

**PIO BARRETTO REALTY DEVELOPMENT CORPORATION,
PETITIONER, VS. COURT OF APPEALS, JUDGE PERFECTO A. S.
LAGUIO, JR., RTC-BRANCH 18, MANILA, AND HONOR P. MOSLARES,
RESPONDENTS.**

G.R. No. 132362. June 28, 2001

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This petition for review on certiorari assails the Decision dated 30 June 1997 of the Court of Appeals in CA-G.R. SP No. 33982, "Pio Barretto Realty Development Corporation v. Hon. Perfecto A. Laguio, et al.," which dismissed the special civil action for certiorari filed by petitioner, as well as its Resolution dated 14 January 1998 denying reconsideration.

On 2 October 1984 respondent Honor P. Moslares instituted an action for annulment of sale with damages before the Regional Trial Court of Manila against the Testate Estate of Nicolai Drepin represented by its Judicial Administrator Atty. Tomas Trinidad and petitioner Pio Barretto Realty Development Corporation. Moslares alleged that the Deed of Sale over four (4) parcels of land of the Drepin Estate executed in favor of the Barretto Realty was null and void on the ground that the same parcels of land had already been sold to him by the deceased Nicolai Drepin. The case was docketed as Civil Case No. 84-27008 and raffled to respondent Judge Perfecto A. S. Laguio, Jr., RTC-Br. 18, Manila.

On 2 May 1986 the parties, to settle the case, executed a Compromise Agreement pertinent portions of which are quoted hereunder -

1. The Parties agree to sell the Estate, subject matter of the instant case, which is composed of the following real estate properties, to wit:

a. Three (3) titled properties covered by TCT Nos. 50539, 50540 and 50541[1] of the Registry of Deeds for the Province of Rizal, with a total area of 80 hectares, more or less, and

b. Untitled Property, subject matter of (a) Land Registration Case No. 1602 of the Regional Trial Court, Pasig, Metro Manila, with an area of 81 hectares, more or less,

subject to the following situations and conditions, to wit:

a. If plaintiff Honor P. Moslares x x x buys the property, he is under obligation, as follows:

1. To reimburse and pay Defendant Pio Barretto Realty Development Corporation, represented by Anthony Que, its capital investment of Three Million Pesos (P3,000,000.00), Philippine Currency, and

2. To pay the Estate of Nicolai Drepin, represented by the Judicial Administrator, Atty. Tomas Trinidad, the sum of One Million Three Hundred Fifty Thousand (P1,350,000.00) Pesos, Philippine Currency

b. If defendant Pio Barretto Realty Development Corporation, represented by Mr. Anthony Que x x x continue[s] to buy the property, it shall pay for the interests of plaintiff Honor P. Moslares:

1. The sum of One Million (P1,000,000.00) Pesos, Philippine Currency to plaintiff Honor P. Moslares personally and

2. Pay to the Estate of Nicolai Drepin, through the Judicial Administrator, Atty. Tomas Trinidad, the balance of the agreed purchase price subject to negotiation and verification of payments already made.

2. In the event that plaintiff Honor P. Moslares buys the Estate and pays in full the amount of Three Million (P3,000,000.00) Philippine Currency to defendant Pio Barretto Realty Development Corporation, and the full sum of One Million Three Hundred Fifty Thousand (P1,350,000.00) Pesos, Philippine Currency, to the Estate of Nicolai Drepin, through Atty. Tomas Trinidad, defendant Pio Barretto shall execute the corresponding Deed of Conveyance in favor of plaintiff Honor P. Moslares and deliver to him all the titles and pertinent papers to the Estate.

IN WITNESS WHEREOF, the parties hereto hereby sign this Compromise Agreement at Manila, Philippines, this 2nd day of May 1986 x x x x x x x x x x

On 24 July 1986 the trial court rendered a decision approving the Compromise Agreement.[2] However, subsequent disagreements arose on the question of who bought the properties first.

It must be noted that the Compromise Agreement merely gave Moslares and Barretto Realty options to buy the disputed lots thus implicitly recognizing that the one who paid first had priority in right. Moslares claimed that he bought the lots first on 15 January 1990 by delivering to Atty. Tomas Trinidad two (2) PBCom checks, one (1) in favor of Barretto Realty for P3 million, and the other, in favor of the Drepin Estate for P1.35 million.

