been issued thereof.

Now, this Court is tasked to resolve petitioners' second petition for certiorari. After an examination of the records, this Court is convinced that the instant case was filed as part of petitioners' dilatory tactics in obstructing the execution of an already final and executory Decision dated August 22, 2008.

We cannot allow the petitioners to continually abuse the judicial process.

In *Spouses Manuel A. Aguilar, et al. v. The Manila Banking Corporation*,<sup>[14]</sup> the Supreme Court lamented on the litigant's act of filing multiple cases just so the execution of a final and executory decision may be hindered. The Supreme Court also reminded the counsel of his duties, as officer of the court, to see to it that the orderly and speedy administration of justice must not be unduly impeded and to inform and advise his client to accede to the orders of the Court than to traverse an already final and executory decision. The compelling discussion of the Supreme Court is hereby quoted and adopted in this case, as follows :

Without a doubt, the present case is an instance where the due process routine vigorously pursued by petitioners is but a clear-cut device meant to perpetually forestall execution of an otherwise final and executory decision. Aside from clogging court dockets, the strategy is deplorably a common course resorted to by losing litigants in the hope of evading manifest obligations. The Court condemns this outrageous abuse of the judicial process by the petitioners and their counsels.

It is an important fundamental principle in the judicial system that every litigation must come to an end. Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid and final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then unscrupulous litigants will multiply to the detriment of the administration of justice.

The Court reminds petitioners' counsel of the duty of lawyers who, as officers of the court, must see to it that the orderly administration of justice must not be unduly impeded. It is the duty of a counsel to advise his client, ordinarily a layman on the intricacies and vagaries of the law, on the merit or lack of merit of his case. If he finds that his client's cause is defenseless, then it is his bounden duty to advise the latter to acquiesce and submit, rather than traverse the incontrovertible. A lawyer must resist the whims and caprices of his client, and temper his client's propensity to litigate. A lawyer's oath to uphold the cause of justice is superior to his duty to his client; its primacy is indisputable.

There should be a greater awareness on the part of litigants and counsels that the time of the judiciary, much more so of this Court, is too valuable to be wasted or frittered away by efforts, far from commendable, to evade the operation of a decision final and executory, especially so, where, as shown in the present case, the clear and manifest absence of any right calling for vindication, is quite obvious and indisputable.

Verily, by the undue delay in the execution of a final judgment in their favor, respondents have suffered an injustice. The Court views with disfavor the unjustified delay in the enforcement of the final decision and orders in the present case. Once a judgment becomes final and executory, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. Unjustified delay in the enforcement of a judgment sets at naught the role of courts in disposing justiciable controversies with finality. (Emphasis Ours)

Having said so, this Court finds it prudent not to delve into the issues raised by petitioners, as the same had all been rendered moot. A case becomes moot and academic when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits.<sup>[15]</sup>

WHEREFORE, the Petition for Certiorari is DISMISSED.

**SO ORDERED.**

Lloren, J., Ch., and Santos, JJ., concur.

- [1] Rollo, pp. 4-12
- [2] Rollo, pp. 13-21
- [3] Rollo, pp. 49-50
- [4] Rollo, p. 50
- [5] Rollo, p. 51
- [6] Rollo, p. 56
- [7] Rollo, p. 60
- [8] Rollo, pp. 61-66
- [9] Rollo, p. 7
- [10] Rollo, pp. 23-27
- [11] Rollo, pp. 13-21
- [12] Rollo, p. 18
- [13] Rollo, p. 5
- [14] G.R. No. 157911, September 19, 2006
- [15] Ramonito Tantoy, Sr. v. Hon. Zeus C. Abrogar, in his capacity as Presiding Judge of Branch 150 RTC-Makati City and Abner Dreu, G.R. No. 156128, May 9, 2005

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