MA. VALENTINA SANTANA-CRUZ, IN HER CAPACITY AS THE ADMINISTRATRIX OF THE INTESTATE ESTATE OF THE LATE FRANCISCO D. SANTANA, PETITIONER, VS. COURT OF APPEALS, PATROCINIA JUANSON-...

G.R. No. 120176. July 20, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is an appeal from the Resolutions[1] of the Court of Appeals[2] promulgated on February 9, 1995[3] and April 21, 1995[4] setting aside its Decision dated October 12, 1994, thereby holding that the private respondents' complaint for revival/execution of judgment has not prescribed, and thereafter denying petitioner's manifestation and motion for a special order praying for the recall and nullification of the Resolution dated February 9, 1995.

The facts are as follows:

On March 23, 1993, Attorney-in-Fact Patrocinia Juanson-Cuizon, representing private respondents Felipe Riple, Elisa Marilao, Jose Poblete, Felix Poblete, Francisco Tolentino, Florentino Tolentino, Hospicio Tolentino, Virginia Tolentino, Maximina Tolentino, Pacita Marilao, Maria Marilao, Reynaldo Marilao, Francisco Marilao, Jr. and Crisanta Marilao (the heirs of the late Valeriana Marilao), filed against petitioner and Ma. Paz S. Concepcion, a Complaint for Revival/Execution of Judgment After Lapse of Five Years with the Regional Trial Court, Fourth Judicial Region, Branch 74, Antipolo, Rizal.[5]

The judgment sought to be revived/executed is the Decision dated September 30, 1964 of the then Court of First Instance of Rizal, Branch X, Pasig, Metro Manila, in Civil Case No. 6482, entitled "Felipe Riple, et al. vs. Francisco Santana, et al.," the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing findings of this Court, judgment is hereby rendered in favor of the plaintiffs and against the defendants Francisco Santana and the Heirs of Catalina Reyes, ordering the latter to reconvey in favor of the plaintiffs, as Heirs of Valeriana Marilao, Lots Nos. 2, 4, 6, 11 and 12 of plan Psd-1536-LRC and covered by Transfer Certificate of Title No. 65611 of the Register of Deeds of Rizal upon payment by the plaintiffs to the defendants the sum of P6,233.40; to execute the necessary deed of reconveyance within five (5) days from receipt of the aforementioned sum; to pay the plaintiffs the amount of P1,000.00 as and for attorney's fees; and to pay the costs.[6]

On December 5, 1979, the Court of Appeals affirmed the said Decision in toto.[7]

On May 7, 1993, petitioner filed an Omnibus Motion[8], praying that the Complaint be dismissed on the ground that it failed to state a cause of action, that it was barred by the statute of limitations, and that it be expunged from the records of the case for having been filed by a person not authorized to practice law.

On August 19, 1993, the court a quo issued an Order, the dispositive portion of which reads:

> WHEREFORE, the Omnibus Motion is hereby denied. As prayed for by the petitioners, let an alias writ of execution be issued in this case to enforce the decision of the Court of First Instance of Rizal (now Regional Trial Court), which was subsequently affirmed in toto by the Court of Appeals.
>
> SO ORDERED.[9]

On September 1, 1993, the court a quo issued an Alias Writ of Execution[10] which sought to implement the decision of the Court of Appeals referred to in the Order dated August 19, 1993.

On September 6, 1993, petitioner filed a Motion for Reconsideration with Motion to Quash Alias Writ of Execution,[11] which was denied by the court a quo in an Order dated October 21, 1993.[12]

Also on October 21, 1993, the court a quo issued an Order, thus:

> Acting on the motion for modification of order dated September 6, 1993, filed by the petitioners thru their attorney-in-fact, and finding the reasons stated therein to be impressed with merit the same is hereby granted.
>
> WHEREFORE, the order of the Court dated August 19, 1993 is modified and the Register of Deeds of Marikina, Metro Manila, is hereby ordered to cancel the Transfer Certificate of Title No. 65611 and all the resultant titles derived therein and in lieu thereof, the corresponding new transfer certificates of title be issued in the name of the petitioners.
>
> SO ORDERED.[13]

On November 19, 1993, petitioner filed a Petition for Certiorari and Prohibition with a Prayer for the Issuance of a Temporary Restraining Order[14] with the Court of Appeals alleging that the court a quo acted with grave abuse of discretion in issuing the three (3) Orders dated August 19, 1993 and October 21, 1993.

