

**THELMA C. PANADO MARTINA C. RELLORTA, MANUEL CRISTOBAL,
FRANCIANINA C. ROGA, GENOVEVA C. ELESORIO, ANGEL
CRISTOBAL, TEODOLFO CRISTOBAL, VALERIA C. FELIX, FELOMINA
C. REYES, ALVI...**

G.R. No. 127936. October 14, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Courts must exercise their contempt powers sparingly, only on the preservative and not on the vindictive principle. Moreover, parties cannot utilize actions challenging writs of execution to assail collaterally the merits of a final and executory judgment. Counsels are warned to avoid interjecting pleadings with irrelevant matters, which serve merely to vex this Court and impose on its time and attention.

The Case

Before us is a petition for review on certiorari which seeks to set aside the May 29, 1996 Decision[1] and the January 22, 1997 Resolution[2] of the Court of Appeals[3] in CA-GR SP No. 37095. The assailed Decision disposed of the case in the following manner:

"WHEREFORE, the petition is hereby DENIED due course and DISMISSED. Our earlier temporary restraining order is LIFTED, with costs against petitioners. Necessarily, petitioners' motion for contempt of court against private respondents is likewise dismissed for lack of factual and legal basis."[4]

For lack of merit, petitioners' Motion for Reconsideration was denied in the questioned Resolution.

The Facts

The facts, as found by the Court of Appeals (CA), are as follows:

"x x x [O]n July 27, 1989, petitioners Thelma C. Panado, et. al., filed an amended complaint in Civil Case No. 3951 for recovery of possession and ownership of a parcel of land against private respondent Hernando Cortes. Respondent RTC Judge Sheila Martelino-Cortes dismissed the complaint for failure to prosecute with costs against plaintiffs. Defendants' counterclaim was waived and was likewise dismissed.

"On May 9, 1990, petitioners instituted Civil Case No. 4187 for quieting of title with damages, against private respondents. This complaint was amended on November 26, 1990. In order dated April 10, 1991, the Regional Trial Court dismissed the case on the ground of res judicata, with costs against plaintiffs. The RTC also noted that in filing Civil Case No. 4187, petitioners committed forum-shopping.

"Petitioners' motion for reconsideration of the April 10, 1991 order having been denied, the case was appealed to the Court of Appeals. In a decision promulgated October 28, 1993, this Court affirmed the appealed order and dismissed the appeal, with costs against appellants.

"Petitioners filed a motion for reconsideration but the same was denied. Entry of judgment having been issued

on July 13, 1994, private respondents filed a motion for execution of judgment. Petitioners opposed the motion for execution, pointing out that the dispositive portions of the dismissal order in Civil Case No. 4187 as well as that of the decision in CA-G.R. CV No. 32625 show that there is nothing to execute.

"On March 3, 1995, respondent Judge issued an order for the issuance of a writ of execution of Civil Case No. 4187 on the ground that the decision of the Court of Appeals had become final and executory." [5]

Petitioners then filed a Petition for Certiorari before the Court of Appeals to challenge the issuance of the Writ of Execution in Civil Case No. 4187. Without necessarily giving due course to the petition, the CA, [6] on April 28, 1995 ordered the public respondents "temporarily to desist from enforcing the assailed order and the Writ of Execution." [7] For simplicity and brevity, we shall henceforth refer to this Order as a TRO. On December 28, 1995, the petitioners filed, in the same case proceedings before the CA, a Petition to Declare [Private] Respondents in Contempt of Court, for allegedly entering the disputed property in violation of the TRO.

For purposes of clarity, we should add that the herein parties litigated between them the ownership and possession of several parcels of land in three cases; namely, Civil Case Nos. 1142, 3951 and 4187. [8]

Civil Case No. 1142 is an action for forcible entry filed by private respondents against herein petitioners. The First Municipal Circuit Trial Court (MCTC) of New Washington and Batan [9] rendered a Decision [10] in favor of private respondents. Petitioners did not appeal said judgment, which has thus become final and executory. The MCTC issued two Writs of Execution, which petitioners never questioned in the said proceedings.