But petitioner Barretto Realty denied receiving the check. Instead, it claimed that it bought the properties on 7 March 1990 by tendering a Traders Royal Bank Manager's Check for P1million to Moslares, and a Far East Bank and Trust Company Cashier's Check for P1 million and a Traders Royal Bank Manager's Check for P350,000.00 to Atty. Tomas Trinidad as Judicial Administrator of the Estate. However, Moslares and Atty. Trinidad refused to accept the checks.

Consequently, Barretto Realty filed a motion before the trial court alleging that it complied with its monetary obligations under the Compromise Agreement but that its offers of payment were refused, and prayed that a writ of execution be issued to compel Moslares and Atty. Trinidad to comply with the Compromise Agreement and that the latter be directed to turn over the owner's duplicate certificates of title over the lots.

On 10 May 1990[3] Judge Laguio, Jr. ordered that "a writ of execution be issued for the enforcement of the decision of this Court for the parties to deposit with this Court, thru the City Treasurer's Office of Manila, their respective monetary obligations under the compromise agreement that had been executed by them x x x x"

Reacting to the order, Atty. Trinidad for the Estate filed an urgent motion to hold the execution in abeyance on the ground that there was another case involving the issue of ownership over subject lots pending before the Regional Trial Court of Antipolo City. Moslares in turn filed a motion for reconsideration while Barretto Realty moved to amend the order since the lower court did not exactly grant what it prayed for.

On 14 June 1990, ruling on the three (3) motions, Judge Laguio, Jr., issued his Order -

Considering Defendant Judicial Administrator's urgent motion to hold in abeyance x x x the plaintiff's motion for reconsideration, and the Defendant Pio Barretto Realty Development, Inc.'s opposition to both motions x x x this Court finds the two motions without merit and are accordingly, denied.

As regards Pio Barretto Realty Development, Inc.'s ex-parte motion to amend order x x x the same is hereby granted and the deputy sheriff of this Court is allowed to deliver to the parties concerned thru their counsels the bank certified checks mentioned in par. 2 of the motion (underscoring ours).[4]

On 20 June 1990 Deputy Sheriff Apolonio L. Golfo of the RTC-Br. 18, Manila, implemented the order by personally delivering the checks issued by Barretto Realty in favor of Moslares and the Estate to Atty. Pedro S. Ravelo, counsel for Moslares, and to Atty. Tomas Trinidad, respectively, as recorded in a Sheriff's Return dated 25 June 1990.[5]

However, on 17 September 1993, or more than three (3) years later, Moslares filed a Motion for Execution alleging that he bought the lots subject of the Compromise Agreement on 15 January 1990 and that he paid the amounts specified as payment therefor. He asked that Barretto Realty be directed to execute a deed of conveyance over subject lots in his favor. In a Supplement to his motion Moslares contended that the previous tender of the checks by Barretto Realty did not produce the effect of payment because checks, according to jurisprudence, were not legal tender.

Respondent Judge granted Moslares' Motion for Execution. Consequently, on 8 November 1993 Barretto Realty was ordered to execute a deed of conveyance over the subject lots in favor of Moslares.

Aggrieved, Barretto Realty moved for reconsideration alleging that respondent Judge could no longer grant Moslares' motion since the prior sale of subject lots in its favor had already been recognized when the court sheriff was directed to deliver, and did in fact deliver, the checks it issued in payment therefor to Moslares and Atty. Trinidad.

On 7 December 1993 respondent Judge granted the motion of Barretto Realty for reconsideration and ruled -

Considering the motion for reconsideration and to quash writ of execution filed by defendant Pio Barretto Realty Corporation, Inc., dated 16 November 1993, together with the plaintiff's comment and/or opposition thereto, dated 18 November 1993, and the movant's reply to the opposition etc., dated 20 November 1993, this Court finds the motion well taken. The record shows that on 10 May 1990, a writ of execution was issued by this Court for the parties to deposit with the Court, thru the City Treasurer's Office of Manila, their respective monetary obligations under the compromise agreement that they had executed, and that it was only defendant Pio Barretto Realty Corporation Inc. that had complied therewith, per the return of this Court's deputy sheriff, Apolonio L. Golfo, dated June 25, 1990. Such being the case, Defendant Pio Barretto Realty Corporation Inc., is the absolute owner of the real properties in question and the issue on such ownership is now a closed matter.

