

HEIRS OF MAYOR NEMENCIO GALVEZ, PETITIONERS, VS. COURT OF APPEALS, RTC OF BULACAN, BR. 9, THE PROVINCIAL SHERIFF FOR BULACAN, AMPARO SAN GABRIEL MENDOZA AND THE REGISTER OF DEED...

G.R. No. 119193. March 29, 1996

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

At least two primordial issues are posed by the herein petition for review on certiorari: (1) Whether a money judgment rendered by a Court in a case for Mandamus and Prohibition is valid or not, the defendant, a Municipal Mayor, (a) having died during trial and before judgment could be rendered, and (b) after the defendant mayor and all the other respondents ceased to hold office, without the substitution of parties provided for in Section 18, Rule 3, of the Rules of Court; and (2) Whether the said money judgment against the said deceased defendant mayor, assuming that the case has survived against him, can be enforced in the very same case or in the proper estate proceedings.

This petition for review on certiorari seeks a reversal of: (1) the Court of Appeals' decision, dated December 23, 1994, which dismissed the petitioners' certiorari petition on mere technicalities and (2) the Court of Appeals' resolution, dated February 17, 1995, which denied the petitioners' motion for reconsideration for lack of merit.

Specifically, the petitioners pray, among others, for the nullification of the writ of execution and the execution sale of the "pro-indiviso" share and interest of the deceased mayor, Dr. Nemencio G. Galvez, in the land covered by TCT No. T-307783 to satisfy the money judgment contained in the decision of the Regional Trial Court, Branch 9, Malolos, Bulacan, dated May 6, 1988, which awarded moral and exemplary damages, as well as attorney's fees, in favor of the then petitioner, now one of the private respondents, Amparo San Gabriel-Mendoza.[1]

The antecedent facts as culled from the records of this case and as gathered by the lower court from the ex-parte proceedings appear to be that:

The late Dr. Nemencio G. Galvez served as Mayor of the Municipality of Balagtas, Province of Bulacan, from 1980 to May 1986.[2]

The deceased private respondent, Amparo San Gabriel-Mendoza, during her lifetime, was the registered owner and operator of a cockpit, located at San Juan, Balagtas, Bulacan popularly known as the "Balagtas Sports Arena." [3]

The business operations of the Balagtas Sports Arena commenced in 1975 and had remained uninterrupted until 1984, with ex-Mayor Arcadio Gonzales as cockpit manager.[4]

Sometime in December, 1984, private respondent Mendoza filed a written application for the renewal of the

cockpit's business license and permit for the succeeding year, 1985, with then Municipal Mayor of Balagtas, Bulacan, Dr. Nemencio Galvez. In connection with the said application, the amount of P4,625.00 was remitted to the Municipal Treasurer of Balagtas, Bulacan, who acknowledged receipt thereof for "deposit only" without the corresponding official receipt because the Balagtas Sports Arena had allegedly failed to pay the correct amount of municipal taxes and had, thus, incurred unpaid taxes in the amount of P400,000.00.[5]

Having failed to secure a renewal of the cockpit's license and permit outrightly, private respondent Mendoza, through counsel, made a written demand asking Mayor Nemencio Galvez to issue the necessary license and permit applied for. Still, no favorable action came from the said Mayor Galvez.[6]

On January 29, 1985, a petition was filed with the Philippine Gamefowl Commission (PGC) by private respondent Mendoza against Mayor Galvez praying, among others, for the issuance of an interlocutory order so that the cockpit may operate temporarily while awaiting the approval of its renewal papers. The then PGC Acting Chairman Luis A. Tabuena wired Mayor Galvez, the Bulacan Provincial PC Commander, and the PC-INP Station Commander of Balagtas, Bulacan, stating that the cockpit was allowed temporary operation pending hearing of the aforestated petition inasmuch as the refusal to issue a business permit was without any valid ground.[7]

On February 23, 1985, Mayor Nemencio Galvez filed a Motion to Dismiss the petition with the Philippine Gamefowl Commission for lack of jurisdiction.[8]