On October 12, 1994, the Court of Appeals rendered judgment, the dispositive portion of which reads:

> WHEREFORE, on the basis of the foregoing, the petition for certiorari and prohibition, etc. is GIVEN DUE COURSE. The three (3) questioned orders are REVERSED and SET ASIDE, the alias writ of execution dated September 1, 1993 is declared VOID and the Complaint for revival/execution of judgment (Civil Case No. 93-2636) is DISMISSED on the ground of prescription.
>
> SO ORDERED.[15]

On November 2, 1994, Atty. Julian S. Yap who filed his appearance as counsel for private respondents,[16] also filed a Motion for Reconsideration,[17] which, among others, stated that private respondents, some of whom have died and are succeeded by their heirs, had revoked the authority of their Attorney-in-Fact, Patrocinia J. Cuizon, to represent them. On November 15, 1994, the Court of Appeals received another Motion for Reconsideration[18] filed by the counsel of record, Atty. Raul A. Mora, for private respondents.

On November 25, 1994, petitioner filed her Opposition[19] stating among others, that she received two (2) motions for reconsideration of private respondents filed by different counsels, and that she was bound to treat Atty. Raul A. Mora as private respondents' counsel of record as she had not received any notice of proper substitution of private respondents' counsel.

On December 15, 1994, respondent Court of Appeals promulgated a Resolution, thus:

> Private respondents' motion for reconsideration merely reiterates the same issues and arguments which We have extensively discussed and passed upon in Our decision.
>
> WHEREFORE, the motion for reconsideration is denied.

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SO ORDERED.[20]

On December 16, 1994, the Court of Appeals received a Supplemental Motion for Reconsideration with Leave of Court[21] filed for private respondents by Atty. Raul A. Mora and a Manifestation and Motion[22] filed by Atty. Julian S. Yap. On December 22, 1994, respondent Court of Appeals promulgated a Resolution, thus:

> Considering that private respondents' motion for reconsideration had been denied by the Court in its resolution of December 15, 1994, private respondents' supplemental motion for reconsideration and manifestation and motion both dated December 14, 1994 and received by the Court on December 16, 1994 are hereby NOTED without action.[23]

On or about January 5, 1995, private respondents, through Atty. Julian S. Yap, filed with this Court a Petition for Extension of Time to File Petition for Review,[24] which was docketed as G.R. No. 118341. In their petition for review filed on February 6, 1995, private respondents questioned the Decision dated October 12, 1994 and the Resolution dated December 15, 1994 of the Court of Appeals in CA-G.R. SP No. 32631. On March 1, 1995, this Court issued a Resolution[25] denying private respondents' petition on the ground that it failed to show that a reversible error had been committed by the appellate court. On or about April 8, 1995, private respondents filed a motion for reconsideration[26] which was denied. On June 23, 1995, the Resolution dated March 1, 1995 became final and executory.

On or about January 4, 1995, private respondents, this time through Atty. Raul A. Mora, filed with this Court another Motion for Extension of Time to File Petition,[27] which was docketed as G.R. No. 118360. On January 25, 1995, this Court issued a Resolution[28] granting Atty. Mora an extension of thirty (30) days from the expiration of the reglementary period within which to file the petition with no further extension. However, there was a further request for more time to file a petition for review. On February 22, 1995, petitioner filed a Motion to Dismiss the Case.[29]

Meantime, while G.R. Nos. 118341 and 118360 were pending before this Court, the Court of Appeals promulgated the Resolution in question on February 9, 1995, the dispositive portion of which reads:

> WHEREFORE, premises considered, the motion for reconsideration filed by private respondents through Atty. Raul A. Mora is GRANTED and the decision promulgated on October 12, 1994 RECONSIDERED and SET ASIDE. New judgment is rendered DISMISSING the petition for lack of merit.
>
> SO ORDERED.[30]

