

**SPOUSES DELIO GUINYAWAN AND EMILIA GUINYAWAN,
PETITIONERS, VS. LOUISA AYOGAT, ANGEL AYOGAT, HON.
ARTEMIO B. MARRERO, PRESIDING JUDGE OF BRANCH 36,
REGIONAL TRIAL COURT, BONTOC, ...**

G.R. No. 131913. June 08, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Petitioners Spouses Delio[1] and Emilia Guinyawan (Sps. Guinyawan) assail in their Petition for Certiorari, Prohibition and Mandamus under Rule 65 of the Rules of Court, the following orders issued by Hon. Artemio Marrero, Presiding Judge, Regional Trial Court, Branch 36, Bontoc, Mountain Province (respondent judge), in Civil Case No. 718,[2] viz.:

- November 10, 1997 Order,[3] denying the Motion to Reset Hearing, filed by private respondents Spouses Angel[4] and Louisa Ayogat (Sps. Ayogat), on their Motion for Execution;
- November 14, 1997 Order,[5] declaring the Motion for Execution submitted for resolution;
- November 19, 1997 Order,[6] directing public respondent Clerk of Court Marlyn C. Willie (respondent clerk of court) to issue writ of execution;
- November 28, 1997 Order,[7] denying Sps. Guinyawan's Motion for Reconsideration from the November 19, 1997 Order;
- December 5, 1997 Order,[8] denying Sps. Guinyawan's separate Motions for Reconsideration from the Orders of November 10, 1997, November 14, 1997 and November 19, 1997;
- December 15, 1997 Order,[9] denying Sps. Guinyawan's prayer for an order to stay enforcement of the December 1, 1997 Writ of Execution; and
- December 16, 1997 Order,[10] denying Sps. Guinyawan's Motion to Quash the writ of execution,

as well as the December 1, 1997 Writ of Execution[11] issued by respondent Clerk of Court.

The factual antecedents:

In Civil Case No. 718, respondent judge rendered a Decision dated January 31, 1992, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants in the following manner:

- Declaring that the plaintiffs-spouses Angel and Louisa Ayogat have legal or equitable title to, or interest in the real property subject of this suit;

- Declaring that said plaintiffs have possession de jure, or possession as a right over the same real property afore-mentioned;
- Ordering the defendants-spouses Delio and Emilia Guinyawan to vacate the premises in issue; and
- Ordering the said defendants to pay attorneys' fees and litigation expenses of P10,000.00.

Costs against the defendants.

SO ORDERED.[12]

Sps. Guinyawan appealed[13] to the Court of Appeals (CA) which, in a Decision dated May 30, 1994, affirmed with modification the January 31, 1992 RTC Decision in favor of plaintiffs-appellees Sps. Ayogat, to wit:

WHEREFORE, the decision appealed from is MODIFIED by declaring the land involved in this case to be public land, subject to the right of possession of plaintiff-appellants (sic). In all other respects, the decision appealed from is AFFIRMED.

SO ORDERED.[14]

Sps. Guinyawan filed a Motion for Reconsideration but this was denied by the CA in a Resolution dated May 31, 1994.[15] They filed a Petition for Review with this Court which we denied in a Resolution[16] dated July 6, 1994. We also denied their Motion for Reconsideration in a Resolution[17] dated August 24, 1994. Our judgment became final and executory on September 19, 1994.[18]

Sps. Guinyawan returned to the CA, this time on a Petition for Annulment of Judgment,[19] which said court also dismissed in a Decision[20] dated October 27, 1995. Said decision became final and executory on May 4, 1996.[21]

In time, Sps. Ayogat filed a Motion for Execution[22] which the RTC set for hearing on November 14, 1997 at 8:30 o'clock in the morning.[23] Sps. Ayogat asked that the hearing be reset to November 21, 1997,[24] to which Sps. Guinyawan assented,[25] but the RTC issued the November 10, 1997 Order assailed herein, refusing to postpone the hearing. Counsel for Sps. Guinyawan received a copy of said Order only in the afternoon of November 13, 1997; hence, he sent the RTC a telegram[26] explaining that he could not make it to the hearing the following day (November 14) because the last bus to Bontoc had already left. Thereafter, he filed on November 17, 1997 a Motion for Reconsideration[27] of the November 10, 1997 Order, and attached to it a verified Opposition to the Motion for Issuance of Writ of Execution,[28] with a request that the same be heard on November 28, 1997.