WHEREFORE, Defendant Pio Barretto Realty Corporation Inc.'s motion for reconsideration etc., dated November 16, 1993, is hereby granted; this Court's order, dated November 8, 1993, is reconsidered and set aside, and the writ of execution of the same date against Defendant Pio Barretto Realty Corporation Inc. is ordered quashed (underscoring ours).[6]

Within a reglementary period Moslares moved to reconsider insisting that Barretto Realty's payment by check was not valid because (a) the check was not delivered personally to him but to his counsel Atty. Pedro Ravelo, (b) the check was not encashed hence did not produce the effect of payment; and, (c) the check was not legal tender per judicial pronouncements. Barretto Realty opposed the motion, but to no avail. On 11 February 1994 respondent Judge granted the motion for reconsideration and set aside his Order of 7 December 1993. Judge Laguio ruled that Barretto Realty's payment through checks was not valid because "a check is not legal tender and it cannot produce the effect of payment until it is encashed x x x x the check in question has neither been negotiated nor encashed by the plaintiff." [7] At the same time, however, Moslares' alleged payment of P3,000,000.00 on 15 January 1990 intended for Barretto Realty but delivered to Atty. Tomas Trinidad was likewise decreed as not valid because the latter was not authorized to accept payment for Barretto Realty.

Invoking interest of justice and equity, respondent Judge resolved to: (a) set aside its ruling contained in its order of 7 December 1993 that "(d)efendant Pio Barretto Realty Corporation, Inc., is the absolute owner of the property in question and the issue on such ownership is now a closed matter;" (b) order the plaintiff (should he desire to exercise his option to buy the real property in question) to pay defendant Pio Barretto Realty Corporation, Inc., the sum of P3,000,000.00 within five (5) days from notice thereof by way of reimbursement of the latter's capital investment; and, (c) order defendant Pio Barretto Realty Development Corporation, Inc., to pay the plaintiff (in the event the latter should fail to exercise his said option and the former would want to buy the real property in question) the sum of P1,000,000.00.

But Moslares failed to exercise his option and pay the amount within the five (5)-day period granted him. Instead, he filed a Supplemental Motion to Pay praying that he be given additional seven (7) days within which to do so. Barretto Realty opposed and invoked par. 3 of the Order of 11 February 1994 granting it the option to buy the lots in the event that Moslares should fail to pay within the period given him. Barretto Realty prayed that the P1 million cashier's check still in Moslares' possession be considered as sufficient compliance with the pertinent provision of the court's order. Later, Barretto Realty offered to exchange the check with cash. When Moslares did not appear however at the designated time for payment on 10 March 1994 before the Branch Clerk of Court, Barretto Realty filed a motion for consignment praying that it be allowed to deposit the P1,000,000.00 payment with the cashier of the Office of the Clerk of Court.

Respondent Judge however failed to act on the motion as he went on vacation leave. For reasons which do not clearly appear in the record, Judge Rosalio G. dela Rosa, Executive Judge of the RTC, Manila, acted on the motion and granted the prayer of Barretto Realty.[8] Upon the return of respondent Judge Laguio from his vacation, petitioner Barretto Realty immediately filed a motion for his inhibition on the ground that he had already lost the cold neutrality of an impartial judge as evident from his "seesaw" orders in the case. On 28 March 1994 respondent Judge denied the motion for his inhibition. Moslares for his part moved for reconsideration of Executive Judge dela Rosa's Order of 10 March 1994.

On 15 April 1994, in a Consolidated Order, respondent Judge Laguio set aside the questioned order of Executive Judge dela Rosa on the ground that the motion for consignment should have been referred to the pairing judge of Branch 18, Judge Zenaida Daguna of Branch 19. Respondent Judge further ruled that the questioned order was premature since there were pending motions, namely, Moslares' Supplemental Motion to Pay dated 1 March 1994, and Motion to Deposit dated 9 March 1994 which were both filed earlier than Barretto Realty's Motion for Consignment which however remained unresolved.