On April 18, 1985, the Philippine Gamefowl Commission issued an Order allowing the temporary operation of the Balagtas Sports Arena "until further orders.[9]

On April 19, 1985, the Sangguniang Bayan of Balagtas passed and unanimously approved a Resolution[10] which ordered the closure and cessation of operations of private respondent Mendoza's cockpit until payment of the proper municipal taxes from 1980 to 1984 shall have been effected.[11]

On May 15, 1995, the above Resolution No. 08-85, after submission to and consideration by the Governor and the Sangguniang Panlalawigan of Bulacan, was approved by virtue of Resolution No. 256[12] of the Bulacan Provincial Board.

On August 19, 1985, Mayor Nemencio Galvez wrote private respondent Mendoza informing her of the impending closure of her cockpit as per Resolution No. 08-85 of the Balagtas Sangguniang Bayan.[13]

On August 22, 1995, Mayor Nemencio Galvez ordered that the cockpit's gate be padlocked to effect cessation of its operations, pursuant to Resolution No. 08-85 of the Municipal Council of Balagtas, Bulacan and Resolution No. 256 of the Provincial Board of Bulacan.[14]

Consequently, the scheduled special "pintakasi"[15] on August 22, 23 and 24, 1985, at the Balagtas Sports Arena to raise funds for the Boy Scouts of the Philippines, which was reset for August 29, 30 and 31, did not materialize on account of the mayor's closure order.[16]

On August 27, 1985, upon recourse to the Philippine Gamefowl Commission by private respondent Mendoza, separate telegrams were sent anew to Mayor Galvez and the same Provincial Commander and the same Police Station Commander to whom the Interlocutory Order, dated April 18, 1985, was addressed, reminding them to respect the said Order allowing temporary operations of the Balagtas Sports Arena (cockpit).[17]

On September 3, 1985, private respondent Mendoza filed a Petition[18] for Mandamus and Prohibition, with Damages and Prayer for a Preliminary Mandatory and Prohibitory Injunctions, against Mayor Nemencio Galvez and the Sangguniang Bayan of Balagtas, Bulacan. Principally, the petition sought to compel the respondent officials to issue a municipal license and permit in favor of the Balagtas Sports Arena and to enjoin them from

enforcing or implementing their Resolution No. 08-85 until further orders from the court.[19]

On September 4, 1985, a Temporary Restraining Order was issued by the Regional Trial Court of Bulacan, Branch 9.[20] Hence, business operations of the Balagtas Sports Arena were resumed.

On September 11, 1985, a Motion to Quash Restraining Order was filed by the public officials in the petition for mandamus and prohibition, with damages. Private respondent Mendoza, then petitioner, opposed the said motion.[21]

On September 26, 1985, the lower court ordered the issuance of a writ of preliminary injunction with the same tenor as the TRO earlier issued. The lower court further ordered: (1) the Revenue Collection Agent of Balagtas, Bulacan, to submit a statement or schedule of the local taxes allegedly due from private respondent Mendoza; (2) the Municipal Treasurer of Balagtas, Bulacan, to submit his reply to the letter of cockpit manager, ex-Mayor Gonzales, requesting for a copy of the pertinent municipal tax ordinance relating to the cockpit's unpaid taxes; and (3) the Balagtas public-officials involved to submit a certified true copy of the case[22] cited in their Motion to Quash Restraining Order.[23]

On October 7, 1985, a motion praying that the public officials in Civil Case No. 8385-M be declared in default was filed by private respondent Mendoza.[24]

On October 10, 1985, the said public officials duly represented by the Office of the Solicitor General, through the Provincial Fiscal's (now Prosecutor's) Office of Bulacan, filed a Motion to Admit Answer which was opposed by private respondent Mendoza.[25] Said Answer prayed for a dismissal of the petition alleging: (1) that the mayor, under the Local Government Code (BP Blg. 337) has the discretionary power to grant or revoke permits relating to the operation of cockpit arenas; (2) that the municipal council has the inherent power to pass resolutions or ordinances prohibiting or ordering the closure of cockpit arenas; and (3) that the local public officials have the inherent power to effect collection of taxes due the local government as provided under the Local Tax Code (PD 321, as amended).[26]

