PAMANA, INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FORMER NINTH DIVISION), FEDERICO HERNANDEZ, DANILO HERNANDEZ, ISAGANI VILLANUEVA, ROMEO VILLANUEVA, ISAIS VILLANUEV...

G.R. NO. 133033. June 15, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

On appeal to this Court by way of this petition for review on certiorari under Rule 45 of the Rules of Court are the following issuances of the Court of Appeals in CA-G.R. SP No. 45879, to wit:

> - Decision dated January 7, 1998,[1] setting aside the Order of Execution and the writs of execution and demolition issued by the Municipal Trial Court of Calamba, Laguna insofar as Lots 5 and 7 are concerned, in the ejectment suit thereat commenced by the petitioner against the herein respondents; and
>
> - Resolution dated March 5, 1998,[2] denying petitioner's motion for reconsideration.

Reviewed, the records disclose the following factual backdrop:

On April 17, 1996, in the Municipal Trial Court of Calamba, Laguna two (2) separate complaints,[3] both for forcible entry with prayer for a writ of preliminary injunction, were filed by the petitioner against two (2) sets of defendants (now, the respondents). Docketed in the same court as Civil Cases No. 3414 and 3424, the complaints uniformly alleged, inter alia, that petitioner is the owner and in lawful possession of parcels of land located at barrios Bocal and Lecheria, Calamba, Laguna its ownership thereof being evidenced by "Transfer Certificates of Title T-159894, T-162413, T-159897, T-204488, and T-159898", which titles, per record, respectively covered Lot 2-B-3-D-2, Lot 2-B-3-C, Lot 8, Lot 3 and Lot 4 of the subdivision plan (LRC) Psd-282033; and that, sometime in 1995, respondents, by means of force, strategy and stealth, unlawfully entered and occupied said parcels and built their shanties thereon.

In their answer,[4] respondents denied the material allegations of the complaints and averred that the lots they are in occupancy of are not owned by the petitioner because what they are occupying are Lot 5 of TCT No. T-66140 and Lot 7 of TCT No. T-61703, both owned and registered in the name of the Philippine Sugar Estate Development Corporation which gave them permission to occupy the same. Respondents thus prayed for the dismissal of the complaints for petitioner's lack of cause of action against them.

The cases were heard and tried jointly by the MTC under the Rules on Summary Procedure. And, on December 10, 1996, that court rendered a joint decision[5] thereon, ordering the respondents "to vacate the premises in question" and to pay attorney's fees and the costs, to wit:

> WHEREFORE, judgment is hereby rendered in favor of [petitioner] in both cases and against the [respondents], ordering the latter and all persons claiming under them to vacate the premises in question and to pay attorney's fees jointly and severally the amount of P5,000.00 in both cases and costs.

SO ORDERED (Emphasis supplied).

In time, respondents went on appeal to the Regional Trial Court at Calamba, Laguna.

Initially, in a decision[6] dated June 4, 1997, the RTC set aside that of the MTC and ordered the remand of the cases to the latter, explaining that the suits could not have been covered by the Rules on Summary Procedure because the defense interposed by the respondents raised the question of ownership, reason for which the MTC should have directed petitioner to adduce in evidence its muniments of title "to show that the portion (occupied) by the [respondents] is embraced in [petitioner's] property."

Later, however, on petitioner's motion for reconsideration, the RTC, in an order[7] dated August 22, 1997, set aside its earlier decision and affirmed en toto the appealed MTC decision, explaining that the Rules on Summary Procedure, as amended, applies even if the issue of ownership is involved, adding that the remedy left to respondents is to contest petitioner's ownership in an appropriate forum and not in the forcible entry case filed against them.

With neither of the contending parties taking an appeal from the aforementioned order of the RTC, said order became final and executory and the cases ultimately remanded to the MTC. Hence, on October 10, 1997, the MTC, again on petitioner's motion, issued a Writ of Execution commanding the sheriff "to cause the [respondents] to forthwith remove from said premises" and to restore petitioner thereto. This was followed by a Writ of Demolition,[8] ordering the sheriff to destroy and demolish respondents' houses and constructions, it appearing that despite the earlier writ, respondents refused to vacate the lot "subject-matter of these cases".