It turned out that the hearing on the Motion for Execution was conducted on November 14, 1997, as originally scheduled, with counsel for Sps. Ayogat present. At the end of the hearing, the RTC issued the November 14, 1997 Order declaring the Motion for Execution submitted for resolution. It later issued the November 19, 1997 Order granting said motion. Respondent clerk of court issued the questioned December 1, 1997 Writ of Execution.

Upon notice of the November 17, 1997 and November 19, 1997 Orders, Sps. Guinyawan filed on November 21, 1997 a Consolidated Motion[29] for Reconsideration of the November 14, 1997 Order and for resolution of their November 17, 1997 Motion for Reconsideration of the November 10, 1997 Order. They also filed on November 25, 1997, a Motion for Reconsideration[30] of the November 19, 1997 Order. This was followed by a Motion to Set for Hearing[31] all their three motions on December 5, 1997 at 8:30 o'clock in the morning, which the RTC granted.[32]

After the December 5, 1997 hearing, the RTC issued the questioned Order denying all three pending motions of Sps. Guinyawan, including their opposition to the issuance of a writ of execution.[33] Undaunted, the latter filed an Opposition to Notice to Parties for Writ of Execution[34] and a Motion to Quash[35] the December 1, 1997 Writ of Execution, but the RTC denied both motions in separate Orders dated December 15, 1997 and December 16, 1997. The Writ of Execution was partially implemented on January 30, 1998.[36]

Hence, the present Petition.

Sps. Guinyawan (petitioners) object to the foregoing orders of respondent judge on procedural and substantive grounds, specifically:

Petitioners were denied due process of law in the issuance of a writ of execution in question. Consequently, all orders issued by respondent Judge, including the writ of execution in question are null and void ab initio. Petitioners are therefore entitled to a judgment commanding respondent Judge, respondent Clerk of Court, and respondent Ex-Oficio Provincial Sheriff to desist from further proceeding with the enforcement of the writ of execution in question.[37]

Respondent Judge unlawfully neglected and omitted to resolve the substance and merits of the opposition of herein petitioners to the motion of private respondents for issuance of a writ of execution and their motion to quash the writ of execution in question, which the law specifically enjoins as a duty resulting from his office as the Presiding Judge of Branch 36, Regional Trial Court, First Judicial Region, in Bontoc, Mountain Province. Petitioners are therefore entitled to the writ of mandamus commanding respondent Judge to hear and decide on the merits the opposition of herein petitioners to the motion of private respondents for the issuance of a writ of execution, and if herein petitioners will thereafter file a motion to quash a writ of execution, in the remote possibility that one might be issued, to hear and decide the same on the merits.[38]

First Part: The writ of execution in question should not vary – but now varies- from the final judgment as modified by the Court of Appeals, and therefore null and void.[39]

Second Part: Assuming only for the sake of argument that the property in litigation is determined to be that area where the house, structures, terraces, water system, gardens, plants and other improvements introduced in good faith by herein petitioners are located, herein petitioners are entitled to the beneficent provisions of Articles 448, 456 and 458 of the Civil Code of the Philippines. This is by way of alternative relief, and averred *ex abundante ad cautelam*. [40]

Part Three [sic]: Respondent Judge unlawfully neglected and omitted to hear and decide on the merits the opposition of petitioners to the motion to quash the writ of execution in question which the law specifically enjoins as a duty resulting from his office as a Judge before whom the case is pending. It was insisted that the court *a quo* is the appropriate forum for the resolution of the issues raised therein because it is invested with the authority and duty to prevent the perversion of the judgment as a medium of consummating a wrong against petitioners.[41]

In their Supplemental Petition[42] and Second Supplemental Petition,[43] petitioners also assail the Writ of Execution Return and Proof of Service[44] issued by Ex-Oficio Sheriff Leon Baongot and the threatened issuance of a writ of demolition.[sic][45]

The procedural issues raised by petitioners deserve scant consideration.

