

ELIZA FRANCISCO BAGGENSTOS, PETITIONER, VS. COURT OF APPEALS, REGIONAL TRIAL COURT OF ANTIPOLO, RIZAL, REGISTER OF DEEDS OF RIZAL, JOSEFINO DE GUZMAN AND PACIFICO MAGNO, JR., RE...

G.R. No. 125560. December 04, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review on certiorari[1] of the Resolution[2] of the Court of Appeals dated 2 July 1996 in CA-G.R. SP No. 40579. The Court of Appeals denied due course and dismissed petitioner Eliza Francisco Baggenstos' ("Baggenstos") Petition for Annulment of Judgments, Orders and Writs with Damages for being insufficient in form and substance.

The Antecedents

On 6 September 1991, private respondent Josefino de Guzman ("De Guzman") filed a complaint against Baggenstos to collect P85,000 representing the unpaid balance for the renovation of a house in Ponderosa Heights, Golden Hills, Antipolo, Rizal. The case was raffled to Branch 73 of the Regional Trial Court of Antipolo, Rizal ("trial court") and docketed as Civil Case No. 91- 2143.

On De Guzman's motion, the trial court declared Baggenstos in default for failure to file an answer within the reglementary period and allowed De Guzman to present his evidence ex parte. The trial court rendered judgment in favor of De Guzman on 27 December 1991, disposing as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff ordering the defendant to pay the plaintiff:

- P85,610.72 with legal interest to be computed from August 10, 1991 until the amount is fully paid;
- Attorney's fees of P15,000.00 plus P1,000.00 per court appearance;
- Cost of suit.

SO ORDERED.

On 3 April 1992, the trial court issued a writ of execution after the judgment had become final and executory. Sheriff Eusebio J. Villaran levied on execution a parcel of land with an area of 490 square meters in Antipolo, Rizal, registered in Baggenstos' name under Transfer Certificate of Title No. 171720 ("TCT No. 171720") of the Marikina Register of Deeds. On 5 May 1992, the sheriff sold the parcel of land at public auction with private respondent Pacifico Magno, Jr. ("Magno") as the highest bidder at the price of P153,210.72, equivalent to the total money judgment of P153,210.72 under the writ of execution. The certificate of sale issued to Magno on 6 May

1992 was registered with the Marikina Register of Deeds on 16 October 1992. After the lapse of the one-year redemption period, the sheriff executed on 18 November 1993 an Officer's Deed of Sale in Execution in Magno's favor.

On 19 January 1994, Magno filed with the trial court a Petition to Compel Surrender Of Withheld Duplicate Certificate And for Issuance Of Writ Of Possession since Baggenstos refused to surrender the owner's duplicate copy of TCT No. 171720. Baggenstos filed a Comment and Opposition to Magno's petition claiming that the default judgment rendered against her by the trial court was void. Baggenstos claimed that the trial court did not acquire jurisdiction over her person due to improper service of summons. She contended that a purchaser at a sale pursuant to a void judgment is without title and redress. Baggenstos prayed that the trial court issue an order declaring the default judgment dated 27 December 1991 void and dismissing Magno's petition for lack of factual and legal basis.

In an Order dated 30 March 1995, the trial court granted Magno's Petition to Compel Surrender Of Withheld Duplicate Certificate And for Issuance Of Writ of Possession. The trial court held that substituted service of summons was validly made on Baggenstos resulting in the court's acquisition of jurisdiction over her person. The dispositive portion of the Order reads as follows:

WHEREFORE, premises considered and pursuant to Section 107 of P.D. 1529, the court hereby orders defendant Eliza Francisco Baggenstos to surrender Transfer Certificate of Title No. 171721[3] to the Register of Deeds for Marikina, Metro Manila within fifteen (15) days from receipt of this order. Upon such surrender, the Register of Deeds concerned is hereby ordered to enter a new certificate or memorandum in the name of herein petitioner.

In the meantime, let the corresponding writ of possession be issued in the above-entitled case in favor of the petitioner.