On December 5, 1985, the lower court issued a default order against Mayor Nemencio Galvez and the Sangguniang Bayan of Balagtas, Bulacan, thereby allowing the reception of evidence ex-parte from private respondent Mendoza on December 11, 1985.[27]

On January 9, 1986, Mayor Galvez and the Sangguniang Bayan of Balagtas, Bulacan filed a motion for reconsideration and/or to set aside order of default and/or judgment which was again opposed by private respondent Mendoza.[28]

On March 18, 1986, the lower court denied the above motion. Hence, the case was deemed submitted for decision.[29]

At this point in time, the EDSA Revolution had taken place which consequently resulted in the replacement "en masse" of the incumbent local public officials by officers-in-charge (OIC's) sometime in May 1986. Mayor Galvez and the entire Sangguniang Bayan of Balagtas, Bulacan, were not spared.[30] Even the Presiding Judge of RTC, Branch 9, Malolos, Bulacan, to whom the Petition for Mandamus and Prohibition, with Damages, was raffled, was replaced.[31]

On May 6, 1988, the lower court decided Civil Case No. 8385-M in favor of private respondent Mendoza. The dispositive portion of the said decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered:

(a) Making permanent in its legal effects the writ of preliminary injunction dated September 26, 1985

enjoining the enforcement or implementation of Resolution No. 08-85 dated April 19, 1985 of the Sangguniang Bayan of Balagtas, Bulacan;

(b) Directing respondent Nemensio (sic) G. Galvez or his successor-in-office to cause the issuance of the corresponding municipal's license and mayor's permit for the operation of the Balagtas Sports Arena cockpit for the year 1985 and for the ensuing years, provided the corresponding fees therefor shall have been paid and unless otherwise rendered impracticable by some other legal cause(s); and

(c) Directing respondents Nemensio (sic) G. Galvez and the Sangguniang Bayan of Balagtas to pay unto petitioner Amparo San Gabriel-Mendoza the amounts of P75,000.00 as moral damages, and P25,000.00 as exemplary damages, and P25,000.00 as attorney's fees, and to pay the costs of the suit."[32]

On May 26, 1988, a Manifestation with Motion was filed by the Provincial Fiscal of Bulacan[33] apprising the lower court of the fact that Mayor Galvez had died on September 14, 1986 and that the terms of office of the local public officials concerned had already expired. The Provincial Fiscal's office requested that it be relieved as counsel for the said public officials considering that the award of damages by the lower court affected the officials in their personal capacities and that, with respect to Mayor Galvez, the money judgment maybe enforced only against his estate.[34]

On May 30, 1988, the lower court issued an Order granting the relief sought by the Provincial Fiscal with instructions to serve copies of the May 6, 1988 decision to the deceased mayor through his lawyer-son, Atty. Enrique Galvez,[35] and to the Sangguniang Bayan of Balagtas, Bulacan.[36]

On June 20, 1988, Atty. Enrique Galvez, by way of special appearance, filed a Manifestation informing the lower court of his receipt of a copy of its Order, dated May 30, 1988, and a copy of the Manifestation with Motion of the Provincial Fiscal and notifying the lower court that he had neither authority nor personality to receive its decision, dated May 6, 1988, for or in behalf of the Office of the Mayor, Municipality of Balagtas, Bulacan. Valid service thereof, he said, should be made upon a Government lawyer or office empowered to represent a Government entity.[37]

On November 11, 1988, Atty. Galvez, again, by way of special appearance, filed a Motion for Recall of Decision reiterating his position that he could not be compelled to receive the lower court's decision and praying that the said decision be withdrawn and Civil Case No. 8385-M be dismissed for failure to effect substitution of parties in accordance with Rule 3, Section 18 of the Rules of Court.[38]

