

**RODRIGO GABUYA REPRESENTED BY HIS ATTORNEY-IN-FACT
LUCIA PONCE, PETITIONER, VS. ANTONIO LAYUG AND HON.
FEDERICO NOEL, REGIONAL TRIAL COURT, ILIGAN CITY, BRANCH 2,
RESPONDENTS.**

G.R. No. 104846. November 23, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a petition for certiorari and prohibition under Rule 65 of the Rules of Court seeking to annul the orders dated 16 October 1991 and 11 March 1992 of respondent Judge Federico V. Noel, Regional Trial Court, Lanao del Norte, Br. 2, in Civil Case No. II-1408, Antonio Layug v. Rodrigo Gabuya, and to annul the proceedings held thereon. The questioned orders and proceedings are alleged to unduly interfere with the final judgment of this Court in G.R. No. 75364 involving the same parties, the same facts and the same issues.[1]

On 4 October 1978 private respondent Antonio Layug entered into a contract with petitioner Rodrigo Gabuya for the purchase by the former of the latter's twelve (12) lots situated in Iligan City for the price of P120,000.00 payable in three (3) yearly installments. Respondent Layug paid the first two (2) annual installments totalling P80,000.00 but failed to pay the last installment of P40,000.00. When formal demands for payment were made by petitioner and respondent repeatedly failed to pay the former brought suit in the then Court of First Instance of Lanao del Norte (now Regional Trial Court) for annulment of contract and for recovery of damages against Layug.

After trial judgment was rendered in favor of petitioner. Respondent appealed to the Court of Appeals which on 30 August 1985 affirmed the judgment. The appellate court (1) ordered the rescission of the conditional sale of the twelve (12) lots described in the contract; (2) declared as rentals for the twelve (12) lots from 1978 to the present (30 August 1985) all payments made by respondent Layug to Gabuya plus the legal interest thereon from the execution of the contract; (3) ordered respondent Layug to vacate the twelve (12) lots and deliver the possession thereof to petitioner Gabuya; and, (4) ordered respondent Layug to pay petitioner Gabuya the sum of P5,000.00 as attorney's fees and to pay the costs.

On appeal to us we affirmed the Court of Appeals particularly insofar as it authorized the cancellation by petitioner Gabuya of the contract of sale with respondent Layug but modified the same to the effect that the cancellation should be effective and fully operative only upon payment of the "cash surrender value" of his payments in the sum of P40,000.00.

On 8 March 1989 our decision became final and executory. Consequently, on 31 May 1989 a writ of execution was issued by the trial court. On 8 June 1989 a certificate of turnover was issued by Sheriff Elias Anacleto in favor of petitioner. But the order of execution was elevated by respondent Layug through a petition for certiorari to the Court of Appeals which subsequently dismissed it.

On 30 September 1991 the sheriff submitted to the trial court a return of the writ of execution with the recommendation that the buildings of private respondent found in the property be demolished.

Meanwhile, on 27 June 1989 respondent Layug filed a complaint for specific performance with prayer for a temporary restraining order against petitioner seeking reimbursement for the value of the improvements, buildings and materials he (Layug) introduced in the premises covered by the contract of sale which by final judgment of this Court was already ordered rescinded.

His motion to dismiss in the court below having been denied petitioner filed his answer to the complaint.

On 16 October 1991 respondent judge issued an order directing Deputy Provincial Sheriff Salcedo "to refrain from disposs(ess)ing plaintiff of the possession of the property until ordered by the court.[2] On 22 January 1992 the trial court on motion of petitioner reconsidered its order. However on 11 March 1992, this time upon motion of respondent Layug, it again reconsidered its order and reinstated the restraining order of 16 October 1991 against Deputy Sheriff Salcedo. Hence this petition by Rodrigo Gabuya against respondent judge and Antonio Layug alleging grave abuse of discretion amounting to lack of jurisdiction on the part of respondent judge in taking cognizance of Civil Case No. II-1408 and in issuing the questioned orders.

There is obvious merit in the petition. The final judgment of this Court in G.R. No. 75364 promulgated 23 November 1988 involving the same parties, facts and issues constitutes an absolute bar to Civil Case No. II-1408 now pending with the Regional Trial Court of Lanao del Norte, Br. 2. It is final as to all claims and demands of petitioner Gabuya and respondent Layug with regard to the twelve (12) lots in Iligan City subject matter of the contract of sale ordered cancelled by this Court. This judgment binds the parties not only as to every matter offered and received to sustain or defeat their claims or demand but as to any other admissible matter which might have been offered for that purpose and of all other matters that could have been adjudged in that case.

In the case before us, the claim for reimbursement of the value of improvements introduced by respondent Layug on the property subject of the contract of sale should have been raised by him as a counterclaim in the complaint for annulment of contract before the trial court in the first case instituted by petitioner Gabuya. The failure of respondent Layug to raise these matters therein precludes the re-litigation of the same facts in a separate complaint. It has been ruled that when defendants are sued for recovery of a tract of land they ought to have presented a counterclaim for the value of the improvements thereon and the amount of damages suffered by them because the claim for such improvements and indemnity is necessarily connected with the suit for the restitution or recovery of land claimed to have been improved, and with the result of the execution of the judgment awarding recovery.[3]

On the basis of the foregoing, the questioned orders issued by respondent judge on 16 October 1991 and 11 March 1992 restraining the deputy sheriff from implementing the writ of execution of the final judgment of this Court in G.R. No. 75364 were issued by respondent judge with grave abuse of discretion amounting to lack of jurisdiction.

WHEREFORE, the petition is GRANTED. The questioned orders of respondent judge dated 16 October 1991 and 11 March 1992, as well as the proceedings in Civil Case No. II-1408 now pending with the Regional Trial Court of Lanao del Norte, Br. 2, are ANNULLED and SET ASIDE. Respondent judge, or whoever may now be acting in his behalf or assigned to the case, is directed to pursue immediately the implementation of the writ of execution issued on 31 May 1989 to satisfy the judgment that has long become final and executory. Costs against private respondent.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Layug v. Intermediate Appellate Court, G.R. No. 75364, 23 November 1988; 167 SCRA 627.

[2] Rollo, p. 16.

[3] Francisco, Vicente J., The Revised Rules of Court in the Philippines, 1973 Ed, Vol. I, p. 465, citing Berses v. Villanueva, 25 Phil. 473.

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