Respondent Judge Laguio found Moslares' motions meritorious and granted them. Moslares was thus given a non-extendible grace period of three (3) days within which to pay the P3,000,000.00 to Barretto Realty. Moslares then deposited the amount with the Branch Clerk of Court of Br. 18 within two (2) days from receipt of the order of respondent Judge, and on 25 April 1994 filed a motion for the Clerk of Court to be authorized to execute the necessary deed of conveyance in his favor.

On 2 May 1994 Barretto Realty filed a petition for certiorari and prohibition with prayer for a temporary restraining order and/or preliminary injunction with the Court of Appeals assailing the Orders of respondent Judge dated 28 March 1994 and 15 April 1994 on the ground that they were issued with grave abuse of discretion.

Meanwhile, on 12 October 1994 or during the pendency of the petition, respondent Judge granted Moslares' motion and authorized the Clerk of Court to execute the deed of conveyance in his favor. The implementation of the order however was enjoined by the Court of Appeals on 9 December 1994 when it issued a writ of preliminary injunction barring the issuance of the writ until further orders from the court.

In its Petition and Memorandum petitioner specifically alleged that respondent Judge's Orders of 8 November 1993,[9] 11 February 1994,[10] 15 April 1994,[11] and 12 October 1994[12] were all issued with grave abuse of discretion as the trial court had no more jurisdiction to issue such orders since the Compromise Agreement of 2 May 1986 which was the basis of the decision of 24 July 1986 had already been executed and implemented in its favor way back on 20 June 1990.

Petitioner likewise contended that the Order of 28 March 1994[13] denying petitioner's motion for inhibition was void because it did not state the legal basis thereof; that respondent Judge displayed obvious bias and prejudice when he issued "seesaw" orders in the case; and, that the bias in favor of Moslares was apparent when respondent Judge granted the former another three (3)-day period within which to pay the P3 million notwithstanding the fact that Moslares failed to comply with the original five (5)-day period given him. With respect to Executive Judge dela Rosa's Order of 10 March 1994, petitioner contended that there was no rule of procedure prohibiting the Executive Judge from acting on an urgent motion even if the pairing judge of the judge to whom the case was raffled was present.

The Court of Appeals dismissed the petition. It ruled that the denial by respondent Judge of the motion for his inhibition was not tainted with grave abuse of discretion correctible by certiorari. Aside from the fact that judges are given a wide latitude of discretion in determining whether to voluntarily recuse themselves from a case, which is not lightly interfered with, the appellate court however observed that the orders and resolutions issued by respondent Judge in the five (5) years he had been presiding over Civil Case No. 84-27008 indicated that they were not uniformly issued in favor of one or the other party. As petitioner itself aptly described, respondent Judge's actuations in the case "seesawed" between the parties.

On the matter of the validity of Judge dela Rosa's Order of 10 March 1994 granting petitioner's motion for consignment, the Court of Appeals ruled that the order was precipitate and unauthorized not only because the motion did not comply with the requisites for litigated motions but also because Judge dela Rosa had no judicial authority to act on the case. His duties as Executive Judge were purely administrative and did not include acting on a case assigned to another judge.

With respect to the two (2) writs of execution, one dated 10 May 1990 in favor of petitioner, and the other dated 11 February 1994 in favor of respondent, the Court of Appeals ruled -

Lastly, anent the existence of two writs of execution, first one for petitioner and the second for Moslares which the former has repeatedly cited as capricious and whimsical exercise of judicial discretion by respondent Judge, the records reveal that on 10 May 1990 a writ of execution was issued in favor of the petitioner upon its motion. For reasons of its own, petitioner did not pursue its effective and fruitful implementation in accordance with the decision based on a compromise agreement, spelling out the respective monetary obligations of petitioner and Moslares. Hence, after the lapse of at least one year, Moslares filed a motion for execution of the same decision x x x [I]t cannot be said that respondent Judge issued two conflicting orders sans any legal basis. What really happened was that the matter of the first order granting execution in favor of petitioner was repeatedly put at issue until the order of the court dated 11 February 1994 x x x Observedly, the said order was never elevated by petitioner to the appellate courts. Instead, he agreed with it by filing a "Manifestation and Motion" on 01 March 1994 praying that the P1 Million Cashier's Check still in the possession of Moslares be considered compliance with paragraph 3 of that order x x x

On 14 January 1998 petitioner's motion for reconsideration was denied; hence, this petition.

