

**FELICITO BAGUIO AND NEOFITA SIMBAJON, PETITIONERS, VS.
HONORABLE ACTING PRESIDING JUDGE ROSENDO B. BANDAL, JR.,
SEVENTH JUDICIAL REGION, REGIONAL TRIAL COURT, NEGROS
ORIENTAL, B...**

G.R. No. 126442. December 29, 1998

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is a Petition for Certiorari under Rule 65 of the Revised Rules of Court, seeking to annul the Order[1] of the Regional Trial Court of Negros Oriental, Branch 30, amending its final and executory judgment, and the subsequent Order[2], dated August 22, 1996, denying petitioners's Motion for Reconsideration in Civil Case No. 4622, an action for Annulment of Documents, Partition, Accounting, and Damages.

The then Presiding Judge Enrique C. Garrovillo handed down a Decision[3], dated October 12, 1987; disposing, among other things, thus:

"8. Ordering Defendants Felicito Baguio and Neofita Simbajon to deliver the possession of Lot 1868, PLS-321 and the improvements thereon to Plaintiffs within 15 days after this decision has become final;

9. Ordering the partition of Lot 1868, PLS-321 and the value of the fruits and products thereof from February 12, 1965 to the present enumerated in item "7" of this dispositive portion, inequal (sic) shares among the 10 groups of heirs respectively of Andres Absin, Juan Absin, Felipe Absin, Ana Absin, Narciso Absin, Salvador Absin, Potenciano Absin, Crisanta Absin, Molecia Absin, and Lorenzo Absin mentioned in the Fourth Amended Complaint and to submit the corresponding Partition Agreement to this Court within 5 days thereafter for confirmation;"[4]

The aforesaid judgment became final and executory on December 20, 1994.

On September 12, 1995, upon motion of plaintiffs (now private respondents), the respondent court ordered[5] issuance of a writ of execution. However, on September 22, 1995 the defendants (now petitioners) moved to quash such writ of execution[6], invoking therefor their inability to comply therewith for the given reason that Lot No. 1868 is presently owned and possessed by the heirs of a certain Flavia Factoran.

Acting on the motion of private respondents, the respondent court[7] came out with its assailed Order, amending paragraphs eight (8) and nine (9) of the dispositive portion of its Decision dated October 12, 1987, which Order, reads:

"Treated by the Court is the Motion, dated February 25, 1996, filed by plaintiffs, through counsel, praying that the lot number, i.e. Lot No. 1868, appearing in paragraphs 8 and 9 of the Judgment of this Court, dated October 12, 1987, be amended to read as Lot No. 1898, to conform to the evidence. Plaintiffs contend, in effect, that the lot under litigation is Lot No. 1898, and that Lot No. 1868 is an erroneous number of the subject property.

It appearing from paragraph 4 of the Amended Complaint, dated October 16, 1967, filed by plaintiffs, (see

page 70 of the expediente), and in paragraph 4 of the Third Amended Complaint, dated September 23, 1971, (see page 210 of the expediente) and in the prayer of said Third Amended Complaint, (see page 219 of the expediente), as well as in the recital of the facts of the Decision of this Court, dated October 12, 1987 (page 254 of the expediente), that the lot in controversy is Lot No. 1898, Pls.-321, situated in the barangay of Bagacayon, La Libertad, Negros Oriental, the instant motion is granted. Well settled is the rule in our jurisdiction that a final and executory judgment of the Court may yet be amended on harmless clerical or typographical errors (*Vda. de Reyes vs. Court of Appeals*, 1609 SCRA 524). Furthermore, the Honorable Supreme Court has held that where there is an ambiguity caused by an omission or mistake in the dispositive portion of a decision, the court may clarify such ambiguity by an amendment even after the judgment had become final (*Reinsurance Company of the Orient, Inc. vs. Court of Appeals*, 198 SCRA 19; *Hiyas Savings and Loan Bank vs. Court of Appeals*, 202 SCRA 543).

WHEREFORE, as prayed for, paragraphs 8 and 9 of the Decision of this Court, dated October 12, 1987, is hereby amended to read in the sense that Lot No. 1868, should be written and read as Lot No. 1898.

SO ORDERED."[8]

On June 3, 1996, petitioners presented a Motion for Reconsideration of the said Order but to no avail . Their motion was denied on August 22, 1996. Hence, the petition under scrutiny.

The pivot of inquiry here is: whether or not the respondent court acted with grave abuse of discretion in amending the dispositive portion of its subject final and executory judgment?

The petition is not impressed with merit.

We discern nothing whimsical or capricious in the assailed action of the respondent court in amending the dispositive portion of its final and executory decision under attack. Respondent court did the right thing under the premises. The Order dated August 22, 1996, reads:

"As earlier pointed out by plaintiffs, and latter by this Court in its assailed resolution, the lot in controversy is Lot No. 1898. This can be clearly seen in the pleadings of the parties, as well as in the evidence presented. Lot no. 1868 simply suddenly cropped up in the Judgment of this Court, dated October 12, 1987. Thus, being not the subject of the legal controversy, it is very evident that Lot no. 1868 has no bearing in this case, and was simply a product of a harmless clerical and typographical error. It is unfortunate that defendants and their counsels failed to understand a simple situation. x x x "[9]

Precisely, Civil Case No. 4622 refers to no other lot than Lot No. 1898.

In light of the foregoing, we find the error addressed by the Orders in question merely clerical and typographical. Well settled is the rule "that a final and executory judgment of the Court may yet be amended on harmless clerical or typographical errors." [10] Undoubtedly, a court may still amend a final and executory judgment to clarify an ambiguity caused by an omission or mistake in the disposition of the Decision.[11]

WHEREFORE, the Petition is hereby DISMISSED for lack of merit. No pronouncements as to costs.

SO ORDERED.

Romero, Kapunan, and Pardo, JJ., concur.

[1] Dated May 9, 1996; Annex "A"; Rollo, p. 15.

[2] Annex "B"; Rollo, pp. 16-17.

[3] Annex "C"; Rollo, pp. 18-42.

[4] Rollo, p. 42.

[5] Annex "D"; Rollo, p. 43.

[6] Annex "E"; Rollo, p. 44.

[7] Now presided by Honorable Acting Presiding Judge Rosendo B. Bandal.

[8] Rollo, p. 15.

[9] Rollo, p. 16.

[10] Vda. de Reyes vs. Court of Appeals, 198 SCRA 19.

[11] Hiyas Savings and Loan Bank vs. Court of Appeals, et. al., 202 SCRA 543, p. 547.

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