

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HON. HONESTO A. VILLAMOR, PRESIDING JUDGE, REGIONAL TRIAL COURT OF SORSOGON CITY, BR. 52, VIVENCIO MATEO, EUGENIO MATEO, JOJI MATEO...

Ponente: BATO, JR., J.

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BATO, JR., J.:

Before us is a petition for certiorari with prayer for preliminary injunction and/or temporary restraining order, seeking to annul and set aside the March 10, 2003 Special Order[1] of the Regional Trial Court of Sorsogon City, Branch 52, which granted private respondents motion for partial execution pending appeal, as well as its April 29, 2003 Order[2] which denied petitioner's motion for reconsideration.

The facts are as follows:

Private respondents Vivencio, Eugenio, Joji and Myrna, all surnamed Mateo, were the registered owners of a coconut land with an area of 1,323,112 square meters situated at Fabrica, Bacon, Sorsogon and was covered by TCT No. T-22822. A portion of the land was brought under the coverage of the Comprehensive Agrarian Reform Program (CARP) of the government and for this reason the Department of Agrarian Reform entered the premises sometime in June 1994. Petitioner Land Bank of the Philippines (LBP) valued private respondents land at fifty-two thousand pesos (P52,000.00) per hectare. Private respondents however rejected the LBP's valuation.

On April 30, 1997, private respondents filed a complaint[3] against LBP, the Department of Agrarian Reform (DAR), and the farmer beneficiaries of the land for just compensation. The case was docketed as Civil Case No. 97-6331 and raffled to the Regional Trial Court of Sorsogon City, Branch 52, presided by respondent Judge Honesto A. Villamor.

In its answer,[4] LBP claimed that private respondents complaint was premature and lacks a cause of action for failure to pursue existing administrative remedies.

On July 4, 2002, the Regional Trial Court of Sorsogon City, Branch 52, rendered judgment in Civil Case No. 97-6331, to wit:

“WHEREFORE, premises considered, judgment is hereby rendered:

- Fixing the amount of SEVENTY-ONE MILLION, ONE HUNDRED FORTY-THREE THOUSAND, SIX HUNDRED TWENTY-THREE (p71,143,623.00) Pesos, Philippine currency to be the just compensation for the 112,3112 hectares of agricultural land situated at Fabrica, District of Bacon, City of Sorsogon covered by TCT No. T-22822 owned by the plaintiffs which property was taken by the government pursuant to the Agrarian Reform Program of the government. As provided by RA NO. 6657.

- Ordering the defendant Land Bank of the Philippine to pay the Plaintiffs the amount of Seventy-one Million, One Hundred forty-three thousand six hundred twenty-three (P71,143,623.00) Pesos Philippine currency in the manner provided by R.A. No. 6657 by way of full payment of the said just compensation after deducting

whatever amount previously received by the plaintiff from the defendant Land Bank of the Philippines as part of the just compensation.

- Without pronouncement as to cost.

SO ORDERED.”[5]

On August 9, 2002, petitioner LBP timely filed its notice of appeal. Then on August 22, 2002, private respondents filed a motion for partial execution pending appeal.[6] Private respondents prayed for the release of the amount consisting of thirty percent (30%) of the adjudged compensation, citing as reason the fact that they have been deprived of the land and its produce from 1994 to the present. A motion to re-amend the amended complaint to implead a formal party dated October 2, 2002 was subsequently filed by the private respondents to include their father, Dr. Eliseo Mateo, as one of the plaintiffs before the court a quo.[7] Private respondents alleged therein that Dr. Eliseo was the beneficial owner of the land and that title to the property was merely transferred to his children, private respondents herein, because of his advanced age and his physical incapacities to attend to the land.

Despite the petitioner’s opposition to the private respondents’ motion for partial execution, the court a quo issued the assailed Special Order dated March 10, 2003 granting private respondents’ motion, disposing as follows:

“WHEREFORE, the plaintiffs are given ten (10) days from receipt of this Special Order within which to post a bond in the amount of One Million Pesos (P1,000,000.00) Philippine currency to answer for the actual and compensatory damages if the decision is reversed on appeal, including the litigation expenses and costs.

Let a Writ of Execution Pending Appeal issue upon the 30% including the amount of P9,061.912.00 (sic) plus interest of the P71,143,623.00 just compensation awarded by the Court, for service and execution by the Deputy Provincial Sheriff of this Court to enforce the judgment.