Prior to the resolution of the above-mentioned case, petitioners instituted against Respondent Hernando Cortes Civil Case No. 3951 for the recovery of a parcel of land in the Regional Trial Court (RTC) of Kalibo, Aklan. [11] As earlier stated, the trial judge dismissed the case on December 13, 1989 for failure to prosecute. [12]

Before the RTC of Kalibo, Aklan, petitioners also filed against private respondents Civil Case No. 4187 for Quieting of Title with Damages. [13] On grounds of forum shopping and res adjudicata, the case was dismissed, viz.:

"WHEREFORE, in view of the foregoing consideration, the amended complaint dated November 20, 1990 is hereby ordered DISMISSED. With Costs against plaintiffs." [14]

On appeal, On appeal, [15] the CA [16] affirmed the said order in a Decision [17] dated October 28, 1993, which disposed:

"WHEREFORE, judgment is hereby rendered affirming the appealed order and dismissing this appeal. Costs against appellants." [18]

The CA Decision became final and executory on January 13, 1994 and was entered in the Book of Judgments on March 7, 1994. [19]

On March 3, 1995, Acting Presiding Judge Sheila Martelino-Cortes ordered [20] the issuance of a Writ of Execution in Civil Case No. 4187. Accordingly, on March 17, 1995, the clerk of court issued the writ [21] addressed to the sheriff of the Province of Aklan or to any of his deputies.

The present petition is an offshoot of the issuance of the said writ Civil Case No. 4187.

Ruling of the Court of Appeals

In Dismissing the Petition for Certiorari, the Court of Appeals held that there was no conflict between the Writ of Execution in Civil Case No. 4187 and the decretal portion of the final and executory Decision therein. Accordingly, Respondent Court ruled that the petition to cite petitioners in contempt had no factual or legal basis.

Issue

In their Petition for Review and subsequent memorandum, petitioners raise a solitary issue:

"Whether or not the Respondent Court committed grave abuse of discretion in finding that private respondents cannot be held for contempt of court." [22]

Before the disposition of the main issue, we need to stress that a petition for review under Rule 45 of the Rules of Court, like the present case, serves to correct a "reversible error" -- not "grave abuse of discretion" as alleged by herein petitioners -- on the part of the appellate court. Be that as it may, the Court will disregard this procedural lapse and treat the issue as one of reversible error.

This Court's Ruling

The Petition has absolutely no merit.

Contempt of Court

Petitioners argue that private respondents should be held in contempt of court under Section 3 (b), Rule 71 of the Rules of Court. At the time, the said provision stated that a person may be cited in contempt for "[d]isobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court of judge, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto[.]" [23]

Petitioners contend that private respondents, by entering the disputed property, disregarded and defied the TRO issued by the Court of Appeals on April 28, 1995, pertinent portions of which read:

"Meantime, in order that the issues may not be rendered moot and academic, public respondents are ordered temporarily to desist from enforcing the assailed order and writ of execution." [24]

The Writ of Execution, the enforcement of which was restrained by the CA, reads in full:

"To the sheriff of the Province of Aklan
or to any of his deputies "

GREETINGS:

"WHEREAS, on April 10, 1991, an order was issued by this court in the above-entitled case, the dispositive part of which reads as follows:

`WHEREFORE, in view of the foregoing consideration, the amended complaint dated November 20, 1990 is hereby ordered DISMISSED. With costs against plaintiffs.

/s/ Pedro M. Icamina

/t/ PEDRO M. ICAMINA

Judge'

"WHEREAS, this Order was appealed by plaintiffs to the Court of Appeals, Manila[,] and on October 28, 1993, a decision was promulgated by the Seventeenth Division of said court the dispositive portion is quoted hereunder:

`WHEREFORE, judgment is hereby rendered affirming the appealed order and dismissing this appeal. Costs against appellants.'

SO ORDERED.

ALFREDO L. BENIPAYO

Associate Justice

WE CONCUR:

RICARDO P. GALVEZ EUBULO G. VERZOLA

Associate Justice Associate Justice

"WHEREAS, on March 3, 1995, this court issued an order which reads:

"The decision of the Court of Appeals having become final and executory, let a writ of execution issue.

