

**CATALINO SAN PEDRO, AND SPS. PEDIE & CECILIA GUANZON
SURNAMED LORESTO, PETITIONERS, VS. COURT OF APPEALS, RTC
JUDGE OF KALOOKAN CITY, DEPUTY SHERIFF VIRGILIO A.
SORIANO & WILLIA...**

G.R. No. 114300. August 04, 1994

Ponente: CRUZ, J.

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CRUZ, J.:

Before this Court is a petition for certiorari with prohibition and preliminary injunction against the decision of the respondent Court of Appeals which affirmed the Order of the Regional Trial Court of Kalookan City directing the execution of the judgment rendered in Civil Case No. 20529.

The pertinent facts are as follows:

On January 13, 1993, private respondent William Ledesma filed with the Metropolitan Trial Court of Kalookan City a complaint against petitioner spouses Pedie and Cecilia Loresto for unlawful detainer with preliminary injunction.[1] This was docketed as Civil Case No. 20529.

On May 14, 1993, the court rendered judgment against the Lorestos ordering them to: 1) vacate and surrender to the private respondent the possession of the premises located at No. 39 Ninong Florentino St., BF Homes, Phase II, Kalookan City; 2) pay the amount of P12,000.00 monthly as reasonable compensation for the use and occupation of the said premises from September 6, 1992, up to the time they actually surrender the premises; and 3) pay P5,000.00 as and for attorney's fees and P166.00 as costs of the suit.[2]

From this decision, the spouses appealed to the Regional Trial Court of Kalookan City.

Later, the Lorestos, together with petitioner Catalino San Pedro, instituted an action for the annulment of Ledesma's title over the disputed property, premised mainly on the ground that it had already been titled in the name of Don Mariano San Pedro under Titulo Propriedad No. 4136 and has been in the possession of the predecessors of petitioner San Pedro since 1900.[3] This was docketed as Civil Case No. C-15990 in Branch 125 of the Regional Trial Court of Kalookan City.

On September 14, 1993, Ledesma filed a motion for execution pending appeal for failure of the petitioner spouses to make the periodic deposits of P12,000.00 as reasonable value of the use of the premises as fixed in the appealed decision.[4] The motion was granted[5] and a writ of execution and notice to vacate were forthwith issued.

The petitioners then filed with the respondent Court of Appeals a petition for certiorari, mandamus and prohibition, which was denied in a decision dated January 11, 1994.[6] When their subsequent motion for reconsideration was also denied,[7] they came to this Court for relief.

Judgments in ejectment cases which are favorable to the plaintiff are immediately executory. They can be stayed by the defendant only by: a) perfecting an appeal; b) filing a supersedeas bond; and c) making a periodic deposit

of the rental or the reasonable compensation for the use and occupation of the property during the pendency of the appeal.[8]

These requisites must concur. Thus, even if the defendant had appealed and filed a supersedeas bond but failed to pay the accruing rentals, the appellate court could, upon motion of the plaintiff with notice to the defendant, and upon proof of such failure, order the immediate execution of the appealed decision without prejudice to the appeal taking its course.[9] Such deposit, like the supersedeas bond, is a mandatory requirement; hence, if it is not complied with, execution will issue as a matter of right. The only exceptions are the existence of fraud, accident, mistake or excusable negligence which prevented the defendant from making the monthly deposit, or the occurrence of supervening events which have brought about a material change in the situation of the parties and would make the execution inequitable.[10]

In the case at bar, the petitioner spouses do not deny having failed to make the monthly deposits of P12,000.00. Neither do they claim that the exception applies in this case. The lower court cannot therefore be faulted for merely complying with its ministerial duty under the Rules of Court to issue the writ of execution pending appeal. Neither can lack or excess of jurisdiction or grave abuse of discretion be ascribed to the respondent Court when it sustained the issuance of the writ.

The petitioners argue that execution of the decision in the eviction case could not be ordered because of the pendency of their annulment suit in another court.

The argument is untenable.

Firmly settled is the rule that the pendency of an action questioning the ownership of property will not abate ejectment suits or bar the execution of the judgments therein.[11]

In *Wilmon Auto Supply Corp. v. Court of Appeals*,^[12] this Court specified the cases where this principle was applied, thus:

1. Injunction suits instituted in the RTC by defendants in ejectment actions in the municipal trial courts or other courts of the first level (*Nacorda v. Yatco*, 17 SCRA 920 [1966]) do not abate the latter; and neither do proceedings on consignment of rentals (*Lim Si v. Lim*, 98 Phil. 868 [1956], citing *Pue, et al. v. Gonzales*, 87 Phil. 81 ([1950])).
2. An "accion publiciana" does not suspend an ejectment suit against the plaintiff in the former (*Ramirez v. Bleza*, 106 SCRA 187 [1981]).
3. A "writ of possession case" where ownership is concededly the principal issue before the Regional Trial Court does not preclude nor bar the execution of the judgment in an unlawful detainer suit where the only issue involved is the material possession or possession de facto of the premises (*Heirs of F. Guballa, Sr. v. CA, et al.; etc.*, 168 SCRA 518 [1988]).
4. An action for quieting of title to property is not a bar to an ejectment suit involving the same property (*Quimpo v. de la Victoria*, 46 SCRA 139 [1972]).
5. Suits for specific performance with damages do not affect ejectment actions (e.g. to compel renewal of a lease contract) *Desamito v. Cuyegkeng*, 18 SCRA 1184 [1966]; *Pardo de Tavera v. Encarnacion*, 22 SCRA 632 [1968]; *Rosales v. CFI*, 154 SCRA 153 [1987]; *Commander Realty, Inc. v. CA.*, 161 SCRA 264 [1988]).
6. An action for reformation of instrument (e.g., from deed of absolute sale to one of sale with pacto de retro) does not suspend an ejectment suit between the same parties (*Judith v. Abragan*, 66 SCRA 600 [1975]).
7. An action for reconveyance of property or "accion reivindicatoria" also has no effect on ejectment suits