SO ORDERED.”[8]

Petitioner LBP’s motion for reconsideration was also denied by the court a quo in the assailed Order dated April 29, 2003. Aggrieved, petitioner filed the present petition for certiorari with prayer for the issuance of a preliminary injunction and/or temporary restraining order, raising the following issues for our consideration:

“A

WHETHER OR NOT THERE ARE GOOD REASONS TO JUSTIFY THE PARTIAL EXECUTION OF THE DECISION DATED 04 JULY 2002.B

WHETHER OR NOT THE INCLUSION OF ELISEO MATEO AS PARTY PLAINTIFF AFTER THE DECISION DATED 04 JULY 2002 WAS RENDERED IS PROPER AND IN ACCORDANCE WITH THE 1997 RULES OF CIVIL PROCEDURE REGARDING THE INCLUSION OF A PARTY-PLAINTIFF.”[9]

To prevent the abovequoted issues from becoming moot and academic during the pendency of the instant case, the former special eleventh division of this Court issued a temporary restraining order dated July 7, 2003 against the respondents in Civil Case No. 97-6331 and any/or all persons acting on their behalf, ordering them to temporarily cease and desist from enforcing/implementing the assailed Special Order dated March 10, 2003 and the Order dated April 29, 2003.[10]

The principal issue to be resolved is whether or not good reasons exist to justify the grant of partial execution pending appeal.

On one hand, petitioner LBP maintains that the alleged “good reasons” or “justifications” cited by respondent Judge in his Special Order in support of the partial execution of the July 4, 2002 judgment are completely

unsubstantiated and do not constitute good reasons under pertinent law and jurisprudence. Petitioner LBP points out that respondent Judge gave undue credence or unwarranted significance to the alleged advanced age of Dr. Eliseo Mateo, the father of private respondents herein. What is more, respondent Judge should not have permitted the last-minute inclusion of Dr. Eliseo Mateo who is not even a real party-in-interest and has no standing to sue.

On the other hand, private respondents contend that petitioner miserably failed to prove that it is entitled to a writ of certiorari. They point out that the following “good reasons” are present in the instant case, to wit: 1) that the prevailing party, private respondents herein, have been deprived of the produce of the land from 1994 up to the present; 2) that the father (Dr. Eliseo Mateo) of the plaintiffs (private respondents herein) is already eighty-six (86) years of age and his wife is almost of the same age and for the past years has been bedridden and being attended to by a caregiver; 3) that Dr. Mateo was recently confined at the St. Luke’s Heart Institute; 4) that Dr. Mateo could no longer work since 1980 and at present is suffering from coronary heart disease, hypertension and diabetes; 5) that in October 2002, Dr. Mateo had a moderate chest pain and had to be confined in St. Luke’s Hospital for almost three (3) weeks; and 6) that the private respondents are likewise sickly and are in dire need of even a portion of the proceeds of the property.

The provision of law governing execution pending appeal is Section 2 (a), Rule 39 of the Revised Rules of Court, which states:

“Sec. 2. Discretionary execution. –

(a) Execution of a judgment or a final order pending appeal. – On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.”

“Good reasons” has been held to consist of compelling circumstances justifying the immediate execution lest judgment becomes illusory.[11] Such reasons must constitute superior circumstances demanding urgency which will outweigh the injury or damages should the losing party secure a reversal of the judgment.[12]

Respondent Judge’s basis for granting private respondents motion for partial execution is herein quoted as follows:

“In the instant case, the prevailing party (sic) alleged that they have been deprived of the produce of the land from 1994 to the present, that the father of the plaintiffs, Dr. Eliseo Mateo is already 86 years old and his wife is almost of the same age and for the past years has been bedridden and being attended by a caregiver while the former was recently confined at the St. Luke’s Heart Institute under the care of Dr. Homobono Calleja. He could no longer work since 1980 and at present suffering a coronary heart disease, hypertension and diabetes. In the month of October, 2002 Dr. Mateo had a moderate chest pain of his heart and he was brought to his cardiologist Dr. Calleja and for the same reason was confined for almost three (3) weeks at St. Lukes Hospital. For these reasons plaintiffs who are also sickly and greatly in need of money. Although there is an amount under the Certificate of Trust Deposit with the defendant Land Bank in the total amount of P9,061,912.00 which can be withdrawn by the plaintiffs, said amount is not sufficient to the need of the family of the four plaintiffs together with their father who is 86 years old and their mother who is bedridden and for which reason the plaintiffs are asking for partial execution of the judgment up to 30% of the award of the just compensation including the said P9,061,912.00, which to the mind of the Court is reasonable, just and fair, considering that