SO ORDERED.

/s/ Sheila Y. Martelino-Cortes

/t/ SHEILA Y. MARTELINO-CORTES

Acting Presiding Judge'

"NOW, THEREFORE, upon payment of your lawful fees, you are hereby ordered to enforce, implement, and/or execute the aforesaid order of this court as affirmed by the Court of Appeals [which dismissed] the appeal taken by the plaintiffs, in the manner required by law and the rules of Court and return this writ unto this court within THIRTY (30) days from receipt with your corresponding report of the proceedings undertaken thereon.

"Witness the Honorable SHEILA Y. MARTELINO-CORTES, Acting Presiding Judge of this Court this 17th day of March, 1995.

ARTURO R. QUIMPO

Clerk of Court VI"[25]

Clearly, petitioners' contention that private respondents have violated the aforesaid TRO has no factual or legal moorings. In the first place, the order was addressed to the public respondents herein -- the RTC judge and the sheriff -- and not to the private respondents. Because the TRO did not command the private respondents to do anything, they cannot be held guilty of "disobedience of or resistance to a lawful writ, process, order, judgment or command of a court." [26] In other words, private respondents could not have defied any order, for they were not given any order to follow.

In the second place, the TRO restrained the RTC judge and the sheriff from enforcing, through the above-mentioned Writ of Execution, the RTC Decision in Civil Case No. 4187, which dismissed the Complaint for the Quieting of Title and ordered petitioners to pay the costs. Private respondents' act of entering the premises in question was not proscribed by the TRO.

Indeed, the power to declare a person in contempt of court serves to protect and preserve the dignity of the court, the solemnity of the proceedings therein and the administration of justice.[27] But this must be wielded sparingly.[28] For "this power should be exercised on the preservative and not on the vindictive principle. Only occasionally should the court invoke its inherent power in order to retain that respect without which the administration of justice must falter or fail." [29] In the present case, the conduct complained of does not justify the exercise of the contempt powers of the judiciary.

Other Arguments in

Support of the Petition

Petitioners further argue that (1) the Writ of Execution issued in Civil Case No. 1142 is defective; (2) the Sheriff's Return of Service in said case is false; and (3) private respondents are not the owners and possessors of the disputed property.

These arguments are irrelevant. The only issue raised in the present petition pertains to the denial of petitioners' motion to cite private respondents in contempt. The contempt motion, in turn, was filed because private respondents had allegedly disregarded the TRO issued by the Court of Appeals, restraining the enforcement of the Writ of Execution in Civil Case No. 4187 for the quieting of a title.

Evidentiary, the Writ of Execution in Civil Case No. 1142 for forcible entry is not in dispute, and its validity should not be challenged in these proceedings relative to Civil Case No. 4187. If petitioners believed that the Writ of Execution issued in the forcible entry case was defective and those stated in the sheriff's return were not true, they should have instituted the proper action in the proper forum. The court that rendered the Decision in the suit for forcible entry had general supervisory control over the execution thereof. Indeed, a court has the inherent power to correct errors of its ministerial officers and to control its own processes. Any claimed irregularities in the execution of a decision or award must be litigated in the court that issued it.[30]

Likewise, petitioners have failed to show the relevance of their argument that private respondents are not the owners or possessors of the property in dispute. Again, we must stress that the present petition does not pertain to the merits of the Decision in Civil Case No. 4187, which has become final and executory. Petitioners filed the petition for certiorari before the Court of Appeals, only to challenge the issuance of the Writ of Execution, on the ground that said writ was allegedly inconsistent with the decretal portion of the Decision. Petitioners cannot now challenge the substantive ruling of the RTC in Civil Case No. 4187. It is axiomatic that final and executory judgments can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.[31] Petitioners should not trifle with procedural laws in an attempt to reopen controversies long settled by the lower court.

