

GERARDO A. DEL MUNDO, PETITIONER, VS. HONORABLE COURT OF APPEALS, HON. TEODORO P. REGINO, PRESIDING JUDGE OF BRANCH 84, REGIONAL TRIAL COURT OF QUEZON CITY, METRO MANILA, DIONIS...*G.R. No. 108522. January 29, 1996*

Ponente: ROMERO, J.

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This petition for review seeks a reversal of the decision of the Court of Appeals in CA-G.R. CV No. 33251 entitled "Gerardo A. Del Mundo vs. Spouses Carlos and Alejandra Nava,"[1] and a declaration that the Writ of Execution by respondent Regional Trial Court Judge in Civil Case No. Q-92-12438[2] is null and void.

The antecedent facts from which this case arose are as follows:

Private respondent Alejandra Nava was a former client of petitioner Gerardo A. del Mundo. The spouses Carlos and Alejandra Nava owned a house and lot located in Project 6, Quezon City covered by TCT No. 256140 which was mortgaged to the Philippine Veterans Bank. In 1981, before the spouses Nava migrated to the United States, this residential property was leased by petitioner. In a lease contract denominated as Agreement of Lease with Option to Purchase, private respondent spouses agreed to lease the property to petitioner for one year, with a monthly rental of P2,500.00. The del Mundo family moved into the house upon execution of the lease contract. Petitioner was given until October 16, 1982 to exercise his option to buy the property.

Petitioner was unable to exercise his option to purchase because he had no money. While respondent spouses were in the United States, petitioner sent them a Deed of Sale with Assignment of Mortgage.[3] He asked the spouses Nava to sign the said Deed ostensibly to enable him to borrow part of the purchase price in the sum of P470,000.00 from the bank. Petitioner also sent them an Addendum to the Deed of Sale which states that he will also assume her obligations to Mrs. Ligaya Gonzales and to Pablo Nava. After several letters,[4] petitioner succeeded in persuading the spouses Nava to trust him and to sign the Deed of Sale with Assignment of Mortgage and the Addendum even without receiving consideration for the property.

Private respondent Alejandra Nava lost faith in petitioner because he did not comply with his promise to pay the P174,000.00 obligation to the Philippine Veteran's Bank, the P166,000.00 indebtedness to Mrs. Ligaya Gonzales and her P40,000.00 obligation to Pablo Nava. On March 16, 1983, private respondent spouses Nava executed a Revocation of Deed of Sale with Assignment of Mortgage which was duly notarized by a County Clerk of the Superior Court of California and certified by Vice Consul Danilo Bacalzo of the Philippine Consulate General in California, U.S.A. The Deed of Sale with Assignment of Mortgage in favor of petitioner and his wife was revoked and canceled by private respondent spouses because the former had not yet paid the private respondent spouses and Mrs. Ligaya Gonzales.[5]

On August 11, 1983, private respondent spouses through their attorney-in-fact Bayani Sy, filed a complaint for

Unlawful Detainer (Civil Case No. 44181) against petitioner before the Metropolitan Trial Court of Quezon City, Branch 43. Petitioner was ordered to vacate the premises, pay rent and attorney's fees in a decision dated March 26, 1992. Petitioner appealed to the Regional Trial Court and the unlawful detainer suit was docketed as Civil Case No. Q-92-12438.[6] Upon motion by private respondent spouses, Judge Teodoro P. Regino ordered the issuance of a writ of execution pending appeal on January 14, 1993.[7] In the instant petition for certiorari, petitioner assails the issuance of the writ on the ground that the Metropolitan Trial Court did not have jurisdiction over the ejectment case.

On June 30, 1993, the Regional Trial Court rendered its decision on the ejectment case on appeal. The judgment of the Metropolitan Trial Court was merely modified by increasing the attorney's fees and costs to be paid by petitioner.[8]

A disbarment case was also filed by private respondent Alejandra Nava against petitioner before this Court (Administrative Case No. 2607) on November 22, 1983. This administrative case was dismissed on May 16, 1984.

