

SPOUSES TIBURCIO PELAYO AND CLENOR COMIA, PETITIONERS, VS. COURT OF APPEALS AND HONORINA S. COMIA, RESPONDENTS.

G.R. No. 106433. March 02, 1994

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari to annul and set aside the decision[1] and resolution[2] of the Court of Appeals reversing the decision of the trial court which nullified the foreclosure sale of the subject mortgaged properties.

Records show that petitioners spouses Tiburcio Pelayo and Clenor Comia mortgaged to private respondent Honorina S. Comia several parcels of land situated in Kalookan City, Malabon, and Meycauyan, Bulacan as security for a loan in the sum of P700,000.00.

Upon petitioners' failure to pay their loan, private respondent filed an action against them with the Regional Trial Court of Kalookan City, Branch 120 in Civil Case No. C-8106 which rendered a decision on March 8, 1984, the dispositive portion of which reads:

"WHEREFORE, in the interest of justice while accommodating his [should be her] brother-in-law and sister who are both spouses because of pity in helping them in their problem with Allied Bank and having failed to redeem the properties of plaintiff [herein private respondent], judgment is hereby rendered as follows:

"1. Declaring the 5 parcels of land covered by the Real Estate Mortgage executed by defendant spouses Tiburcio Pelayo and Clenor Comia [herein petitioners] as mortgagor[s], in favor of plaintiff in this case is hereby ordered foreclosed in favor of plaintiff/mortgagee;

"2. Declaring the Deed of Sale made by spouses Tiburcio Pelayo and Clenor Comia in favor of defendant Tiu Ngo as null and void;

"3. Declaring the claims and the subsequent sale of TCT No. 291399 in favor of defendant, Antonio's Agronomics, Inc., as null and void;

"4. Ordering the defendant spouses Tiburcio Pelayo and Clenor Comia to pay the amount of TEN THOUSAND (P10,000.00) PESOS by way of attorney's fees and to pay the costs of the suit;

"5. Dismissing all the counterclaims of defendants against the plaintiff for lack of merit and denying all the counterclaims of the defendants against the plaintiff for lack of merit; and

"6. Ordering the spouses Tiburcio Pelayo and Clenor Comia to pay the cost of suit." [3]

Petitioners appealed said decision with the Court of Appeals docketed as CA-G.R. CV No. 06888 and on March 20, 1989, the latter modified the decision of the trial court, the dispositive portion of which reads:

"WHEREFORE, the decision appealed from is hereby MODIFIED in the sense that the lower court shall order defendants-appellants [herein petitioners] to pay to it the amount of P700,000.00 representing the mortgage

debt within ninety (90) days from service of such order; and should they fail to comply, the lower court shall order that the mortgage properties in question be sold at public auction to realize such debts and costs.

"With the exception of the MODIFICATION as aforesated, the decision appealed from is hereby AFFIRMED. Costs against appellant spouses Tiburcio Pelayo and Clenor Comia."[4]

When said decision became final and executory, private respondent filed a Motion for a Writ of Execution and the presiding judge of the trial court issued the corresponding Writ of Execution directing its Sheriff to notify the petitioners.

On May 27, 1991, Sheriff Cesar L. Cruz served petitioners a copy of the Writ of Execution together with the following Notice:

"In connection with the Writ of Execution issued by the Regional Trial Court, National Capital Judicial Region, Branch 120, Caloocan City, Metro-Manila, dated May 21, 1991, in the above-entitled case, a copy of which is hereto attached and herewith served upon you, the undersigned Deputy Sheriff is giving you a period of 90 days upon receipt to pay the amount of P700,000.00 representing mortgage debt, and should you fail to comply, the undersigned will be constrained to sell at Public Auction the mortgage properties in question to realize such debts and costs."[5]

After the expiration of the 90-day period or on October 16, 1991, the trial court issued an Order directing the sheriff to implement the Writ of Execution and a Notice of Attachment/Levy was subsequently served on the respective Registrar of Deeds where the mortgaged properties were situated.

On December 12, 1991, the mortgaged properties were sold to private respondent as the highest bidder at a public auction for the total amount of P747,200.00 in full satisfaction of the judgment.

As soon as petitioners learned about the sale of their mortgaged properties, they filed with the trial court a motion to set aside the foreclosure sale alleging failure on the part of the trial court to issue an order specifically directing them to pay their debt within ninety (90) days from receipt thereof.

On January 9, 1992, the trial court issued an Order[6], the pertinent portion of which reads, as follows:

"x x x, the Court finds that indeed it has not issued any specific Order directing the herein defendants-appellants to pay to it the amount of P700,000.00 regarding the mortgage debt within the ninety days period from notice of such order in compliance with the resolution of the Court of Appeals promulgated on March 20, 1989 x x x.