One final word. The factual backdrop of this case is straightforward. The petition for certiorari was instituted before the Court of Appeals to assail the issuance of the Writ of Execution in Civil Case No. 4187. The CA then issued a TRO restraining the public respondents from enforcing the said writ. Before the Court of Appeals could resolve the petition, petitioners filed a motion to cite private respondents in contempt for allegedly violating the TRO. When the CA dismissed the petition and denied the motion, the present petition was filed questioning only the denial of the motion and praying that private respondents be cited for contempt.

The resolution of this case should have been equally straightforward. But petitioner complicated the proceedings by interspersing the issues with matters that have no relevance to this case. The points raised by petitioners pertain not only to the issuance of the Writ of Execution, but to the merits of a final and executory judgment. Petitioners are reminded, therefore, that they cannot escape the effects of a final judgment by questioning the validity of the writ issued and the truthfulness of the sheriff's return in the forcible entry case, in this petition which arose from a complaint to quiet a title. By doing so, they have needlessly taxed the patience and attention of this Court, and improvidently imposed on its precious time. Petitioners' counsels in the Public Attorney's Office are warned that henceforth, they should argue only on relevant facts and issues and avoid interjecting irrelevant matters that serve merely to confuse and annoy this Court.

WHEREFORE, the petition is hereby DENIED for utter lack of merit. Costs against the petitioners.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing JJ., concur.

[1] Rollo, pp. 73-78.

[2] Ibid., p. 83.

[3] Penned by J. Ruben T. Reyes and concurred in by JJ. Consuelo Ynares Santiago, acting Division chairman; and Romeo J. Callejo Sr., member.

[4] CA Decision in CA-GR SP No. 37095, dated May 29, 1996, p. 5; rollo, p. 77.

[5] CA Decision, pp. 1-3; rollo, pp. 73-75.

[6] Issued by J. Ruben T. Reyes of the Sixth Division of the CA and concurred in by JJ. Antonio M. Martinez (now a member of this Court) and Consuelo Ynares-Santiago.

[7] Rollo, p. 48-A.

[8] Hernando Cortes also filed against one Gabriel Bermudo an illegal detainer case, docketed as Civil Case No. 1159, involving the same property, before the First Municipal Circuit Trial Court of new Washington-Batan, Aklan. On October 28, 1986, a Decision was rendered in favor of Cortes. (See rollo, pp. 119-127.)

[9] Presided by Judge Arturo R. Carpio.

[10] Rollo, pp. 111-113.

[11] Presided by Judge Sheila Martelino-Cortes.

[12] Rollo, p. 32.

[13] Presided by Judge Pedro M. Icamina.

[14] Order, dated April 10, 1991, p. 4; rollo, p. 36.

[15] Docketed as CA-GR CV No. 32635.

[16] Penned by the chairman of the Seventeenth Division, J. Alfredo L. Benipayo, and concurred in by JJ., Ricardo P. Galvez and Eubulo G. Verzola.

[17] Rollo, pp. 37-43.

[18] Decision, p. 7; rollo, p. 43.

[19] Rollo, p. 110.

[20] Ibid., p. 47.

[21] CA rollo, pp. 51-52.

[22] Petition for Review, p. 5; rollo, p. 12. Memorandum for the Petitioners, p. 7; rollo, p. 328. (All capital letters in the original.)

[23] Although its language was changed, the aforecited provision was reproduced substantially in Section 3 (b), Rule 71, of the 1997 Rules of Civil Procedure.

[24] Rollo, p. 58.

[25] CA rollo, pp. 51-52.

[26] See *Pascua v. Heirs of Segundo Simeon*, 161 SCRA 1, 5, May 2, 1988.

[27] *De Guia v. Guererro Jr.*, 234 SCRA 625, 630, August 1, 1994.

[28] Paredes-Garcia v. Court of Appeals, 261 SCRA 693, 705, September 11, 1996.

[29] Abad v. Somera, 187 SCRA 75, 85, July 2, 1990, per Paras, J. See also Victorino v. Espiritu, 5 SCRA 653, 657, July 30, 1962.

[30] Balais v. Velasco, 252 SCRA 707, 720, January 31, 1996.

[31] In Re Joaquin T. Borromeo, 241 SCRA 405, 457-458, February 21, 1995.

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