On April 6, 1989, the lower court denied Atty. Galvez' motion for recall of decision on the ground that the decision was already final and executory considering that no appeal nor any motion for reconsideration within the reglementary period was filed by any of the public officials concerned after service was made pursuant to the lower court's Order, dated May 30, 1988.[39]

On June 28, 1989, a motion for execution was filed by private respondent Mendoza. This motion was granted by the lower court in its Order, dated November 12, 1990.[40]

On March 18, 1991, a writ of execution was issued.[41] Consequently, on April 16, 1991, a notice of levy on execution on the real properties of the then deceased Mayor Nemencio Galvez, covered by TCT Nos. T-307783, T-307784 and T-307785 was registered with the respondent Register of Deeds of Bulacan. Hence, annotations were accordingly made at the back of the said titles.[42] The aforestated real properties were still registered in the names of the late Mayor Galvez and other co-owners at the time the notice of levy on execution was registered.[43]

On May 8, 1991, the sheriff[44] returned the writ of execution unsatisfied indicating in his return that after the

notice of levy on execution was registered, the subsequent notice of sale of the aforesaid real properties was held in abeyance upon the request of private respondent Mendoza.[45]

On April 13, 1993, a public auction was held wherein the real property covered by TCT No. T-307783 was sold to the highest bidder in the person of private respondent Andres D. Manuel as evidenced by the corresponding Sheriff's Certificate of Sale issued as a result thereof.[46]

On April 20, 1994 a Final Deed of Sale was issued after the lapse of the one-year redemption period. This deed was registered later with the respondent Register of Deeds of Bulacan, on June 24, 1994.[47]

On June 8, 1994, private respondent Manuel, through one of the lawyers of the Office of the Provincial Attorney of Bulacan, filed a "motion to direct defendant (in the mandamus petition) to surrender TCT No. T-307783." [48]

On June 13, 1994, the petitioners filed a petition for certiorari with the Court of Appeals[49] praying for: (1) the nullification of the decision, dated May 6, 1988, rendered in the mandamus petition and the writ of execution, levy and sheriff's sale issued in relation thereto; and (2) the cancellation of the annotation of levy made on TCT Nos. 307783, 307784 and 307785.[50]

On July 4, 1994, the lower court issued an Order deferring resolution of private respondent Manuel's motion to direct defendant to surrender TCT No. T-307783 until the certiorari petition before the Court of Appeals filed by the petitioners had been adjudicated.[51]

On September 6, 1994, private respondent Manuel reiterated his motion seeking the surrender of TCT No. T-307783.[52]

On October 21, 1994, the lower court issued a similar Order holding in abeyance any action on the above motion, pending resolution of the related certiorari petition with the Court of Appeals.[53] Upon motion for reconsideration of the said Order filed by private respondent Manuel, the lower court, on December 14, 1994, granted the same stating that the Court of Appeals had not issued any restraining order enjoining the court a quo from taking any action pertaining to the enforcement and implementation of the assailed decision, dated May 6, 1988, which had already become final. The dispositive portion of the said Order reads:

"WHEREFORE, premises considered, the order of October 21, 1994 is hereby reconsidered, lifted and set aside; in lieu thereof, the Court hereby:

a) orders the heirs of the late Nemensio (sic) G. Galvez to surrender, within thirty (30) days from receipt hereof, Transfer Certificate of Title No. T-307783 (RT-38893) to movant Andres D. Manuel in order that the Certificate of Sale and Final Deed of Sale issued in his favor may be properly annotated in the said title;

b) alternatively and in the event that the directive mentioned in the next preceeding paragraph hereof shall not have been complied with, orders the Register of Deeds of Bulacan (Guiguinto) to issue a new title in the name of Andres D. Manuel after cancelling TCT No. T-307783 (RT-38893) in the name of the heirs of the late Nemensio (sic) G. Galvez insofar as the property covered by the Certificate of Sale and Final Deed of Sale issued to Andres D. Manuel is concerned;

c) orders the heirs of the late Nemensio (sic) G. Galvez to surrender possession to Andres D. Manuel of the property covered by the aforementioned Certificate of Sale and Final Deed of Sale." [54]

