

**DRA. EUFROCINA LLANES-GUANZON AND CARMENCITA
GUANZON-ARAMBULO, PETITIONERS, VS. HON. DANILO S. CRUZ, IN
HIS CAPACITY AS PRESIDING JUDGE OF PASIG CITY REGIONAL
TRIAL COURT, BRANC...**

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GALAPATE-LAGUILLES, J:

In this Petition for Certiorari,[1] petitioners assail the July 24, 2013 Order[2] of the Regional Trial Court of Pasig City denying their motion to quash the writ of execution and to suspend the writ's implementation.

The facts are of record.

After the death of Arturo Guanzon (Arturo) on July 21, 2001, intestate petitioners Ma. Socorro Guanzon-Yuchengco, Mario Guanzon, and Arturo Guanzon, Jr. (Arturo, Jr.), Arturo's illegitimate children, filed a case for the issuance of Letters of Administration docketed as Special Proceeding Case No. 11298. Ma. Socorro was appointed as special administratrix of the estate. Later, Dra. Eufrocina Llanes-Guanzon and Carmencita Guazon-Arambulo, Arturo's wife and legitimate daughter, respectively, instituted a case[3] for the probate of Arturo's holographic will.[4] The case was docketed as Special Proceeding Case No. 11311.

In an Order[5] dated September 6, 2002, the RTC of Pasig City Branch 268, the court hearing Special Proceeding Case No. 11298, granted the prayer to give allowance pendente lite to the incapacitated child of Arturo, Arturo, Jr., in the amount of P75,923.13 per month and the sum of P128,000.00 as advance rental and security deposit for his residence. The Order further stated that these amounts would be taken from the mass of properties belonging to the decedent's estate.

On October 18, 2002, the court issued an Order[6] consolidating the hearing of Special Proceeding Case Nos. 11298 and 11311 and denying the motion to suspend the implementation of the Order granting allowance pendente lite to Arturo, Jr.

Thereafter, to implement the Order dated September 6, 2002, another Order[7] was issued directing the immediate implementation of the grant of allowance pendente lite to Arturo, Jr. by sourcing the allowance from the monthly rental collectible from the Tomas Morato property. Upon probate petitioners Eufrocina and Carmencita's motion, the court also granted[8] a monthly support of P60,000.00 to Eufrocina.

The holographic will was later admitted to probate.[9] On motion of Ma. Socorro and Mario, the court, in an Order[10] dated August 10, 2004, also granted them monthly support pendente lite in the amount of P60,000.00 each computed from the filing of the intestate petition. Upon motion of the probate petitioners, in its September 14, 2004 Order[11] Carmencita was also granted a monthly support of P60,000.00.

The cases were later re-raffled to RTC of Pasig City, Branch 152. The court appointed Carmencita as the estate's executrix and directed Ma. Socorro to stop exercising the powers of a special administrator and to deliver to Carmencita the properties of the decedent under her possession.[12]

Upon motion of the intestate petitioners, the court issued the November 21, 2011 Order[13] granting their prayer to implement the final and executory Orders dated September 6, 2002 and August 10, 2004. In the same Order, Carmencita was directed to immediately effectuate the release of the amounts necessary for the allowance pendente lite in favor of the intestate petitioners.

With the death of Eufrocina, the issue on the probability of the estate properties being conjugal surfaced; thus, the court issued an Order on October 8, 2012[14] modifying the orders that granted support pendente lite to the heirs. It ruled that from then on, only Arturo, Jr., being incapacitated, would receive support in the amount of P75,000.00 which shall be deemed an advance from his future inheritance.

Thereafter, the intestate petitioners filed an Urgent Ex Parte Motion for Issuance of Writ of Execution[15] asking the court to issue an order directing the issuance of a Writ of Execution to enforce the final and executory Orders dated September 6, 2002, August 10, 2004, and November 21, 2011. They insisted that their motion should be granted considering that the allowances pendente lite of the probate petitioners had been implemented the day it was granted while they have not received anything yet.

Subsequently, aiming to determine whether all the income of the decedent's properties have been properly recorded and the expenses properly accounted for, Carmencita filed a Motion for the Appointment of Auditor and for Disqualification of Intestate Petitioner's Counsel.[16] This motion remains pending in the trial court.