the amount fixed by the Court as just compensation is P71,143,623 of that subject property which is located near the commercial center of the city. The Court finds such reason to be a good reason. Further delay in the execution of the decision even only up to 30% would ultimately deny them of the fruit of their labor specially that after working hard to acquire and improve their property, they cannot make use of even a portion of the proceeds during their lifetime.”[13]

This Court is, however, of the view that the basis relied upon by the respondent Judge does not constitute good reason or reasons for the partial execution of the judgment pending appeal.

First, the inclusion of Dr. Eliseo Mateo as a party-plaintiff in Civil Case No. 97-6331 was an ingenious attempt on the part of private respondents to support their motion for partial execution pending appeal. As can be gleaned from the facts, private respondents filed their motion for partial execution pending appeal on August 22, 2002 citing as reason the fact that they have been deprived of the produce of the land for a long time already. Subsequently, they filed a motion to re-amend their amended complaint dated October 2, 2002, to implead their father Dr. Eliseo Mateo as a necessary party-plaintiff claiming that it is Dr. Eliseo Mateo that is the beneficial owner of the property. From then on, private respondents have been invoking the old age of their father to support their motion for partial execution pending appeal. Furthermore, we are in accord with petitioner LBP that Dr. Eliseo Mateo has no interest to speak of since TCT No. 22822 is indisputably in the names of private respondents.

Second, even assuming *arguendo* that private respondents are in dire need of money for the medical expenses of their father, this Court takes judicial notice of the fact that petitioner LBP had deposited in a trust account the amount of nine million sixty-one thousand nine hundred twelve pesos (P9,061,912.00) for the private respondents. As stated by the court *a quo* in its assailed Order dated April 29, 2003, “[u]nder the law, the said deposit may be withdrawn by the plaintiffs anytime even prior to the final resolution of the case for just compensation”. [14] Thus, there is no superior circumstance demanding urgency for a partial execution pending appeal. Lastly, while this Court recognizes the fact that it may take a while for Civil Case No. 97-6331 to reach its end, it does not alter the established principle that normally, execution of a judgment should not be had until and unless it has become final and executory. [15] Execution pending appeal in accordance with Section 2 of Rule 39 is the exception, [16] which as we have discussed above, private respondents in the present case are not entitled to. The urgency resulting from years of delay in the disposal of a case is not a good reason for premature execution of a decision. [17] Accordingly, certiorari lies against an order granting execution pending appeal where the same is not founded upon good reason. [18]

WHEREFORE, the petition for certiorari is GRANTED. The Special Order dated March 10, 2003, as well as the Order dated April 29, 2003, of the Regional Trial Court of Sorsogon City, Branch 52, in Civil Case No. 6331 is hereby ANNULLED and SET ASIDE.

SO ORDERED.

Cruz, (Chairman) and Roxas[*], JJ., concur.

[1] Rollo, pp. 31-33.

[2] Rollo, p. 34.

[3] Rollo, pp. 35-38.

[4] Rollo, pp. 52-55.

[5] Rollo, pp. 60-67, 67.

[6] Rollo, pp. 72.

[7] Rollo, p. 75.

[8] Supra, note 1.

[9] Rollo, pp. 2-30, 12.

[10] Rollo, pp. 88-89.

[11] City of Iligan vs. Principal Management Group, Inc., 407 SCRA 554, 561 [2003].

[12] Flexo Manufacturing Corporation vs. Columbus Foods, Incorporated, 455 SCRA 272, 277 [2005].

[13] Supra, note 1.

[14] Supra, note 2.

[15] David vs. Court of Appeals, July 28, 1997.

[16] Ibid.

[17] Heirs of the Late Justice Jose B.L. Reyes vs. Court of Appeal, 338 SCRA 282, 300-301 [2000].

[18] Supra, note 15.

[*] Acting Senior Member vice J. Brion.

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