In the aforementioned resolution, the Court of Appeals, clarified that its Resolution promulgated on December 15, 1994 was a denial of the private respondents' motion for reconsideration filed by Atty. Julian S. Yap, finding that the said motion merely reiterated the same issues and arguments already extensively discussed and passed upon in the decision sought to be reconsidered. It was, however, confronted again by another motion for reconsideration filed by private respondents, through their Attorney-in-Fact Patrocinia Juanson Cuizon, represented by Atty. Raul A. Mora; and the appellate court this time found cogent and compelling reason to reverse and set aside its Decision promulgated on October 12, 1994. The Court of Appeals held that the respondent judge, in the light of the ruling in the case of National Power Corporation vs. Court of Appeals,[31] did not err in treating the complaint as a motion for execution and ordering the issuance of an alias writ of execution, and ruled that the delay of more than thirteen (13) years, from the time the decision in CA-G.R. No. 48321-R became final and executory on December 23, 1979, should not be counted in computing the 5-year period in executing a judgment by motion, since the delay was not private respondents' doing but petitioner's.[32] Hence, the Court of Appeals set aside its Decision dated October 12, 1994 thereby holding that private respondent's complaint for revival/execution of judgment has not prescribed, and dismissed petitioner's petition for certiorari and prohibition.

On February 22, 1995, petitioner filed a Manifestation and Motion for Special Order[33] questioning the jurisdiction of the Court of Appeals to issue the Resolution of February 9, 1995 as said resolution was issued after private respondents, through Atty. Mora, filed a motion for extension of time to file a petition for review on certiorari on or about January 6, 1995 with this Court, which is violative of Section 8, Rule 9 of the Revised Internal Rules of the Court of Appeals.

Subsequently, private respondents, through Atty. Raul A. Mora, filed with this Court in G.R. No. 118360 a Motion to Withdraw Present Action[34] dated February 27, 1995 stating that the motion for extension of time to file petition for review on certiorari and the payment of docket fees were made under the mistaken impression that the Court of Appeal's Resolution dated December 15, 1994 had denied their motion for reconsideration, but which was clarified by the Court of Appeals in another resolution dated February 9, 1995 to be a denial of the motion for reconsideration filed only by Atty. Julian S. Yap, and that the motion for reconsideration filed through Atty. Raul A. Mora was granted. On April 3, 1995, this Court issued a Resolution, which among others, granted said motion to withdraw the petition in G.R. No. 118360, which resolution became final and executory on April 17, 1995.

On April 21, 1995, the Court of Appeals promulgated the assailed Resolution[35] denying petitioner's manifestation and motion for a special order dated 21 February 1995, which questioned the Court's jurisdiction to issue the Resolution of February 9, 1995.

Hence, this petition raising the following issues:

> I
>
> RESPONDENT COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE IN A MANNER THAT IS CONTRARY TO LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT, INVOLVING THE ABSENCE OF JURISDICTION OF THE COURT OF APPEALS OVER A CASE WHICH HAS BEEN ELEVATED TO THIS HONORABLE COURT ON PETITION FOR REVIEW ON CERTIORARI.
>
> II
>
> RESPONDENT COURT OF APPEALS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, BY ACTING ON A MOTION FOR RECONSIDERATION AFTER PRIVATE RESPONDENTS HAD ALREADY REQUESTED THIS HONORABLE COURT FOR ADDITIONAL TIME TO FILE PETITION FOR REVIEW ON CERTIORARI.[36]

Petitioner contends that when private respondents through Atty. Mora filed on January 6, 1995 a motion for extension of time to file a petition for review with this Court, they had perfected their appeal to this Court; hence, respondent Court of Appeals lost jurisdiction over CA-G.R. SP No. 32631, including the jurisdiction to amend, alter or modify the Decision dated October 12, 1994 and the Resolution dated December 15, 1994; hence, the Resolutions dated February 9, 1995 and April 21, 1995 were issued by the Court of Appeals without jurisdiction. Moreover, Section 8, Rule 9 of the Revised Internal Rules of the Court of Appeals, provides:

> Effect of Filing an Appeal in the Supreme Court.-- No motion for reconsideration or rehearing shall be acted upon if the movant has already filed in the Supreme Court an appeal by certiorari or a motion for extension of time to file such petition. If such petition is subsequently filed, the motion for reconsideration pending in this Court shall be deemed abandoned.