On February 25, 2013, the court issued an Order[17] granting intestate petitioners' Urgent Ex Parte Motion for Issuance of Writ of Execution. Carmencita then filed a Motion for Reconsideration of the February 25, 2013 Order. In resolving the motion, the court modified the Order[18] by excluding the advance rental and security deposit for the residence of Arturo, Jr. in the computation of interests and reducing the interest due on the support pendente lite to 6%.

On May 14, 2013, the court issued a Writ of Execution[19] commanding the sheriff to enforce the Orders dated September 6, 2002, August 10, 2004, November 21, 2011, and February 25, 2013:

You are hereby commanded to enforce the final and executory Orders dated September 6, 2002, August 10, 2004, November 21, 2011, respectively and Order dated February 25, 2013 in the manner required by the law and the Rules and You are hereby commanded to demand from the probate petitioners, the judgment obligors, the immediate compliance with the above-quoted Orders in full of the above-quoted judgment, together with your lawful fees for service of this execution which intestate petitioners, the judgment obligees, are lawfully entitled in the above-mentioned Orders dated September 6, 2002, August 10, 2004, November 21, 2011 [and] February 25, 2013. If the judgment obligors cannot comply all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligees, You shall levy upon the properties of the judgment obligors of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution, giving the latter the option to immediately choose which property may be levied upon, sufficient to satisfy the judgment. If the judgment obligors do not exercise the option, you shall first levy on the personal properties, if any, and then on the real properties, if personal properties are insufficient to answer for the judgment. You shall sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

x x x

A few days later, Carmencita filed an Urgent Motion to Quash Writ of Execution[20] for being fatally defective. She argued that the writ does not specifically state the amount of the principal obligation and interest. Moreover, the referral to them as "judgment obligors" is incorrect. They are not liable in their personal capacities to the intestate petitioners.

On May 23, 2013, Carmencita filed a Supplemental Urgent Motion to Quash Writ of Execution with Very Urgent Motion to Suspend Implementation of Writ of Execution.[21]

Meanwhile, the sheriff enforced the Writ of Execution. In his Partial Return,[22] the sheriff stated that he served a Notice of Garnishment on several banks but only the Bank of Philippine Islands responded confirming that it has in its possession the amount of P4,198,946.55. The full amount was later given to Ma. Socorro in partial satisfaction of the judgment. On June 27, 2013, the sheriff served a Notice of Levy to the Register of Deeds of Quezon City.

In an Order dated July 24, 2013,[23] the trial court found the motions to quash the Writ of Execution and to suspend the enforcement of the writ partially meritorious, thus:

x x x

The Writ of Execution suffers from flaws or defects as observed by the probate petitioners. However, the Court believes that such flaws are correctable and did not render the questioned Writ of Execution invalid.

x x x

Thus, the Writ of Execution should be corrected such that the exact amount on execution is specified therein pursuant to section 8, rule 39 of the rules of court.

x x x. It is correct that probate petitioner Carmencita Guanzon Arambulo is not a judgment obligor. She is ordered by the court to release the amounts necessary for the support pendente lite, to be taken from the future inheritance of the intestate petitioners, in her capacity as the court[-]appointed executrix[,] not a judgment obligor as erroneously stated in the Writ of Execution.

Anent the allegation that payment of support pendente lite can only be taken from the rentals or income of the estate, the Court finds the same incorrect. The Court had merely identified the sources where the support pendente lite for the intestate petitioners may be taken. The support pendente lite of the heirs is not made dependent upon said rentals or income of the estate. Suffice to say that the support pendente lite shall be taken from the estate of the decedent as in fact they are deductible from the heirs' future inheritance.

The rules of Court provide that if the adverse party fails to comply with an order granting support pendente lite, the court shall, moto [sic] proprio or upon motion, issue an order of execution against him, without prejudice to his liability for contempt. x x x.

x x x. Contrary to the allegation of the probate petitioners[,] the Notice of Garnishment issued by the court sheriff to different banks is not irregular. A perusal of the said notice shows that the deposits requested to be garnished pursuant to the Writ of Execution are accounts in the name of the Intestate Estate of Arturo A. Guanzon and[/]or accounts of the Intestate Estate of Arturo Guanzon under the name of the executrix Carmencita Guanzon-Arambulo. x x x. The court sheriff further reports that the amount garnished being insufficient, he proceeded to levy on certain real properties of the estate, situated in #61 Connecticut Street, Greenhills, San Juan City and the Tomas Morato property[,] the same to be auctioned/sold in satisfaction of the support pendente lite of the intestate petitioners.