SO ORDERED.[4]

On 19 June 1995, the trial court issued a Writ of Possession[5] ordering Deputy Sheriff Paulo M. Gatlabayan ("Sheriff Gatlabayan") to place Magno in physical possession of "the subject property." On the same date, Sheriff Gatlabayan issued a Notice to Vacate[6] giving Baggenstos two days to vacate voluntarily the parcel of land. On 23 June 1995, Sheriff Gatlabayan submitted a report, which stated:

This is to certify that on the 19[th] day of June 1995, the undersigned was directed to enforce and implement the Writ of Possession, issued in the above-entitled case:

That specifically, the undersigned was ordered to place the petitioner, Pacifico T. Magno, Jr., in physical possession of a parcel of land including all the improvements existing thereon, covered by TCT No. 171720 and situated in Ponderosa Heights, Golden Hills, Antipolo, Rizal;

That at about 4:00 p.m. on the same date (June 19, 1995), the undersigned together with some companions, proceeded to the subject premises; the outer gate was not padlocked, so we were able to enter the area surrounding the house; that the main door was locked and all the windows were closed; that no one was inside the house; the latter woman showed up in the premises and informed me that she was the caretaker (bantay) of Eliza Francisco Baggenstos; the said caretaker gave her name as Myla Abenales;

That I was informed by the afore-named caretaker that the subject premises is presently not being inhabited or occupied and that she (the caretaker) only takes orders from relatives of Eliza Francisco Baggenstos who resides in Quezon City;

That the undersigned and my companions left the subject premises at about 4:30 P.M. after leaving a copy of my NOTICE TO VACATE to the said caretaker whom I determined to be a person of sufficient discretion to

receive the same. Attached is a copy of my NOTICE TO VACATE where I gave Eliza Francisco Baggenstos and all persons claiming rights under her two (2) days notice to vacate the premises and remove her belongings from the house and should she fail to do so, then I would take those belongings out;

That I, together with some companions, went back to the subject premises yesterday, June 22, 1995, at about 10:00 A.M.; that my entry into the premises was obstructed by a padlocked main gate; that the afore-named caretaker informed me that the day immediately following my service of my NOTICE TO VACATE, a certain relative of Eliza Francisco Baggenstos arrived in the premises and padlocked the main gate.

That I could not place the winning party in possession of the premises because my entry into the subject premises was (illegible) or obstructed by padlocked main gate and main door under lock and key.[7]

On the same date, Magno filed an Urgent Ex Parte Motion For Issuance of Break-Open Order[8] to authorize Sheriff Gatlabayan to use reasonable force to enforce the writ of possession. On 3 July 1995, Baggenstos filed a Manifestation and/or Motion for Clarification[9] stating that she owns two (2) adjoining lots in Ponderosa Subdivision, Antipolo, Rizal. One lot has an area of 490 square meters under TCT No. 171720, while the other lot has an area of 233 square meters under TCT No. 96923. Baggenstos alleged that the vacant lot covered by TCT No. 171720 was the one sold by the sheriff to satisfy a judgment debt and not the other lot covered by TCT No. 96923 where her house stands.

Subsequently, Magno filed a Very Urgent Manifestation[10] informing the trial court that execution proceedings in Civil Case No. 91-2341 have grounded to a halt. Magno prayed that the trial court correct the clerical error in the dispositive portion of its 30 March 1995 Order to read as TCT No. 171720 instead of TCT No. 171721. Magno pointed out that fortunately, the writ of execution correctly states that the property sold at public auction is covered by TCT No. 171720.

On 10 August 1995, the trial court issued an Order[11] granting Magno's motion to issue a break-open order and denying Baggenstos' motion for clarification.

Baggenstos filed a motion to reconsider the Orders dated 30 March 1995, 10 August 1995, and the Notice to Vacate dated 19 June 1995. Baggenstos reiterated that while it was her vacant lot covered by TCT No. 171720 that was sold at public auction to Magno, the sheriff sought to enforce the assailed Orders against her other lot covered by TCT No. 96923. She prayed that the court set aside the questioned orders insofar as they affect the lot covered by TCT No. 96923.

At the hearing of Baggenstos' motion for reconsideration, Magno's counsel agreed that the court should enforce the writs of execution and possession, as well as the notice to vacate, against the vacant lot under TCT No. 171720 and not against the lot with house covered by TCT No. 96923.

On 15 November 1995, the trial court issued an Order amending the 30 March 1995 Order, as follows:

Acting on the motion dated July 20, 1995 filed by petitioner through counsel and after finding the reasons cited therein to be meritorious, the same is hereby GRANTED.