On December 23, 1994, the Court of Appeals dismissed the certiorari petition[55] and on January 17, 1995, the petitioners' motion for reconsideration was denied. Hence, the instant petition was filed on April 10, 1995 with the following assignment of errors:

I

RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION FOR THEY IGNORED AN OBVIOUS FACT THAT ASSAILED DECISION IS NULL AND VOID SINCE IT WAS RENDERED LONG AFTER THE TRIAL COURT HAS LOST JURISDICTION OVER THE ISSUE, OVER THE PERSON, AND OVER THE SUBJECT MATTER OF THE CASE.

II

RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN GIVING UNDUE IMPORTANCE AND HEAVY EMPHASIS TO FORMAL LAPSES/DEFECTS IN THE PHRASEOLOGY OF THE PETITION FOR CERTIORARI RATHER THAN ITS INHERENT AND OBVIOUS MERIT.

III

RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN STATING THAT MAYOR N. GALVEZ WAS FOUND PERSONALLY LIABLE FOR DAMAGES BY THE TRIAL COURT WHEN ASSAILED DECISION READ IN ITS ENTIRETY DID NOT MAKE SUCH A CONCLUSION.

IV

RESPONDENT COURT OF APPEALS COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT THE FORCED SERVICE OF ASSAILED DECISION TO THE LAWYER-SON AS (SIC) VALID SERVICE TO THE LATE RESPONDENT MAYOR AND TO HIS CO-HEIRS WHO WERE NEVER A PARTY TO THE CASE.

V

RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ASSUMING AND TREATING THE HEIRS AS THOUGH THEY WERE A PARTY/RESPONDENT/LITIGANT IN THE MANDAMUS CASE DEMANDING THAT THEY SHOULD HAVE APPEALED ASSAILED DECISION.

VI

RESPONDENT COURT OF APPEALS COMMITTED A GRAVE ERROR ABUSE OF DISCRETION (SIC) AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN HOLDING THAT THE PETITION FOR CERTIORARI WAS A MERE SUBSTITUTE FOR A LAPSED APPEAL.

VII

RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ALLOWING A VOID WRIT OF EXECUTION BE USED AS A LEGAL BASIS TO DEPRIVE THE HEIRS OF THEIR PROPERTY CONTRARY TO THE CLEAR PROVISIONS OF ARTICLE III, SECTION I OF THE CONSTITUTION.[56]

It is this Court's observation that a resolution of the above assigned errors hinges on the issue of whether or not a substitution of parties in the petition for mandamus and prohibition as provided under Rule 3, Section 18 of the Rules of Court, should have been effected considering that at the time the assailed decision was rendered the public officers against whom the mandamus petition was filed had ceased to hold office on account of the replacement 'en masse' brought about by the Edsa Revolution in 1986 with respect to local government positions like the mayors and members of the municipal councils. In the case of Mayor Nemencio Galvez, in particular, he had ceased to hold office when he was replaced by an officer-in-charge on or about May 12, 1986, and thereafter, on September 14, 1986, he died from an acute myocardial infraction.[57]

Rule 3, Section 18 of the Rules of Court, provides that:

"SEC. 18. Death or separation of a party who is a government officer. - When an officer of the Philippines is a

party in an action and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor, if within thirty (30) days after the successor takes office it is satisfactorily shown to the court that there is substantial need for so continuing and maintaining it. Substitution pursuant to this rule may be made when it is shown by supplemental pleading that the successor of an officer adopts or continues or threatens to adopt or continue the action of his predecessor in enforcing a law averred to be in violation of the Constitution of the Philippines. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to object."