On November 5, 1985, a Petition for Declaratory Relief to Quiet Title was filed by herein petitioner before the Regional Trial Court of Quezon City, Branch 79 (hereinafter referred to as Special Civil Action No. Q-46386).[9] The trial court rendered a decision on May 31, 1991 in favor of private respondents.[10] The dispositive portion of said decision reads:

"WHEREFORE, a decision is hereby rendered in this case as follows:

1. The instant petition for declaratory relief with damages and injunction is dismissed for lack of merit.
2. The writ of preliminary injunction issued in this case on June 2, 1986 against respondents is hereby cancelled.
3. The damages claimed by petitioner (moral, exemplary, attorney's fees, and penalty charged) are hereby dismissed for lack of merit.
4. On the counterclaim of the respondents, the Court orders petitioner to pay respondents spouses Carlos and Alejandra Nava a sum of P30,000.00 by way of moral damages, and to pay Bayani Sy P10,000.00 by way of moral damages.
5. The Deed of Sale with Assignment of Mortgage (Exhs. B, B-1, to B-13) is hereby declared null and void.
6. The Revocation of Deed of Sale with Assignment of Mortgage (Exh. 27) is hereby declared valid and binding to both parties.
7. The claim for attorney's fees on the counterclaim is dismissed for failure to establish the claim with sufficient evidence.

With costs against petitioner.

SO ORDERED." [11]

Petitioner appealed this decision on the declaratory relief suit (Special Civil Action No. Q-46386) to the Court of Appeals.[12] It is petitioner's contention that the notarized Deed of Sale with Assignment of Mortgage signed by the spouses Nava conclusively shows that there was consideration for the contract of sale. He likewise questioned the validity of the private respondent's formal offer of documentary exhibits below.

On August 24, 1992 respondent Court of Appeals dismissed petitioner's appeal (CA-G.R. CV No. 33251) and affirmed the decision of the trial court in toto.[13] On January 14, 1993, respondent appellate court denied

petitioner's motion for reconsideration for lack of merit.[14]

Petitioner's latest recourse is through the instant petition for certiorari[15] where he maintains that the Court of Appeals erred in affirming the dismissal of the declaratory relief case (Special Civil Action No. Q-46386). More particularly, petitioner contends that respondent court erred in not upholding the validity of the Deed of Sale with Assignment of Mortgage; in giving credence to parol evidence over the written instrument; in holding that the documentary evidence of private respondents have been formally offered and in giving full weight to private respondent's evidence which is based on deposition upon written interrogatories. In addition, petitioner maintains that the respondent RTC judge committed grave abuse of discretion in ordering the issuance of the writ of execution in the unlawful detainer case (Civil Case No. 92-12438).

The Court notes that there is a misjoinder of causes of action in the instant petition.[16] Petitioner sought a review of the decision of the Court of Appeals in the declaratory relief case he filed and a declaration of nullity of the writ of execution issued in the ejectment case filed by private respondents against him. By doing so, petitioner, a lawyer who represented himself in the case at bench, revealed a lack of understanding of the legal remedies provided by Rule 45 and Rule 65 of the Rules of Court.

The writ of certiorari is granted when any tribunal acts without or in excess of its jurisdiction or with grave abuse of discretion.[17] Errors in judgment are not proper in a petition for certiorari. These are raised in a petition for review.[18]

The petition deals with two separate and distinct cases having different causes of action: Special Civil Action No. Q-46386 for declaratory relief under Rule 64 and Civil Case No. Q-92-12438[19] for unlawful detainer under Rule 70. The former results in the determination of the legal rights of the parties under a contract, such as the disputed Deed of Sale with Assignment of Mortgage,[20] while ejectment involves the issue of possession only.[21] The ejectment case was for deprivation of possession while an action to quiet title is based on ownership.[22]

It is significant to note that while the instant petition is denominated as one for certiorari under Rule 65 of the Rules of Court, the errors are more properly addressed in a petition for review under Rule 45. We, therefore, treat this as a petition for review of the decision of the Court of Appeals in the declaratory relief case (Special Civil Action No. Q-46386) filed by petitioner del Mundo.

Petitioner in the main contends that the Deed of Sale with Assignment of Mortgage executed by the parties is valid, thus making him the owner of the property. However, the Regional Trial Court and respondent Court of Appeals ruled against him and held that the Deed was simulated and was made without consideration.

The errors raised by petitioner are clearly factual in nature. There is no justification to depart from the well-settled principle laid down in a long line of cases that the findings of fact of the lower courts, the trial court and the Court of Appeals, are, as a general rule, binding and conclusive upon this Court.[23] There is likewise no basis to review the factual conclusions of the Regional Trial Court, particularly since respondent Court of Appeals adopted them as its own and found them to be in order.