Petitioner asserts that assuming that the Resolution of the Court of Appeals dated December 15, 1994 concerned only the motion for reconsideration filed by private respondents through Atty. Yap, the fact that private respondents through Atty. Mora filed on or about January 6, 1994 with this Court a Motion for Extension of Time

to File Petition means that they have abandoned their motion for reconsideration supposedly pending with the Court of Appeals. As prescribed by Section 8 of its Revised Internal Rules, respondent Court of Appeals should not have acted on private respondents' motion for reconsideration, if any was pending.

We observed that private respondents filed with the respondent court two (2) separate motions for reconsideration through two (2) counsels, namely, Atty. Raul A. Mora and Atty. Julian S. Yap. The motion for reconsideration filed by Atty. Yap stated, among others, that due to acts inimical to their interests, the private respondents had revoked the authority of Attorney-in-Fact Patrocinia Juanson-Cuizon to represent them and through their newly designated Attorneys-in-Fact decided to take over from her the conduct of the instant case and to retain Atty. Julian S. Yap as their counsel considering that Atty. Raul A. Mora was the personal counsel of Patrocinia Juanson-Cuizon. The Court of Appeals in its Resolution dated February 9, 1995 stated that "there is no showing that all the private respondents have revoked the authority granted to Patrocinia Juanson-Cuizon."[37] Be that as it may, a revocation of authority of Patrocinia Juanson-Cuizon as Attorney-in-Fact of private respondents heirs of Valeriana Marilao, who are recognized as the real parties in interest in this case, should not affect Atty. Raul A. Mora, who remains counsel of record of private respondents absent a valid substitution of counsel. Atty. Raul A. Mora may not be presumed substituted by Atty. Julian S. Yap merely from the filing of a formal appearance by the latter.[38] No substitution of counsel of record is allowed unless the following essential requisites of a valid substitution of counsel concur: (1) there must be a written request for substitution; (2) it must be filed with the written consent of the client; (3) it must be with the written consent of the attorney to be substituted; and (4) in case the consent of the attorney to be substituted cannot be obtained, there must be at least a proof of notice that the motion for substitution was served on him in the manner prescribed by the Rules of Court.[39] In the Supplemental Motion for Reconsideration filed by Atty. Raul A. Mora with the Court of Appeals, he stated that the heirs of Valeriana Marilao never dismissed him nor replaced him as their counsel, thus, the appearance of Atty. Julian S. Yap was improper.[40] In petitioner's Opposition filed on November 25, 1994, she stated that she received two (2) motions for reconsideration from private respondents filed by different counsels, and was bound to treat Atty. Raul A. Mora as private respondents' counsel of record as she had not received any notice of proper substitution of private respondents' counsel. In the absence of compliance with the essential requirements for valid substitution of the counsel of record, Atty. Mora, the court can safely presume that he is responsible for the conduct of the case.[41] The rule is intended to ensure the orderly disposition of cases.[42]

Had the respondent court taken notice that absent a valid substitution of counsel, Atty. Raul A. Mora was still the counsel of record for the private respondents, it would have disregarded the motion for reconsideration filed by Atty. Julian S. Yap for private respondents, which it however resolved in the Resolution promulgated on December 15, 1994. Thinking that the motion for reconsideration he filed on October 29, 1994 was also denied by the respondent court in said Resolution of December 15, 1994, and after his supplemental motion for reconsideration was unacted upon after the denial of said motion for reconsideration, Atty. Mora filed a motion for extension of time to file a petition for review on certiorari with this court. However, after the respondent court in its Resolution dated February 9, 1995 clarified that the Resolution of December 15, 1994 was a denial of the motion for reconsideration filed by Atty. Julian S. Yap, and granted the motion for reconsideration filed by Atty. Raul A. Mora at the same time setting aside its Decision dated October 12, 1994, Atty. Mora withdrew his action in this Court.