Garnishment and levy on execution are but incidents in the execution of the judgments and/or orders.

In view of the foregoing, the court can no longer suspend the implementation of the said writ which is now fait accompli but amends the same to correct the flaws/defects and conform to the rules.

x x x.

Without filing a motion for reconsideration, Carmencita files this petition for certiorari[24] ascribing grave abuse of discretion on the part of the public respondent in upholding the validity of the Writ of Execution and not

suspending its implementation considering that it does not specifically specify the principal amount and the interest to be paid in violation of Rule 39, Section 8 (e) of the Rules of Court. Additionally, the writ is fatally defective because it referred to them as "judgment debtors" personally liable to the intestate petitioners referred to in the writ as "judgment obligees".

The petition is bereft of merit.

The settled rule is that a motion for reconsideration is a condition sine qua non for the filing of a petition for certiorari. Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case. The rule is, however, circumscribed by well-defined exceptions, such as (a) where the order is a patent nullity, as where the court a quo has no jurisdiction; (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceeding were ex parte or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.[25] In this case, none of the exceptions is present; thus, the nonfiling of a motion for reconsideration before resorting to this special civil action for certiorari is erroneous.

Moreover, the Supreme Court, in *Cervantes v. Court of Appeals*,[26] underscored that a writ of certiorari is a prerogative writ, never demandable as a matter of right, never issued except in the exercise of judicial discretion. Hence, he who seeks a writ of certiorari must apply for it only in the manner and strictly in accordance with the provisions of the law and the Rules. Petitioner may not arrogate to himself the determination of whether a motion for reconsideration is necessary or not. To dispense with the requirement of filing a motion for reconsideration, petitioner must show a concrete, compelling, and valid reason for doing so. Here, Carmencita failed to establish a plausible and valid reason for not moving for reconsideration of the July 24, 2013 Order. She merely concluded that a motion for reconsideration would be unnecessary because from the perspective of the trial court, the action undertaken by the sheriff could no longer be changed. Carmencita failed to allege sufficient ground why a direct recourse to a petition for certiorari should be allowed. Thus, we reaffirm the established rule that a petition for certiorari cannot be entertained unless there is exceptional and compelling circumstances to justify the resort to this extraordinary remedy.

Even on the merits, the petition, just the same fails.

The Supreme Court has repeatedly stressed that in a petition for certiorari under Rule 65 of the Rules of Court, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.[27] This is so because "grave abuse of discretion" is well-defined and not an amorphous concept that may easily be manipulated to suit one's purpose.[28]

Here, Carmencita failed to support her imputation of grave abuse of discretion. Nothing was presented to show that the trial court exercised its judgment whimsically, arbitrarily or despotically by reason of passion and hostility. We emphasize that needless to say, to justify the quashing of a writ of execution, there must be sufficient ground therefor. A writ may be quashed or recalled only when a) it appears that it has been improvidently issued,

b) that the writ is defective in substance, or c) is issued against the wrong party, or d) that the judgment debt has been paid, or e) that the writ has been issued without authority, or f) there is a change in the situation of the parties which makes such execution inequitable, or g) the controversy was never submitted to the judgment of the court.[29]

In this case, the validity of the writ of execution primarily hinges on its conformity with Rule 39, Section 8(e) of the Rules of Court which states that “in all cases, the writ of execution shall specifically state the amount of the interest, costs, damages, rents or profits due as of the date of the issuance of the writ, aside from the principal obligation under the judgment. For this purpose, the motion for execution shall specify the amounts of the foregoing reliefs sought by the movant.” A perusal of the writ convinces this Court that it complies substantially with the requirements of the law. In the February 25, 2013 Order[30] the trial court indicated the principal amount and the legal interest due the intestate petitioners; thus, it would be very easy to determine the amount of support by simply referring to the said Order.