Wherefore, the dispositive portion of the order of the court dated March 30, 1995 is hereby amended to read as follows with the amendments as underlined below:

"WHEREFORE, premises considered and pursuant to Section 107 of P.D. 1529, the Court hereby orders defendant Eliza Francisco Baggenstos to surrender Transfer Certificate of Title No. 171720 within fifteen (15) days from receipt of this order. Upon such surrender or non-surrender, the Register of Deeds concerned is hereby ordered to enter a new certificate or memorandum in the name of the herein petitioner.

SO ORDERED."

SO ORDERED.[12]

Dissatisfied, Baggenstos filed on 3 May 1996 a Petition for Annulment of Judgments, Orders and Writs with Damages[13] docketed as CA-G.R. No. SP 4057. Baggenstos sought to annul the Orders dated 30 March 1995, 10 August 1995, and 15 November 1995 ("Questioned Orders"), as well the writ of possession and sheriff's notice to vacate dated 19 June 1995, "insofar as the Baggenstos' lot with a house under TCT No. 96923 is concerned."

The Court of Appeals denied due course and dismissed Baggenstos' petition.

Hence, the instant petition.

The Court of Appeals' Ruling

The Court of Appeals pointed out that Baggenstos' Petition for Annulment of Judgments, Orders and Writs with Damages suffered from procedural defects and substantial infirmities. First, Baggenstos did not attach to her petition an affidavit of merit supporting the cause of action as required by Section 1 (a), Rule 6 of the Revised Internal Rules of the Court of Appeals ("RIRCA"). Second, Baggenstos' counsel, and not Baggenstos herself, signed the certificate of non-forum shopping attached to the petition in violation of Supreme Court Circular No. 28-91. Third, while Baggenstos denominated her action as a Petition for Annulment of Judgments, Orders and Writs, Baggenstos does not actually seek to annul the default judgment of the trial court. Instead, the petition seeks to annul the processes in the implementation of the writ of execution issued pursuant to a final and executory judgment. The Court of Appeals explained that the execution of final and executory judgments could no longer be contested and prevented except in certain instances,[14] which do not obtain in the present case. Lastly, the proper remedy to question errors committed in the course of execution proceedings is either by appeal (writ of error or certiorari) or by a special civil action of certiorari, prohibition or mandamus. The Court of Appeals concluded that the petition is merely a subterfuge to prevent the execution of a final judgment.

The Issues

Baggenstos contends that the Court of Appeals grievously erred in -

- Dismissing the petition in CA-G.R. SP No. 40579 for insufficiency in form and in substance;
- Not finding the Questioned Orders of the trial court void insofar as the lot covered by TCT No. 96923 is concerned since this was not the property sold by the sheriff at public auction;
- Not annulling the Questioned Orders as well as the execution proceedings taken as against the property covered by TCT No. 96923.

The Court's Ruling

We dismiss the petition for being moot.

Baggenstos does not dispute that the trial court's judgment had become final and executory. This is so because Baggenstos failed to avail of the ordinary remedies of new trial, appeal, or petition for relief to set aside the judgment. Neither does Baggenstos question the levy on execution and subsequent sale at public auction of her lot covered by TCT No. 171720 to Magno in satisfaction of the trial court's judgment. Baggenstos' sole purpose in filing the petitions before the Court of Appeals and this Court is to protect and shield her other property covered by TCT No. 96923 from the execution proceedings in Civil Case No. 91-2143.

Baggenstos raises the basic issue of whether the trial court's Questioned Orders, as well as the writ of possession and the notice to vacate dated 19 June 1995, are void as against her lot covered by TCT No. 96923.

Baggenstos' claim for relief stems from the sheriff's mistaken attempt to enforce the writ of possession against the lot with house covered by TCT No. 96923 instead of the vacant lot covered by TCT No. 171720. On his first attempt, the sheriff reported that he could not place Magno in possession of the lot because the main door of the house was locked. On his second attempt, the sheriff reported that the main gate was also locked. He did not force open and destroy the locks. The execution proceedings came to a halt.

During the impasse in the execution proceedings, Magno obtained a "break open" order from the trial court. Baggenstos' counsel filed a motion for reconsideration praying that "the Orders dated March 30, 1995 and August 10, 1995, as well as the notice to vacate dated June 19, 1995 be set aside insofar as the lot with house under TCT No. 96923 is concerned."