Petitioner contends that the Court of Appeals erred (a) in concluding that petitioner did not pursue the effective and fruitful implementation of the writ of execution dated 10 May 1990 in its favor, (b) in not setting aside Judge Laguio's Orders dated 11 February 1994, 15 April 1994 and 12 October 1994 as patent nullities, and, (c) in

disregarding jurisprudence declaring that cashier's or manager's checks are deemed cash or as good as the money they represent.

We grant the petition. Final and executory decisions, more so with those already executed, may no longer be amended except only to correct errors which are clerical in nature. They become the law of the case and are immutable and unalterable regardless of any claim of error or incorrectness.[14] Amendments or alterations which substantially affect such judgments as well as the entire proceedings held for that purpose are null and void for lack of jurisdiction.[15] The reason lies in the fact that public policy dictates that litigations must be terminated at some definite time and that the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party.[16]

It is not disputed, and in fact borne by the records, that petitioner bought the disputed lots of the Drepin Estate subject matter of the Compromise Agreement ahead of Moslares and that the checks issued in payment thereof were even personally delivered by the Deputy Sheriff of the RTC-Br. 18, Manila, upon Order of respondent Judge dated 14 June 1990 after tender was refused by Moslares and the Drepin Estate. Respondent Moslares never raised the invalidity of the payment through checks either through a motion for reconsideration or a timely appeal. Hence, with the complete execution and satisfaction of the Decision dated 24 July 1986 which approved the Compromise Agreement, Civil Case No. 84-27008 became closed and terminated leaving nothing else to be done by the trial court with respect thereto.[17] As petitioner correctly contended, the Court of Appeals erred when it concluded that petitioner did not pursue the fruitful and effective implementation of the writ of execution in its favor. As already stated petitioner paid for the lots through the court-sanctioned procedure outlined above. There was no more need for the Drepin Estate, owner of the lots, to execute a deed of conveyance in petitioner's favor because it had already done so on 10 October 1980. In fact the disputed lots were already registered in petitioner's name under TCT Nos. 50539, 50540 and 50541 as a consequence thereof. That was also why in the penultimate paragraph of the Compromise Agreement it was provided that in the event respondent Moslares bought the lots ahead of petitioner Barretto Realty the latter, not the Drepin Estate, was to execute the corresponding deed of conveyance and deliver all the titles and pertinent papers to respondent Moslares. There was therefore nothing more to be done by way of fruitful and effective implementation.

Clearly then respondent Judge Laguio no longer had any jurisdiction whatsoever to act on, much less grant, the motion for execution and supplement thereto filed by Moslares on 17 September 1993 or more than three (3) years later, claiming that he had already bought the lots. The fact that the check paid to him by Barretto Realty was never encashed should not be invoked against the latter. As already stated, Moslares never questioned the tender done three (3) years earlier. Besides, while delivery of a check produces the effect of payment only when it is encashed, the rule is otherwise if the debtor was prejudiced by the creditor's unreasonable delay in presentment. Acceptance of a check implies an undertaking of due diligence in presenting it for payment. If no such presentment was made, the drawer cannot be held liable irrespective of loss or injury sustained by the payee. Payment will be deemed effected and the obligation for which the check was given as conditional payment will be discharged.[18]

Considering the foregoing, respondent Judge Laguio's Order dated 8 November 1993 which granted private respondent's motion for execution thus nullifying the 1990 sale in favor of petitioner after he had in effect approved such sale in his Order of 14 June 1990 and after such order had already become final and executory, amounted to an oppressive exercise of judicial authority, a grave abuse of discretion amounting to lack of jurisdiction, for which reason, all further orders stemming therefrom are also null and void and without effect.[19]

The principle of laches does not attach when the judgment is null and void for want of jurisdiction.[20] The fact that petitioner invoked par. 3 of the Order of 11 February 1994 praying that its P1,000,000.00 check still in