Moreover, we agree with respondent appellate court in sustaining the trial court's findings:

- "a) Appellant's allegation that he paid the amount of P476,000.00 to Mrs. Nava in his law office was not corroborated by any of the office personnel allegedly present at that time;
- b) There was no receipt of payment signed by the Navas presented in evidence;
- c) Appellant's allegation that he paid the consideration in his office is in conflict with his statement in his

affidavit-complaint (Exh. 32-a-1) that he paid the said amount at the City Hall of Manila.

d) His payment of the rentals on the premises in question for the months of December 1981 and January 1982; and his failure to declare the property in question in his name and his non-payment of the realty taxes due thereon, are clear indications that at the time of the alleged sale, he still recognized the Navas as the owners of the premises in question.

e) The series of letters he sent to the Navas who were in the United States (Exhs. 16 to 24) from March to June 1982 would show that he has not paid the consideration as he was then requesting the Navas to sign the prepared documents and return them to him, so that he may use them in applying for a bank loan the proceeds of which will be used in paying the loans of the Navas and the consideration for the sale of the property." [24]

As regards the formal offer of documentary exhibits, petitioner argues that since the testimony of private respondent's witness was not seasonably offered, the documentary exhibits identified by the witness were likewise not properly offered. Petitioner's contention, made through indirection, is without merit. This Court is of the same conclusion as respondent Court of Appeals, that the documentary exhibits were formally offered and properly admitted by the trial court. [25]

The next question raised by petitioner, regarding the validity of the writ of execution in the ejectment case, [26] should have been raised in a separate petition for certiorari. To end the protracted legal battle between the parties, the Court has decided to resolve this issue and lay it to rest.

Petitioner fails to make his case. He contends that the Metropolitan Trial Court which ruled against his favor was bereft of jurisdiction because the issue of possession cannot be decided without deciding the issue of ownership and because respondent judge deprived him of his right to be heard. The records elevated to the Court are those of the declaratory relief suit (Special Civil Action No. Q-46386 and CA- G.R. CV No. 33251).

First, petitioner submitted only copies of the Order and writ of execution issued by the respondent Judge Teodoro P. Regino. He did not attach a copy of the decision of the Metropolitan Trial Court against him. Petitioner offers nothing substantial to justify his allegations.

Second, the issue of possession can be resolved in an ejectment proceeding without deciding the issue of ownership. A judgment rendered in the summary action of forcible entry or unlawful detainer is conclusive only on the question of possession and not of ownership. When the issue of ownership is indispensable to the resolution of the issue of possession, the Metropolitan Trial Court is empowered to decide it as well. [27] In any case, its decision does not bind the title or affect the ownership of the land or building. [28]

Lastly, his allegations are now moot and academic. The writ of execution issued by Judge Regino was served and effected on March 1, 1993. A decision in favor of private respondents was rendered by respondent RTC Judge on June 30, 1993, in effect confirming the propriety of the writ. [29]

The Court could not agree more with the trial court in the ejectment case, Civil Case No. Q-92-12438, when it held:

"x x x (T)his Court finds the defendant's appeal to be wholly without merit, evidently interposed only for purpose of delay or prolong litigation unnecessarily. This case had been pending since September 1, 1983, when then complaint for ejectment was filed. It stemmed (sic) when the lease expired on October 31, 1982, and defendant failed to exercise his option to purchase as well as to pay rentals. The summary nature of proceedings for this unlawful detainer case has all been lost because of the delaying tactics employed or resorted to in the lower court as recited in its decision. The statement of the case narrated by the court below leads this Court to believe that all along there was a clear pattern of conduct on the part of defendant with a view to frustrating relief. Plaintiffs-spouses, it bears stressing, have been deprived possession of the premises

since October 31, 1982 to March 1, 1993, when execution pending appeal was implemented, or a period of more than ten (10) years. These facts amply convince this Court that the prime objective of defendant in all of his moves was to stave off the inevitable day when he must have to surrender possession of the premises to plaintiffs. This is an attitude this Court unsympathetically rejects. As if the delays were not enough, defendant also instituted a declaratory relief case with injunction, known as Sp. Civil Case No. Q-46386 of Branch 79 of this Court, which was dismissed on May 31, 1991, and for which, on the counterclaim of plaintiffs, defendant del Mundo was sentenced to pay sums of money by way of damages. On appeal to the Court of Appeals, in CA-G.R. No. 33251, prom. August 24, 1992, defendant again lost. Not only that. Defendant also took to the task the MTC Judge in a certiorari case, CA-G.R. SP No. 27793, prom. October 9, 1992, but the same also proved futile. This is not to mention a certiorari and prohibition case known as Civil Case No. Q-92-13869 of Branch 98 of this Court, as well as G.R. No. 108522 of the Supreme Court. x x x"[30]

Petitioner's employment of his legal knowledge to unnecessarily and unjustly delay this case is deplorable and merits reprimand by the Court.