Considering the attendant circumstances in the case at bench, the failure to make the substitution pursuant to the aforequoted provision is a procedural defect. We bear in mind that the case out of which this petition arose is in the nature of a petition for mandamus and prohibition which sought to compel the then mayor, Dr. Nemencio Galvez, to issue the municipal license and permit to resume operations of the Balagtas Sports Arena at Balagtas, Bulacan, and to enjoin the said mayor and the Sangguniang Bayan of Balagtas, Bulacan, from implementing its Resolution No. 08-85 which ordered the closure of the cockpit arena. When the said public officials were replaced by OICs as an aftermath of the 1986 EDSA Revolution, it was incumbent upon private respondent Mendoza, through her counsel, to file for a substitution of parties within thirty (30) days after the named successors-in-office of Mayor Galvez and the members of the Sangguniang Bayan of Balagtas, Bulacan, assumed office. Inasmuch as no such substitution was effected, the mandamus petition cannot prosper in the absence of a supplemental pleading showing that the successors of Mayor Galvez and the members of the Sangguniang Bayan of Balagtas, Bulacan, had adopted or had continued or threatened to adopt or continue the action of their predecessors in enforcing the assailed resolution which ordered the closure of the subject cockpit arena. In fact, there is reason to believe petitioners' claim that the appointed OIC no longer pursued the "closure policy" of Mayor Galvez so that the corresponding license and permit to operate the Balagtas Sports Arena were subsequently granted.[58] Thus, the mandamus petition should have been dismissed for non-compliance with the substitution procedure pursuant to Rule 3, Section 18 of the Rules of Court.[59]

The assailed decision dated May 6, 1988 was rendered a couple of years after the Mayor and members of the Municipal Council of Balagtas, Bulacan, originally sued by private respondent Mendoza had ceased to hold public office. As initiator of the mandamus petition, counsel for private respondent Mendoza had ample time to make a proper substitution of parties had there still been compelling reasons to obtain the writs of mandamus and prohibition prayed for at the earliest possible time. As it was, there were none. The records fail to show that both private respondents had refuted the petitioners' claim that, with the replacement of the late Mayor Galvez, the mandamus petition had become moot and academic after private respondent Mendoza obtained the municipal license and permit from the said mayor's successor-in-office. Thus, when no proper substitution of parties was seasonably effected under Rule 3, Section 18 of the Rules of Court, the court a quo acted in excess of jurisdiction[60] for having rendered the assailed decision against the petitioners in utter violation of their constitutional right to due process of law.[61] We quote with approval our pronouncement in the case of *Allied Banking Corporation v. Court of Appeals, et al.*,[62]

"x x x We have ruled time and again that no man shall be affected by a proceeding to which he is a stranger.[63] It is a fundamental doctrine of law that a party, to be affected by a personal judgment must have a day in court and an opportunity to be heard.[64] To rule otherwise would be to render nugatory the due process clause of the Constitution."

Consequently, the levy on execution and the execution sale that transpired to satisfy the lower court's judgment rendered on May 6, 1988 in excess of jurisdiction for lack of due process cannot be given any legal effect. The present certiorari petition must be given due course. In this regard, we reiterate our ruling that:

"Even when appeal is available and is the proper remedy, this Court has allowed a writ of certiorari when the orders of the lower court were issued either in excess of or without jurisdiction." [65]

The acts of the respondent sheriff in implementing the writ of execution, issued by the court a quo on May 18, 1991, which eventually resulted in the issuance of a Final Deed of Sale in favor of private respondent Manuel which covered real property under TCT No. T-307783, sold at public auction in satisfaction of the money judgment against the late Mayor and the members of the Sangguniang Bayan of Balagtas, Bulacan, have no legal effect since the said acts were founded upon a void judgment. The lower court's Order, dated December 14, 1994, directing the Register of Deeds of Bulacan to issue a new title in favor of private respondent Manuel after cancellation of TCT No. T-307783, likewise, has no legal effect. As we have held in the case of *Gomez v. Concepcion*. [66]

"x x x A void judgment is in legal effect no judgment. By it no rights are divested. From it no rights can be obtained. Being worthless in itself all proceedings founded upon it are equally worthless. It neither binds nor bars any one. All acts performed under it and all claims flowing out of it are void. The parties attempting to enforce it may be responsible as trespassers. The purchaser at a sale by virtue of its authority finds himself without title and without redress." (Italics supplied)

We take this occasion as an opportunity to caution sheriffs with respect to making levies on execution and conducting execution sales that pertain to deceased parties against whom money judgments are adjudged, so that they may remember to study their lessons well and to exercise extreme care in performing their duties in order to avoid any prejudice that maybe caused thereby.