In its Resolution dated April 21, 1995, the respondent court explained why it acted on the motion for reconsideration filed by Atty. Raul A. Mora, thus:

> xxx xxx xxx
> On the part of this Court, We have explained in Our Resolution of February 9, 1995 why We have treated the motion for reconsideration filed by Atty. Raul A. Mora separately from the motion for reconsideration filed by

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> Atty. Julian S. Yap.
>
> As shown by their sequence as they appear in the rollo and the dates of receipt, the Court received the motion for reconsideration of Atty. Julian S. Yap first, on November 2, 1994 to be exact. The said motion for reconsideration was resolved in Our resolution promulgated December 15, 1994. The supplemental motion for reconsideration with leave of court, filed by Atty. Raul A. Mora, was received on December 16, 1994. The main motion for reconsideration filed by Atty. Mora, which appears to have been filed by mail and actually received by this Court on November 15, 1994, was sewed and attached to the rollo, after the resolution of December 15, 1994 (denying the motion for reconsideration of Atty. Yap) and after the supplemental motion for reconsideration.
>
> As We have said, the original private respondents as shown in the petition were "Patrocinia Juanson-Cuison, representing Felipe Riple, Elisa Marilao, Jose Poblete, Felix Poblete, Francisco Tolentino, Florentino Tolentino, Hospicio Tolentino, Virginia Tolentino, Maximina Tolentino, Pacita Marilao, Maria Marilao, Reynaldo Marilao, Francisco Marilao, Jr. and Crisanta Marilao," assisted by Atty. Raul A. Mora. The private respondents represented by Atty. Julian S. Yap surfaced only after the decision. This is the reason why we have said in Our resolution promulgated February 9, 1995 that We cannot ignore the motion for reconsideration filed by Atty. Raul A. Mora and that the "safer course is to act on the motion for reconsideration, not to disregard it."[43]

The Court of Appeals in its Resolution dated February 9, 1995 stated:

> xxx xxx xxx
>
> We cannot ignore the motion for reconsideration filed by Atty. Raul A. Mora regardless of the allegation that the authority of Patrocinia Juanson-Cuison to represent the surviving private respondents and the heirs of the deceased private respondents had been revoked. There is no showing that all the private respondents have revoked the authority granted to Patrocinia Juanson-Cuizon. The safer course is to act on the motion for reconsideration, not to disregard it.[44]
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> xxx xxx xxx

We thus hold that the respondent court did not err in acting on the motion for reconsideration of private respondents, which was seasonably filed through their counsel of record, Atty. Raul A. Mora, on October 29, 1994 and received by the Court on November 15, 1994. In fact, the respondent court should have acted only on the said motion for reconsideration. The inadvertence on the part of the respondent court and the delay in sewing the original copy of said motion for reconsideration in the rollo of the case should not prejudice the legal interest of private respondents who were under the proper representation and charge of their counsel of record, Atty. Raul A. Mora. To set things straight, inasmuch as Atty. Yap had no authority to represent private respondents, absent a valid substitution of their counsel, the motion for reconsideration filed by him is deemed a mere scrap of paper; and consequently, the Resolution dated December 15, 1994 of the Court of Appeals on the said motion, and its subsequent Resolution dated December 22, 1994 are hereby declared null and void. Hence, the resolution of this Court of the petition for review on certiorari (G.R. No. 118341) filed by Atty. Yap is also a nullity. We note that Atty. Mora withdrew his action filed with this court (G.R. No. 118360) after the Court of Appeals in its Resolution dated February 9, 1995 clarified that its Resolution dated December 15, 1994 denied the motion for reconsideration which was filed only by Atty. Yap, and granted the motion filed by Atty. Mora. Hence, no appeal with this Court, may be considered perfected by private respondents when the respondent Court of Appeals issued the questioned resolutions dated February 9, 1995 and April 21, 1995; thus, the respondent court had jurisdiction to issue the same.

Petitioner further prays that the Resolutions dated February 9, 1995 and April 21, 1995 of respondent Court of

Appeals be ordered annulled and set aside whereas its Decision and Resolution dated October 12, 1994 and December 15, 1994 respectively be declared correct. In effect, petitioner seeks a review of the questioned Resolution of the Court of Appeals dated February 9, 1995 reversing its Decision dated October 12, 1994, thereby holding that the action for revival/execution of judgment has not prescribed inasmuch as the delay in the execution of the judgment was caused by the petitioner and not by the private respondents, thus upholding the questioned orders of the court a quo issued to enforce the judgment in CA-G.R. No. 48321-R ordering the reconveyance of the subject lots to private respondents.