WHEREFORE, the instant petition for review is hereby DENIED for lack of merit. The decision of the Court of Appeals in CA-G.R. CV No. 33251 entitled "Gerardo A. del Mundo v. Sps. Carlos and Alejandra Nava, et al." is AFFIRMED. Petitioner Gerardo A. del Mundo is hereby reprimanded and given a stern warning that a repetition of delaying tactics or similar acts in the future shall be dealt with more severely. Let copies of this decision be furnished to the Integrated Bar of the Philippines and the Office of the Bar Confidant. Treble costs against petitioner.

SO ORDERED.

Regalado (Chairman) and Mendoza, JJ., concur.

Puno, J., took no part.

[1] A Petition for Declaratory Relief to Quiet Title.

[2] A suit for Unlawful Detainer entitled "Spouses Carlos Nava and Alejandra Nava Represented by their Attorney-in-Fact Bayani Sy v. Gerardo del Mundo," appealed from the Metropolitan Trial Court of Quezon City, Branch 43.

[3] Rollo, pp. 70-73.

[4] Exhibits 16-24.

[5] Culled from the findings of fact of the Regional Trial Court in Special Civil Action No. Q-46386.

[6] Regional Trial Court of Quezon City, Branch 84, Judge Teodoro P. Regino, presiding.

[7] Rollo, p. 39.

[8] Rollo, pp. 103-111.

[9] "Gerardo A. del Mundo v. Sps. Carlos and Alejandra Nava, Bayani Sy and Hon. Sibanah E. Usman."

[10] Penned by Judge Godofredo L. Legaspi, Records, pp. 340- 350.

[11] Rollo, pp. 27-28.

[12] Gerardo A. del Mundo v. Sps. Carlos and Alejandra Nava, CA-G.R. CV No. 33251.

[13] Decision penned by Justice Nicolas P. Lapena, Jr., with Justices Reynato S. Puno (now Associate Justice of this Court) and Maria Alicia M. Austria, concurring. Rollo, pp. 27-35.

[14] Rollo, p. 36.

[15] Filed on January 29, 1993.

[16] Rule 2, Section 5 of the Revised Rules of Court.

[17] Rule 65, Rules of Court.

[18] Rule 45, Rules of Court.

[19] Appealed from Civil Case No. 44181.

[20] Rule 64, Section 1.

[21] Javier v. Veridiano, G.R. No. L-48050, October 10, 1994, 237 SCRA 565; Villaluz v. CA, G.R. No. 100571, June 26, 1992, 210 SCRA 540.

[22] Depra v. Dumlao, G.R. No. L-57348, May 16, 1985, 136 SCRA 475.

[23] Aspi v. CA, G.R. No. 83527, September 1, 1994, 236 SCRA 94; Tay Chun Suy v. CA, G.R. No. 93640, January 7, 1994, 229 SCRA 151; Coca-Cola Bottlers Philippines, Inc. v. CA, G.R. No. 100957, January 27, 1994, 229 SCRA 533; Santos v. CA, 229 SCRA 489; Lim v. CA, G.R. No. 55201, February 3, 1994, 229 SCRA 616.

[24] Decision, pp. 6-7; Rollo, pp. 32-33.

[25] Records, p. 268; Decision of the Court of Appeals, p. 9, Rollo, p. 35.

[26] Appealed to the Regional Trial Court, Civil Case No. Q-92-12438.

[27] Batas Pambansa 129, Section 33 (2).

[28] Rule 70, Section 7; Javier v. Veridiano, *supra*, citing Manlapaz v. CA, G.R. No. L-39430, December 3, 1990, 191 SCRA 795.

[29] Decision in Civil Case No. Q-92- 12438, penned by Judge Teodoro P. Regino, Rollo, pp. 103-111.

[30] Decision of the Trial Court, pp. 8-9; Rollo, pp. 110-111.

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