Carmencita also makes much of the fact that the intestate petitioners made their own computation of the amount to be satisfied which the court allegedly followed. Rule 39, Sec. 8(e) precisely requires the movant to specify the amount sought to be satisfied so the intestate petitioners should not be faulted for doing so. If the objection hinges on the fact that the exact mathematical computation did not appear in the writ itself, Carmencita could easily have moved that said computation be incorporated therein. Such perceived deficiency is certainly not sufficient to justify recourse to a special civil action for certiorari to have the writ declared null and void in its entirety.[31]

In any event, the assailed Order acknowledged the defect and undertook to correct the writ as to fully comply with the requirements of the Rules. In the same Order, the court also clarified that Carmencita is not a judgment debtor liable in her personal capacity, and that the amount of support shall be taken from the estate of Arturo. It is important to note that here, there was no harm done because as found by the trial court, “the deposits requested to be garnished pursuant to the Writ of Execution are accounts in the name of the Intestate Estate of Arturo A. Guanzon and [/] or accounts in the name of the Intestate Estate of Arturo Guanzon under the name of the executrix Carmencita Guanzon-Arambulo. This fact was never refuted by Carmencita. Consequently, the garnishment made on the bank accounts of Arturo should be considered valid and regular in the absence of any showing that the requisites therefor had not been complied with.

As to the suspension of the enforcement of writ of execution, the Supreme Court, in *Fideldia v. Spouses Songcuan*,[32] citing *Philippine Veterans Bank v. Intermediate Appellate Court*,[33] laid down the following exceptions to the rule that once a decision has become final and executory, it is the ministerial duty of the court to order its execution: (1) in cases of special and exceptional nature where it becomes imperative in the higher interest of justice to direct the suspension of its execution; (2) whenever it is necessary to accomplish the aims of justice; or (3) when certain facts and circumstances transpired after the judgment became final which would render the execution of the judgment unjust.

In the instant case, no exceptional circumstance exists to warrant the suspension of the enforcement of the writ. The support pendente lite of the heirs is not made dependent on the availability of rental income of the estate. Suffice it to say that the trial court made it clear in its September 6, 2002 Order that the support pendente lite should be “taken from the mass of properties belonging to the decedent's estate.”[34] Accordingly, the levy made on the real properties should likewise be considered valid and regular in the absence of any showing that the requisities therefor had not been complied with.

All things considered, public policy dictates that 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 other party.[35] The

non-execution of the Orders would be an empty victory on the part of the intestate petitioners who have been deprived of the full amount of support that they are entitled to.

FOR THESE REASONS, the petition is DISMISSED.

SO ORDERED.

Librea-Leagogo, C.C., Chairperson and Lazaro-Javier, A.C., JJ., concur.

[1] Rollo, pp. 3-17.

[2] Id. at 22-27.

[3] Id. at 28-32, Petition (In the Matter of the Probate of the Holographic Last Will and Testament of the Late Arturo A. Guanzon).

[4] Id. at 34-35, Holographic Will.

[5] Id. at 106-109.

[6] Id. at 51-54.

[7] Id. at 55-56, Order dated December 9, 2002.

[8] Id. at 57, Order dated July 3, 2003.

[9] Id. at 58-64, Order dated March 5, 2004.

[10] Id. at 65-71.

[11] Id. at 72-73.

[12] Id. at 74-76.

[13] Id. at 77-79.

[14] Id. at 80-83.

[15] Id. at 84-86.

[16] Id. at 88-94.

[17] Id. at 96-98.

[18] Id. at 99-100, Order dated May 8, 2013.

[19] Id. at 102-105.

[20] Id. at 125-129.

[21] Id. at 130-136. Supplemental Urgent Motion to Quash Writ of Execution with Very Urgent Motion to Suspend Implementation of Writ of Execution and to Immediately Lift Garnishment of Personal Bank Accounts of Carmencita Guanzon Arambulo.

[22] Id. at 137-138, Sheriff's Partial Return dated July 25, 2013,

[23] Id. at 22-27.

[24] Supra Note 1.

[25] Republic of the Philippines v. Abdulwahab A. Bayao, G.R. No. 179492, June 5, 2013.

[26] G.R. No. 166755, November 18, 2005.

[27] Abedes v. Court of Appeals, 562 Phil. 262, 276 (2007).

[28] The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, 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." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x. (Yu v. Judge Reyes-Carpio, G.R. No. 189207, June 15, 2011, 652 SCRA 341).

[29] Gerundia Ibatan v. Hon. Meneleo C. Melicor, G.R. No. L-39125 August 20, 1990.

[30] Supra Note 17.

[31] DSM Construction and Development Corporation v. Court of Appeals, G.R. No. 166993 December 19, 2005.

[32] G.R. No. 151352. July 29, 2005.

[33] 178 SCRA 645 (1989).

[34] Rollo, p. 109.

[35] Spouses Edillo v. Spouses Dulpina, G.R. No. 188360. January 21, 2010.

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