The basis of respondent court's amended decision was the case of National Power Corporation vs. Court of Appeals.[45] In said case, it was the petitioner that caused the delay in paying the remaining balance of the notice of garnishment; thus, this Court held that the delay of more than ten (10) years from the time the judgment became final and executory should not be counted in computing the five-year period in executing a judgment by motion, since the delay was not respondent's doing but petitioner's.

In the instant case, although the plaintiffs, private respondents herein, deposited the amount of Five Thousand Two Hundred Thirty-Three Pesos and Forty Centavos (P5,233.40) as payment of their obligation to the defendants, represented by herein petitioner, as embodied in the judgment, under O.R. No. 509010 dated October 29, 1981,[46] Deputy Sheriff Cristobal S. Jabson was unable to implement the writ of execution issued on November 4, 1981 by the Court of First Instance of Rizal, Branch X against spouses Francisco D. Santana in Civil Case No. 6482 as reflected in the Sheriff's Return, thus:

> xxx xxx xxx
>
> xxx[T]he said Writ of Execution, together with a copy of the Decision and Entry of Judgment was served upon defendant Francisco D. Santana on November 11, 1981 as shown by his signature appearing at the bottom of the undersigned's letter, dated November 9, 1981 giving him five (5) days from receipt thereof within which to reconvey Lots 2, 4, 6, 11, & 12 of Plan Psd-1536 LRC, covered by T.C.T. No. 65611 in favor of the plaintiffs;
>
> That the undersigned Deputy Sheriff received a letter on November 13, 1981 from defendants' counsel, Atty. Cipriano Azada, dated November 12, 1981, stating among others that the lots subject of reconveyance is not in the name of the defendants as the same has been sold before the complaint against them was filed.[47]

The aforementioned letter dated November 12, 1981 which was received on the next day by the Deputy Sheriff from the defendants' counsel, Atty. Cipriano Azada, reads:

> xxx xxx xxx
>
> In behalf of Mr. Francisco D. Santana, please be advised that he cannot execute the deed of reconveyance required by you for the simple reason that the lots supposed to be reconveyed are not registered in his name and any deed of reconveyance executed by him would be a useless exercise. The Court of First Instance and the plaintiffs in Case No. 6482 were informed by Mr. Santana in his answer to the plaintiffs' Complaint that the lots in question had been sold by him even before the complaint was filed. The plaintiffs should have amended their Complaint to include the buyers as parties defendant; but they did not do so. Mr. Santana could not bring the buyers into the case because he had no cause of action against them.
>
> We hope you, the plaintiffs and the Honorable Court will realize the position Mr. Santana is in. He would like to comply with the decision; but he cannot do so because he is not the owner of the lots he is required to reconvey.[48]

A careful examination of the records, particularly the Decision of the Court of Appeals in CA-G.R. No. 48321-R, showed that even during the pre-trial of the case for reconveyance, plaintiffs Felipe Riple, et al., herein private respondents, were aware that the parcels of land, subject of the action for reconveyance, had been sold to third

parties. However, the third-party vendees, who are indispensable parties, were not impleaded in the case. Owners of property over which reconveyance is asserted are indispensable parties, without whom no relief is available and without whom the court can render no valid judgment.[49] Section 7, Rule 3 of the Revised Rules of Court provides for the compulsory joinder of indispensable parties without whom no final determination can be had of an action. It is the duty of the plaintiffs (private respondents herein) to implead all the necessary or indispensable parties for the complete determination of the action.[50] Considering that private respondents knew that the lots, subject of the reconveyance, were already sold to third parties, and yet did not implead them as indispensable defendants in their complaint for reconveyance, private respondents have only themselves to blame. In other words, the judgment ordering the reconveyance of the subject lots is not binding on the third-party vendees who were not impleaded as defendants in the case at bar. A person not included as a party to a case cannot be bound by the decision made by a court.[51] Hence, private respondents could not impute delay to the petitioner in the reconveyance of the subject lots inasmuch as private respondents knew that petitioner, being no longer the owner of the subject lots even during the pre-trial of the case for reconveyance, could not reconvey the same. It was incumbent on the private respondents to amend their complaint and include the vendees of the lots sought to be recovered as defendants in the action for reconveyance so that a judgment in their favor may be validly executed against said vendees. Unfortunately, private respondents failed to do so. The cited case of National Power Corporation vs. Court of Appeals is clearly not applicable to the case at bar.