regarding the same property (Del Rosario v. Jimenez, 8 SCRA 549 [1963]; Salinas v. Navarro, 126 SCRA 167; De la Cruz v. CA, 133 SCRA 520 [1984]; Drilon v. Gaurana, 149 SCRA 352 [1987]; Ching v. Malaya, 153 SCRA 412 [1987], Philippine Feeds Milling Co., Inc. v. CA, 174 SCRA 108; Dante v. Sison, 174 SCRA 517 [1989]; Guzman v. CA [annulment of sale and reconveyance], 177 SCRA 604 [1989]; Demamay v. CA, 186 SCRA 608 [1990]; Leopoldo Sy v. CA, et al., [annulment of sale and reconveyance] G.R. No. 95818, Aug. 2, 1991).

8. Neither do suits for annulment of sale, or title, or document affecting property operate to abate ejectment actions respecting the same property (Salinas v. Navarro [annulment of deed of sale with assumption of mortgage and/or to declare the same an equitable mortgage], 126 SCRA 167 [1983]; Ang Ping v. RTC [annulment of sale and title], 154 SCRA 153 [1987]; Caparros v. CA [annulment of title], 170 SCRA 758 [1989]; Dante v. Sison [annulment of sale with damages], 174 SCRA 517; Galgala v. Benguet Consolidated, Inc. [annulment of document], 177 SCRA 288 [1989]).

The rationale of the rule is that an ejectment suit involves only the issue of material possession or possession de facto while an action for annulment of title, such as the case at bar, involves the question of ownership. There may be identity of parties and subject matter but not of the cause of action or the relief prayed for.[13]

The petitioners seek dismissal of the unlawful detainer case on the ground that it was not the proper remedy of the private respondent because: a) petitioner San Pedro is claiming ownership over the property in question; and b) the private respondent's certificate of title over the said property is fictitious, it having been anomalously issued by the Deputy Register of Deeds of Kalookan City who had no authority to issue the same, especially in favor of the private respondent, "who is of Chinese ancestry masquerading behind the Filipino name of his godfather."

The prayer cannot be granted. If this Court were to dismiss the ejectment suit, it would in effect be annulling the decision of the Municipal Trial Court which concededly had jurisdiction over the case in spite of petitioner San Pedro's claim of ownership over the subject property. The instant petition being one for certiorari, this Court must confine itself to the issue of whether or not the respondent court lacked or exceeded its jurisdiction or committed grave abuse of discretion in affirming the order of the Regional Trial Court of Kalookan City authorizing the execution of the decision in the eviction case. Besides, the petitioners' appeal from the decision in the ejectment suit is still pending with the Regional Trial Court. The question of whether or not the action for unlawful detainer was the proper remedy of the private respondent should be addressed in that appeal, not in this certiorari proceeding.

Neither can this Court rule on the petitioners' allegations of ownership of the disputed property or the falsity of the private respondent's title or on their averment that the private respondent is claiming the wrong lot. These are factual matters that should be threshed out in the annulment suit pending with Branch 125 of the Regional Trial Court of Kalookan City.

WHEREFORE, the petition is DENIED for lack of merit, with costs against, the petitioners.

SO ORDERED.

Davide, Jr., Quiason, and Kapunan, JJ., concur.
Bellosillo, J., on official leave.

[1] Rollo, p. 48.

[2] Through Judge Delfina H. Santiago; rollo, p. 110.

[3] Rollo, p. 39.

[4] Rollo, p. 106.

[5] Rollo, p. 109.

[6] Penned by Luna, J., with Buena & Lagamon, JJ. concurring; rollo, p. 24.

[7] Rollo, p. 6.

[8] Section 8, Rule 70, Rules of Court.

[9] Ibid.

[10] Ng Lit v. Llamas, 118 SCRA 215; Philippine Holding Corp. v. Valenzuela, 104 SCRA 404; De Laureano v. Adil, 72 SCRA 148.

[11] Heirs of F. Guballa, Sr. v. CA, 168 SCRA 518; Ang Ping v. RTC of Manila, Branch 40, 154 SCRA 77; De la Cruz v. CA, 133 SCRA 520; Ramirez v. Bleza, 106 SCRA 518.

[12] 208 SCRA 115-116.

[13] Dante v. Sison, 174 SCRA 517.

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