Considering that the assailed decision rendered by the lower court on May 6, 1988 is a void judgment, it is no longer necessary to determine whether or not proper service on the late mayor's lawyer-son of a copy of the said decision was valid to reckon the date of its finality inasmuch as a void judgment never acquires finality and any action to declare its nullity does not prescribe. It can be attacked at anytime. [67]

The respondent Court of Appeals committed error in dismissing the petitioner's certiorari petition on mere technicalities considering that the lower court's judgment being assailed before it was a judgment by default which is frowned upon by this Court. [68] Even granting, *arguendo*, that the assailed decision was valid, the respondent appellate court should have realized that the enforcement of the money judgment contained therein should have been made in the proper estate proceedings [69] of the late mayor, Dr. Nemencio Galvez.

WHEREFORE, the petition is GRANTED. All acts, orders, and processes resulting from and in pursuance of the execution of the assailed decision of the court a quo, particularly, the writ of execution dated May 18, 1991, the notice of levy on execution on April 16, 1991, the execution sale on April 13, 1993 and the Certificate of Sale dated April 13, 1993, the Final Deed of Sale, dated April 20, 1994 and the Orders of the court a quo dated May 30, 1988, April 6, 1989, November 12, 1990, July 4, 1994, October 21, 1994 and December 14, 1994, are hereby nullified and set aside.

The Register of Deeds of Bulacan is hereby directed to: (1) cancel the annotations of levy at the back of TCT Nos. T-307783, T-307784 and T-307785; (2) cancel the annotation of the Final Deed of Sale made on TCT No. T-307783 in favor of private respondent Andres Manuel, if there be any; and (3) cancel the new title in the name of Andres D. Manuel if one has been issued in lieu of TCT No. T-307783.

The decision of the Court of Appeals, dated December 23, 1994, and its resolution, dated February 17, 1995, are hereby REVERSED and SET ASIDE. The decision of the Regional Trial Court of Bulacan, Branch 9, dated May 6, 1988, is hereby declared NULL and VOID.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Panganiban, JJ., concur.

Torres, Jr., J., on leave.

[1] As per our Resolution dated July 17, 1995, Amparo San Gabriel Mendoza was ordered substituted by her husband Bernabe S. Mendoza and all her successors-in-interest after her counsel informed this Court of her demise on April 9, 1995 in a Motion to Substitute filed on July 5, 1995.

[2] Petition, p. 3; Rollo, p. 11.

[3] RTC Decision, p. 3; Records, 18.

[4] *Id.*

[5] *Id.*

[6] RTC Decision, p.4; Records, p. 19.

[7] *Ibid.*

[8] *Ibid.*

[9] *Ibid.*

[10] Kapasyahan Blg. 08-85" was made the basis of Kautusang Bayan Blg. 08-85 which was duly approved by the Sangguniang Bayan of Balagtas, Bulacan on the same day, April 19, 1995.

[11] Annex "A" of Petition; Rollo, p. 41.

[12] Kapasyahan Big. 256; Annex "B" of Petition; Rollo, p.42.

[13] RTC Decision, p.4; Records, p. 19.

[14] *Ibid.*

[15] The term refers to a cockfighting session on the occasion of fiestas.

[16] RTC Decision, p. 5; Records, p. 20.

[17] *Ibid.*

[18] Docketed as Civil Case No. 8385-M entitled "Amparo San Gabriel - Mendoza as Owner of Balagtas Sports Arena, petitioner, versus Mayor Nemencio G. Galvez and the Sangguniang Bayan of Balagtas, Bulacan, respondents.