At the hearing of Baggenstos' motion for reconsideration, Magno's counsel joined Baggenstos in asking for the recall of the break-open order. Magno's counsel also agreed that the writ of possession and notice to vacate should be enforced on the vacant lot under TCT No. 171720. In due time, the Questioned Orders were enforced on the vacant lot under TCT No. 171720.

On 18 January 1996, the Marikina Register of Deeds cancelled TCT No. 171720 in Baggenstos' name and issued a new Transfer Certificate of Title (No. 298711) in the name of Magno (married to June Andrea Singson-Magno). Magno has since been in possession of the parcel of land. This has stripped the case of its *raison d'être*. The relief sought by Baggenstos is a *fait accompli* since execution proceeded to completion with respect to her lot covered by TCT No. 171720.

Stated differently, De Guzman's default judgment of P153,210.72 was fully satisfied when Magno purchased at public auction the lot covered by TCT No. 171720 for P153,210.72. That lot is now registered in the name of Magno. Consequently, Baggenstos' other lot covered by TCT No. 96923 is now beyond the reach of any coercive writ, order or process arising from De Guzman's default judgment.

The rule is that where the issues have become moot, there is no justiciable controversy. Resolution of the case would serve no practical use. Obviously, the assailed Resolution of the Court of Appeals, which dismissed Baggenstos' Petition for Annulment of Judgments, Orders and Writs, has become inconsequential. Baggenstos is no longer entitled to any actual and substantial relief that the dismissal of her petition could negate.^[15] Whatever the courts, including this Court, say on the issues raised in her petition constitutes opinion on academic issues.

Since the Marikina Register of Deeds, on 6 January 1966, cancelled TCT No. 171720 and issued a new title in Magno's name, Baggenstos' counsels had ample opportunity to know that supervening events had rendered her petitions moot. These supervening events should have precluded the filing of the petition before the Court of Appeals in May 1996 and the instant petition in August 1996.^[16]

We admonish Baggenstos' counsels to stop filing unnecessary and frivolous petitions that further clog the courts' dockets. True, lawyers owe devotion to the interest of their clients, and must exert zeal in the defense of their client's rights. However, lawyers should not forget that as officers of the court they are under obligation to exert utmost effort to assist in the speedy and efficient administration of justice. Thus, lawyers should not misuse the rules of procedure to defeat the ends of justice, unduly delay a case or impede the execution of a judgment.^[17]

WHEREFORE, we DISMISS the petition for being moot. We ADMONISH Atty. Nicolas M. De Guzman and Atty. Fortunato R. Balasbas, counsels for petitioner Eliza Francisco Baggenstos, for filing the patently frivolous petitions. We WARN them that a repetition of such acts in the future will merit a more severe sanction.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Quirino D. Abad Santos, Jr. with Associate Justices Delilah Vidallon-Magtolis and Artemio G. Tuquero, concurring.

[3] Clerical error, should be TCT No. 171720.

[4] Rollo, pp. 45-48.

[5] Ibid., p. 49.

[6] Ibid., p. 50.

[7] Rollo, p. 51.

[8] Ibid., pp. 52-53.

[9] Ibid., 54-55.

[10] Ibid., pp. 58-60.

[11] Ibid., pp. 61-62.

[12] Ibid., p. 67.

[13] Under Section 9(2), B.P. Blg. 129.

[14] Instances when an error may be committed in the course of execution proceedings prejudicial to the rights of a party which call for correction by a superior court -

(1)

the writ of execution varies the judgment;

(2)

there has been a change in the situation of the parties making execution inequitable or unjust;

(3)

execution is sought to be enforced against property exempt from execution;

(4)

it appears that the controversy has never been submitted to the judgment of the court;

(5)

the terms of the judgment are not clear enough and there remains room for interpretation thereof; or

(6)

it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or is issued against the wrong party, or that the judgment debt has been paid or otherwise satisfied, or the writ was issued

without authority. *Limpin, Jr. v. Intermediate Appellate Court*, G.R. No. L-70987, 30 January 1987, 147 SCRA 516.

[15] *Gancho-on v. Secretary of Labor and Employment*, G.R. No. 108033, 14 April 1997, 271 SCRA 204.

[16] *Garcia v. Commission on Elections*, G.R. No. 121139, 12 July 1996, 258 SCRA 754.

[17] *Eternal Gardens Memorial Park Corp. v. CA*, 355 Phil. 369 (1998).

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