Due process is served where a party is given an opportunity to be heard, whether or not he actually avails himself of it.[46]

Petitioners accuse respondent judge of failing to observe due process in that he obstinately refused to reset the hearing on the application for writ of execution, thereby preventing them (petitioners) from airing their opposition

to the application.[47]

The records do not support petitioners' claim.

Petitioners themselves acknowledged that in the December 3, 1997 Order, respondent judge granted their motion to set for hearing their pending motions for reconsideration of the various orders of the court, including their Opposition to the Motion for Execution. As scheduled, actual hearing on these matters was conducted by respondent judge, with petitioners' counsel actively participating in the proceedings. At the end of the hearing, their counsel agreed to submit these matters for resolution. Petitioners alleged in their petition, thus:

28. On that same day, December 5, 1997, herein petitioners appeared, through counsel, before respondent Judge and they were heard not only on their three (3) aforementioned motions but also on their opposition to the motion of private respondents for issuance of writ of execution. During the hearing, the three (3) motions of herein petitioners, as well as their opposition to the motion for issuance of a writ of execution were submitted for resolution. (Emphasis supplied)[48]

Not only were petitioners given an opportunity to air their opposition to the application for a writ of execution; they actually availed themselves of it by presenting their arguments in court. More than that, petitioners agreed to have their motions and opposition submitted for resolution, thereby accepting the integrity of the proceedings in court.

Thus, regardless of whether the refusal of respondent judge to postpone the November 14, 1997 hearing was unreasonable, the fact remains that the latter eventually heard petitioners on their opposition to the motion for execution. Respondent judge accorded them full due process.

Going now into the substantive issues raised by petitioners, we find the same utterly baseless.

Petitioners contend that the December 1, 1997 Writ of Execution as well as the Writ of Execution Return and Proof of Service are a nullity, for they expanded the judgment sought to be implemented by including in their coverage property owned by petitioners which is different in area and location from the property subject matter of Civil Case No. 728.[49]

To better understand this issue, reference to the records of Civil Case No. 728 will have to be resorted to.

In their Complaint[50] before the RTC, Sps. Ayogat (private respondents) described the land subject matter of the litigation (hereinafter referred to as "subject land") as follows:

A parcel of agricultural land, situated at Sitio Bacdangan, Sinto Bauko, Mt. Province, containing an area of 2 hectares but after its resurvey the actual area is 4.9352 hectares, more or less, bounded on the North by public land (claim of Ayogat); east by national road (Halsema National Highway); south by Leon and Creek; and on the west by public land (claim of Ayogat), the boundary is visible by means of road, canals, and earthen walls. Improvements consist of terraces, the same was declared under Tax Declaration No. 16715, and the latest tax declaration is No. 21991 of the land records of the Municipality of Bauko, Mt. Province.[51]

According to private respondents, they acquired the subject land from Askayan Bagayao in the 1950's. In 1967, they mortgaged the subject land to petitioners as security for a loan of P9,000.00;[52] and, instead of paying interest on the loan, they allowed the latter to directly enjoy its fruits. Civil Case No. 728 stemmed from the refusal of petitioners to return the subject land to private respondents despite the latter having fully paid their P9,000.00 - loan.[53]

In their Answer and other pleadings before the RTC, petitioners admitted that the subject land was initially mortgaged to them by private respondents but, in 1976, they were forced to vacate said land when it was fenced

off by Mt. Data Lodge and the Bureau of Travel and Tourist Industry (BTTI).[54] The land which they are presently occupying is located outside the fenced-off property of Mt. Data Lodge; hence, it is different from the subject land.[55]

The RTC resolved the issue on the identity of the subject land in this manner:

On top of the preceding revelations is the identity of the realty subject of the action at bar, definitely established and delineated in the spot inspections conducted by the Court on the premises, as that certain vegetable garden situated at Sitio Bacdangan, Bo. Sinto, Bauko, Mt. Province; 2.2290 has. in area; bounded on the north by forested public land, east by the barbed wire fence of the Mt. Data Lodge (BTTI) and the Halsema Highway, south by creek and Leon Dammi and west by creek and public land (Exhs. "C" to "C-3", Exh. "X" (Court); pp. 74 and 134, Rec.). Obviously, the area is within the Mt. Data National Park as reflected in the map of the reservation (Exhs. "18" and "18-B"; pp. 47 to 48, Defendant's Record of Exhibits). Incidentally, the defendants Guinyawan are the actual occupants at the moment. Upon comparison, it is observed that the technical description of this lot in question substantially conforms with the circumscriptions of the parcels referred to in Par. 2 of the complaint, in the mortgage contract and in the tax declarations of the parties. The situations, nature and area of the premises treated are more or less the same. The metes and bounds reasonably tally except on the east wherein, instead of Halsema highway as indicated in the complaint, the contract and the tax declaration, it is now the barbed wire fence of the Mt. Data Lodge and a stretch of the Halsema. This discrepancy is explained by the fact that part of the eastern portions of this land claimed by plaintiffs Ayogats is included within the perimeter of the 9,191 has. tract leased and/or awarded to the Mt. Data Lodge. When the latter fenced its 9.91 has. compound, it sliced off a section but certainly not the whole area claimed. It stands to reason that what thereafter remained is the lot delimited during the spot inspections - now the bone of contention. Elsewise stated, the property in issue is one and the same as the land described in the complaint, the mortgage contract and the tax declarations, or at the very least, it is the remaining larger portion of the latter lot after the Mt. Data Lodge excluded a fraction thereof from the eastern side. Corollarily, the proposition of the defendants that they had vacated the land claimed by the plaintiffs way back when, that such land is the section appropriated by the Mt. Data Lodge, and that the parcel they now occupy is different from the contested realty, are utter dissimulations, a ruse to postpone the inevitable on the remote chance that the tide will turn. (Emphasis supplied)[56]

When petitioners appealed to the CA (CA G.R. CV-No.37446), the identity of the subject land was one of the issues they raised.[57] This issue, however, was not squarely addressed by the CA, for the latter resolved mainly the issue of the nature of the subject land: whether it is part of the public domain. A thorough reading of the May 30, 1994 CA Decision reveals, though, that the appellate court did not, in any manner, reverse the aforesaid findings of the RTC on the identity of the subject land. Rather, it is unmistakable that the CA treated the subject land being claimed by private respondents and the occupied land which petitioners are seeking to retain as one and the same, thus:

Indeed defendant-appellants are estopped from disputing plaintiff-appellees' right of possession over the property having accepted the latter's payment of P9,000.00 which discharged plaintiff-appellees' mortgage over the subject property. Having admitted at pretrial the genuineness and due execution of the deed of real estate mortgage (Exh. A) between them, the agreement is conclusive on defendant-appellants. They cannot now claim that the mortgage agreement should be considered null and void because the mortgaged property is public land and thus, they should be allowed to remain in possession of the property. That would be to reward bad faith and encourage unjust enrichment, defendant-appellants having already received the P9,000.00 consideration of the mortgage agreement. (Emphasis supplied)[58]

Moreover, in the dispositive portion of its May 30, 1994 Decision, the CA expressly stated that, except for the nature of the subject land as public property, it is affirming the January 31, 1992 RTC Decision. Thus, the particular finding of the RTC on the identity of the subject land was virtually affirmed by the CA. This particular

finding is now binding and conclusive even upon us.

In sum, the subject land is that portion of the occupied land of petitioners, except "x x x the eastern portions x x x included within the perimeter of the 9,191 has. tract leased and/or awarded to the Mt. Data Lodge." [59]

The next question then is whether the questioned writ of execution and sheriff's return exceeded the scope of the January 31, 1992 RTC Decision, as modified by the May 30, 1994 CA Decision. It is axiomatic that a writ of execution that varies a final judgment may be struck down. [60] To determine whether the December 1, 1997 Writ of Execution suffers from such infirmity, its text has to be examined. The writ reads in part:

Whereas, the Second Division of the Court of Appeals, Manila, rendered a Decision on appeal in the above-entitled case docketed as CA-GR-No. 37446 dated March 30, 1994, the dispositive portion of which, reads as follows:

WHEREFORE, the decision appealed from is MODIFIED by declaring the land involved in this case to be public land, subject to the rights of possession of plaintiff-appellants. In all other respects, the decision appealed from is AFFIRMED. SO ORDERED.

x x x x

Whereas, on October 28, 1997, a Motion for Execution was filed by plaintiff thru counsel and after hearing thereof, this court in its Order dated November 19, 1997, granted the same;

Wherefore, pursuant to the same order, you are hereby commanded to enforce the judgment of the Regional Trial Court as affirmed by the Court of Appeals and subject to the modification above-stated, the dispositive portion of which reads as follows, to wit:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants in the following manner:

- Declaring that the plaintiffs-spouses Angel and Louisa Ayogat have legal or equitable title to, or interest in the real property subject of this suit;
- Declaring that said plaintiffs have possession de jure, or possession as a right over the same real property afore-mentioned;
- Ordering the defendants-spouses Delio and Emilia Guinyawan to vacate the premises in issue; and
- Ordering the said defendants to pay attorneys' fees and litigation expenses of P10,000.00.

Costs against the defendants.

SO ORDERED. (Emphasis supplied) [61]

Even a cursory reading of the writ convinces us that nothing there varied the tenor of the modified January 31, 1992 RTC Decision or expanded its scope. Instead, the writ is careful to emphasize that execution be limited to vesting in private respondents the possession, not title, of the subject land as identified by the RTC.

WHEREFORE, the petition is DENIED.

Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), and Nachura, JJ., concur.

[1] Petitioner Delio Guinyawan died during the pendency of this case and was substituted by his heirs. See rollo, p. 712.

[2] Entitled "Spouses Angel and Louisa Ayogat, Plaintiffs, versus Spouses Delio and Emilia Guinyawan, Defendants."

[3] Rollo, p. 223.

[4] Angel Ayogat died while the case was pending, and was substituted by his widow, Louisa Ayogat.

[5] Rollo, p. 257.

[6] Id. at 292.

[7] Id. at 420.

[8] Id. at 420.

[9] Id. at 487.

[10] Id. at 488.

[11] Id. at 421.

[12] RTC Decision, rollo, p. 143.

[13] Docketed as CA-G.R. CV-No.37446.

[14] CA Decision, rollo, p. 151, penned by Associate Justice Vicente V. Mendoza, with concurrence of Associate Justices Jesus M. Elbinias and Lourdes K. Tayao-Jaguros.

[15] Id. at 152.

[16] Id. at 153.

[17] Id. at 156

[18] Id. at 217.

[19] CA-G.R. SP-No. 37086.

[20] Rollo, p. 555.

[21] Id. at 560.

[22] Id. at 187.

[23] Id. at 219.

[24] Id. at 220.

[25] Id. at 222.

[26] Id at 275.

- [27] Id. at 225.
- [28] Id. at 229.
- [29] Rollo, p. 258.
- [30] Id. at 293.
- [31] Id. at 333.
- [32] Id. at 414.
- [33] Id. at 420.
- [34] Id. at 415.
- [35] Id. at 446.
- [36] Id. at 596.
- [37] Petition, rollo, p. 24.
- [38] Id. at 81.
- [39] Id. at 83.
- [40] Id. at 100.
- [41] Id. at 109.
- [42] Id. at 583.
- [43] Id. at 611.
- [44] Id. at 596.
- [45] Id. at 614.
- [46] J.D. Legaspi Construction v. National Labor Relations Commission, 439 Phil. 13, 20 (2002).
- [47] Petition, pp. 24-80.
- [48] Id. at 21-22.
- [49] Rollo, pp. 83-95.
- [50] Id. at 117.
- [51] Id.
- [52] RTC Decision, rollo, p. 130.
- [53] Id. at 131.
- [54] Id. at 131-132.
- [55] Id.
- [56] RTC Decision, rollo, pp. 136-137.
- [57] CA Decision, rollo, p. 147.

[58] Id. at 150.

[59] RTC Decision, rollo, pp. 136-137.

[60] Greater Metropolitan Manila Solid Waste Management Committee v. Jancom Environmental Corporation, G.R. No. 163663, June 30, 2006, 494 SCRA 280, 296-297.

[61] Rollo, pp. 421-422.

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