[19] Records, pp. 31-49.

[20] Presided by Judge Jesus De Vega, Rollo, p. 13; RTC Decision, p. 1, Records, p. 16.

[21] RTC Decision, p. 2; Records, p. 17.

[22] "Guinto v. Alicia Santos and the Mayor of Olongapo City" decided by the defunct Intermediate Appellate Court on April 16, 1985 and docketed as AC-G.R. SP No. 04996.

[23] See note 21, *supra*.

[24] Ibid.

[25] Ibid.

[26] Records, pp. 51-52.

[27] Id., p. 17.

[28] RTC Decision, p. 3; Records, p. 18.

[29] Ibid.

[30] Petition, p. 5; Rollo, p. 13.

[31] Ibid.; Judge D. Roy A. Masadao, Jr. was appointed on February 9, 1987 to take over the vacancy left by Judge De Vega.

[32] RTC Decision, p. 11; Records, p.26.

[33] Through then Assistant Provincial Fiscal Leopoldo Calderon, Jr.

[34] Records, pp. 53-55.

[35] The Order referred to Mayor Galvez' lawyer-son as one Atty. Henry Galvez.

[36] Records, p. 56.

[37] Records, pp. 57-59.

[38] Records, pp. 61-65.

[39] Records, pp. 67-69.

[40] Rollo, p. 8; Records, p. 28.

[41] Records, pp. 27-28.

[42] Records, pp. 70-72.

[43] Ibid.

[44] Donato C. Buenaventura, Sheriff III, RTC, Br. 9, Malolos, Bulacan.

[45] Annex "D" of Petition; Rollo, p.44.

[46] Records, pp. 98-99.

[47] Records, pp. 100-101.

[48] Rollo, p. 84.

[49] Docketed as CA-G.R. No. 34322.

[50] Records, pp. 2-15.

[51] See note 48, supra.

[52] Rollo, p. 85.

[53] Ibid.

[54] Rollo, pp. 85-86.

[55] Decision penned by Associate Justice Pacita Canizares-Nye and concurred in by Associate Justices Jorge Imperial and Bernardo Salas of the Eleventh Division of the Court of Appeals; Rollo, pp. 46-52.

[56] Rollo, pp. 20-21.

[57] Heart attack.

[58] Petition, p. 13 ;Rollo, p. 21.

[59] Roque v. Delgado, 95 Phil. 723 [1954].

[60] The authority to decide a case and not the decision rendered therein is what makes up jurisdiction. Where there is jurisdiction, the decision of all questions arising in the case is but an exercise of jurisdiction (De la Cruz v. Moir, 36 Phil. 213; Associated Labor Union v. Ramolete, L-23527, March 31, 1965). Consequently, a court may have jurisdiction over the case but at the same time act in excess of such jurisdiction. (1 F. REGALADO, REMEDIAL LAW COMPENDIUM 6 [5th Revised Ed., 1988]).

[61] Article III, Section 1, 1987 Constitution.

[62] 218 SCRA 578 582-83 [1993]).

[63] Filamer Christian Institute v. Court of Appeals, 190 SCRA 485 [1990]; Church Assistance Program, Inc. v. Sibulo, 171 SCRA 408 [1989]; Viuda de Medina v. Cruz, 161 SCRA 36 [1988].

[64] 30 Am. Jur. 951-954.

[65] Secretary of Health v. Court of Appeals, G.R. No. 112243, promulgated on February 23, 1995 citing PNB v. Florendo, 206 SCRA 582 [1992].

[66] 47 Phil. 717,722-23 [1925]; see also Abbain v. Chua, 22 SCRA 748 [1968].

[67] Vda. de Macoy v Court of Appeals, 206 SCRA 244, 252 [1992].

[68] Cathay Pacific Airways, Ltd. v. Romillo, Jr., 141 SCRA 451,455 [1986], Akut v. Court of Appeals, 116 SCRA 213,220 [1982].

[69] Rule 3, Section 21 and Rule 39, Sections 7 and 8 of the Rules of Court.

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