Moslares' possession be considered sufficient payment of the disputed lots, could not be cited against it. For one thing, petitioner from the very start had always consistently questioned and assailed the jurisdiction of the trial court to entertain respondent's motion for execution filed three (3) years after the case had in fact been executed. Secondly, estoppel being an equitable doctrine cannot be invoked to perpetuate an injustice.[21]

WHEREFORE, the questioned Decision and Resolution of the Court of Appeals dated 30 June 1997 and 14 January 1998, respectively, are REVERSED and SET ASIDE. The Order of respondent Judge Perfecto A. S. Laguio Jr. dated 11 February 1994 in Civil Case No. 84-27008, setting aside his earlier ruling of 7 December 1993 which had declared petitioner Pio Barretto Realty Development Corporation as the absolute owner of the real properties in question, and all subsequent proceedings culminating in the Order of 12 October 1994 authorizing the Clerk of Court, RTC-Manila, to execute a deed of conveyance over subject properties in favor of respondent Honor P. Moslares, are declared NULL and VOID for want of jurisdiction.

Consequently, petitioner Pio Barretto Realty Development Corporation is declared the absolute owner of the disputed properties subject matter of the Compromise Agreement dated 2 May 1986 as fully implemented by the Deputy Sheriff, RTC-Br. 18, Manila, pursuant to the final and executory Order dated 14 June 1990 of its Presiding Judge Perfecto A. S. Laguio, Jr.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De leon, Jr., JJ., concur.

[1] As amended in the Order dated 10 May 1990; Rollo, p. 5.

[2] Rollo, pp. 89-90.

[3] See Order dated 29 April 1991, p. 2; Annex "L," Petition; Id., p. 101.

[4] Annex "J," Petition; Id., p. 98.

[5] Annex "K," Petition; Id., p. 99.

[6] Annex "R," Petition; Id., p. 131.

[7] Id., pp. 142-146.

[8] See Order of Judge Rosalio G. dela Rosa dated 10 March 1994; Id., p. 157.

[9] Order granting Moslares' motion for a writ of execution directing defendant Barretto Realty to execute a deed of conveyance in favor of plaintiff Moslares pursuant to the parties' Compromise Agreement.

[10] Order setting aside the court's ruling contained in its Order of 7 December 1993 declaring that defendant Barretto Realty was the absolute owner of the real properties in question and that the issue of such ownership was already a closed matter, and further ordering Moslares, should he exercise his option, to pay Barretto Realty P3,000,000.00 as reimbursement of the latter's capital investment, within five (5) days from notice hereof, and still further, ordering Barretto Realty to pay Moslares, should the latter fail to exercise his option and the former would want to buy the realty the sum of P1,000,000.00.

[11] Order denying among others petitioner Barretto Realty's Motion for Consignation.

[12] Order authorizing the Branch Clerk of Court, Br. 18, to execute a deed of conveyance over the disputed lots in favor of respondent Moslares.

- [13] Order denying petitioner's motion for inhibition of respondent Judge.
- [14] Buaya v. Stronghold Insurance Co., Inc., G.R. No. 139020, 11 October 2000.
- [15] Arcenas v. Court of Appeals, G.R. No. 130401, 4 December 1998, 299 SCRA 733.
- [16] Times Transit Credit Cooperative, Inc. v. National Labor Relations Commission, G.R. No. 117105, 2 March 1999, 304 SCRA 11; Nasser v. Court of Appeals, G.R. No. 115829, 5 June 1995, 245 SCRA 20.
- [17] Santo Tomas University Hospital v. Surla, G.R. No. 129718, 17 August 1998, 294 SCRA 382.
- [18] Papa v. A.U. Valencia and Co. Inc., G.R. No. 105188, 23 January 1998, 284 SCRA 643.
- [19] Chua v. Court of Appeals, G.R. No. 121438, 23 October 2000.
- [20] Arcelona v. Court of Appeals, G.R. No. 102900, 2 October 1997, 280 SCRA 20.
- [21] Manila Memorial Park Cemetery, Inc. v. Court of Appeals, G.R. No. 137122, 15 November 2000.

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