Section 6, Rule 39 of the Revised Rules of Court provides that a judgment may be executed on motion within five (5) years from the date of its entry or from the date it became final and executory thereafter, and before it is barred by the statute of limitations, it may be enforced by an independent civil action.[52] The prescriptive period for the enforcement of a judgment by ordinary action is ten (10) years computed from the time the judgment became final, and the lifetime of a writ of execution is sixty (60) days after its receipt by the levying officer.[53] Absent any finding of delay caused by the petitioner in the execution of the judgment, we hold that the complaint for revival/execution of judgment filed by private respondents thirteen (13) years after the decision in CA-G.R. No. 48321-R became final and executory on December 23, 1979, (which complaint was treated by the court a quo as a motion for alias writ of execution) has long prescribed.

WHEREFORE, the Amended Decision of the Court of Appeals dated February 9, 1995 is hereby SET ASIDE, and its Decision dated October 12, 1994 is REINSTATED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Buena, JJ., concur.
Quisumbing, J., on official business.

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[1] Penned by Associate Justice Eduardo G. Montenegro, and concurred in by Associate Justices Minerva P. Gonzaga-Reyes and Delilah Vidallon-Magtolis.

[2] Thirteenth Division.

[3] Rollo, pp. 194-204.

[4] Rollo, pp. 229-231.

[5] Docketed as Civil Case No. 93-2636, Rollo, pp. 23-26.

[6] CA Decision, Rollo, p. 33.

[7] In CA-G.R. No. 48321-R; Rollo, pp. 33-42.

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[8] Rollo, pp. 43-49.

[9] Rollo, p. 51.

[10] Rollo, pp. 52-53.

[11] Rollo, pp. 54-65.

[12] Rollo, p. 67.

[13] Rollo, p. 68.

[14] CA Rollo, pp. 236-259.

[15] CA Rollo, p. 114.

[16] CA Rollo, p. 118.

[17] CA Rollo, pp. 119-127.

[18] CA Rollo, pp. 181-187.

[19] Rollo, pp. 140-143.

[20] Rollo, pp. 145-146.

[21] Rollo, pp. 147-161.

[22] Rollo, pp. 162-165.

[23] Rollo, p. 9.

[24] Rollo, pp. 168-169.

[25] Rollo, p. 184.

[26] Rollo, p. 11.

[27] Rollo, pp. 185-186.

[28] Rollo, p. 188.

[29] Rollo, pp. 189-191.

[30] Rollo, pp. 194-204.

[31] 213 SCRA 133 (1992).

[32] Rollo, p. 203.

[33] CA Rollo, pp. 364-371.

[34] Rollo, pp. 224-226.

[35] Rollo, pp. 229-231.

[36] Rollo, p. 13.

[37] Rollo, p. 195.

[38] Sublay v. NLRC, et al., G.R. No. 130104, January 31, 2000, pp. 6-7; Bernardo v. Court of Appeals, 275 SCRA 413, 427 (1997).

[39] Nacuray v. NLRC, 270 SCRA 9 (1997); Sumadchat v. Court of Appeals, 111 SCRA 488, 499 (1982).

[40] Rollo, p. 154.

[41] Sublay v. NLRC, supra at 7.

[42] Nacuray v. NLRC, supra at 16.

[43] CA Rollo, p. 417.

[44] CA Rollo, p. 196.

[45] Supra, note 31.

[46] Rollo, p. 122.

[47] Annex 4, Rollo, p. 125.

[48] Annex 3, Rollo, p. 124.

[49] Lozano v. Ballesteros, 195 SCRA 681 (1991) citing Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati vs. Regional Trial Court of Makati, Branch 57, 184 SCRA 622, 633 (1990).

[50] Nery v. Leyson, et al., G.R. No. 139306, August 29, 2000.

[51] Heirs of Antonio Pael v. Court of Appeals, et al., G.R. Nos. 133547 & 133843, February 10, 2000, p. 23.

[52] Supra, note 31 at 136.

[53] Id.

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