"True enough that the Court in acting on the motion for execution of the aforesaid resolution of the Court of Appeals issued the following Order dated May 9, 1991, which reads:

'Acting on the Motion for Writ of Execution, copy of which has been duly served to the counsel for defendant spouses, and considering the decision of the Court of Appeals in CA-G.R. No. CV-06888 affirming the decision of the lower court with the modification that the defendants-appellants should be ordered to pay the amount of P700,000.00 representing the mortgage debt within 90 days from service of this Order, the motion is hereby GRANTED.'

"However, in strictly construing the said resolution of the Court of Appeals, the order so required directing the payment of P700,000.00 to it must FIRST be issued before the mortgage[d] property may be sold at public auction.

"Accordingly, the foreclosure sale of the mortgage[d] properties is hereby set aside.

"And, pursuant to the aforesaid resolution of the Court of Appeals on March 20, 1989, the

defendants-appellants are hereby ORDERED to pay the amount of P700,000.00 in cash within ninety (90) days from receipt of this order.

"Failure to do so, said mortgage[d] property shall be sold at public auction to realize such debts and costs as adjudged by the Court of Appeals." [7]

On February 6, 1992, private respondent appealed said Order to respondent Court of Appeals after the trial court denied its Motion for Reconsideration on January 20, 1992.

On March 18, 1992, respondent Court of Appeals rendered its decision, the dispositive portion of which reads:

"WHEREFORE, the petition for certiorari is hereby GRANTED. The Order dated January 2, 1992 [should be January 9, 1992] is ANNULLED and SET ASIDE." [8]

On April 13, 1992, petitioners filed a Motion for Reconsideration which was denied on July 22, 1992.

Hence, this petition.

The only issue raised in this petition is whether or not the trial court validly issued the January 9, 1992 Order considering that the judgment on the foreclosure of the subject mortgaged properties had already become final and executory.

Section 1(a), Rule 39 of the Revised Rules of Court provides:

"SECTION 1. Execution upon final judgments or orders. -- Execution shall issue only upon a judgment or order that finally disposes of the action or proceeding. Such execution shall issue as a matter of right upon the expiration of the period to appeal therefrom if no appeal has been duly perfected."

Inasmuch as the decision dated March 20, 1989 in CA-G.R. CV No. 06888 had long become final and executory, the execution of said judgment cannot anymore be postponed or deferred by the trial court. It is a fundamental rule of procedure that once a decision becomes final and executory, it is incumbent upon the judge to issue a writ of execution.[9] The fact that petitioners issued bounced checks[10] to private respondent for the payment of their mortgage debt indicates petitioners' intention to delay the execution of the final decision of the court. We have time and again ruled that courts should never allow themselves to be a party to maneuvers intended to delay the execution of final decisions. They must nip in the bud any dilatory maneuver calculated to defeat or frustrate the ends of justice, fair play and prompt implementation of final and executory judgment. Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.[11]

Under the Revised Rules of Court, the trial court is not required to issue another order specifically directing petitioners to pay their mortgage debt of P700,000.00 as the dispositive portion of the decision of the respondent Court of Appeals had already specifically ordered the petitioners to pay the mortgage debt within ninety (90) days from receipt of said decision. As stated by the respondent Court of Appeals:

"The dispositive portion of the decision of this Court in CA-G.R. CV No. 06888, is clear and certain and need no further clarification or rectification or construction that is, that xxx the lower court shall order defendants-appellants to pay x x x P700,000.00 x x x within ninety (90) days from service of said order x x x. Our judgment had become final and executory. No addition can be made. No court can modify or revoke it. Nothing can be done except to have it executed." [12]

Thus, the court sustains the decision of the respondent Court of Appeals since no abuse of discretion has been

found to have been committed by the latter to justify a reversal. Moreover, the court finds this petition to be part of a dilatory attempt to stall the execution of a final and executory decision of the respondent Court of Appeals.

WHEREFORE, the decision and resolution of the respondent Court of Appeals are AFFIRMED and the petition for certiorari is hereby DISMISSED for lack of grave abuse of discretion committed by the public respondent Court of Appeals.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] Rollo, pp. 18-21; Ponente: Justice Artemon D. Luna with the concurrence of Justice Jose A. R. Melo and Justice Segundino G. Chua promulgated on March 18, 1992.

[2] Id., at p. 29 promulgated on July 22, 1992.

[3] Id., at pp. 18-19.

[4] Id., at pp. 19-20.

[5] Court of Appeals' Rollo, p. 12.

[6] Issued by Judge Arturo H. Romero.

[7] Court of Appeals' Rollo, pp. 15-16.

[8] Rollo, p. 21.

[9] *Ortegas vs. Hidalgo*, 198 SCRA 635 [1991].

[10] Rollo, p. 47.

[11] *Maceda, Jr. vs. Moreman Builders Co., Inc.*, 203 SCRA 293 [1991].

[12] Rollo, pp. 20-21.

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