On November 6, 1997, respondents went to the Court of Appeals via a Petition for Prohibition with prayer for a temporary restraining order, thereat docketed as CA-G.R. SP No. 45879, praying the appellate court to restrain the sheriff from implementing the writ of demolition, which, according to them, the sheriff is poised to implement the next day, November 7, 1997.

Acting on the petition, the Court of Appeals forthwith issued a temporary restraining order on November 7, 1997, but the same "appears to have been received by the Sheriff after the houses of the [respondents] had been destroyed", albeit respondents "have remained in the premises".[9]

As stated at the outset hereof, the Court of Appeals, in a decision[10] dated January 7, 1998, set aside the MTC's Order of Execution, Writ of Execution and Writ of Demolition "insofar as Lots 5 and 7 covered by T.C.T. Nos. T-66140 and T-61703 are concerned", and directed petitioner and the sheriff to desist from implementing said writs against the respondents. We quote the dispositive portion of the same decision:

> WHEREFORE, the Order of Execution, the Writ of Execution and the Writ of Demolition issued in Civil Cases Nos. 3414 and 3424 are SET ASIDE insofar as Lots 5 and 7 covered by T.C.T. Nos. T-66140 and T-61703 are concerned and (petitioner, the sheriff and the MTC) are ordered to desist from further implementing the same against the [respondents].
>
> The Supplemental Petition for Damages filed by the [respondents] is not admitted, the same being properly cognizable by another forum.
>
> Costs against the [petitioner].
>
> SO ORDERED.

With its motion for reconsideration having been denied by the appellate court in its resolution[11] of March 5, 1998, petitioner Pamana, Incorporated is now with us thru the instant recourse, contending that the Court of Appeals gravely erred –

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> XXX WHEN IT GAVE DUE COURSE AND ACTED FAVORABLY ON THE PETITION FOR PROHIBITION WITH PRAYER FOR TEMPORARY RESTRAINING ORDER OF A FINAL AND EXECUTORY DECISION.
>
> XXX WHEN IT RULED THAT THE DECISION OF THE MUNICIPAL TRIAL COURT OF CALAMBA IN CIVIL CASES NOS. 3414 AND 3424 DO NOT INCLUDE LOTS 5 & 7 THE PREMISES OCCUPIED BY PRIVATE RESPONDENTS.
>
> XXX WHEN IT PROHIBITED THE IMPLEMENTATION OF THE WRIT OF DEMOLITION, AS PROHIBITION IS A PREVENTIVE REMEDY AND DOES NOT LIE TO RESTRAIN AN ACT WHICH IS ALREADY FAIT ACCOMPLI.

The petition lacks merit.

Petitioner's first assigned error raises a procedural question, namely, the propriety of respondents' resort to the special civil action of prohibition in CA-G.R. SP No. 45879. To petitioner, the Court of Appeals should have dismissed said petition because prohibition, under Rule 65 of the Rules of Court, may only be availed of if there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law, contending that what the respondents should have done, which they did not, was to interpose an appeal from the RTC's order of August 22, 1997, which affirmed en toto the earlier decision of the MTC ordering them to vacate the premises in question.

We are not persuaded.

Appeal as a remedy is available only in cases where there is an error of judgment on the part of a court, tribunal or quasi-judicial agency.[12] An error of judgment is one which a court may commit in the exercise of its jurisdiction and which error is reviewable only by appeal.[13] It is, therefore, an instance where a court having jurisdiction on the subject matter of the case renders an erroneous decision.

Here, respondents do not impute any error of judgment on the part of the MTC when it ordered them to vacate the premises in question. Neither do they question the correctness of the RTC's order dated August 22, 1997, affirming en toto the appealed decision of the MTC. As it were, respondents merely prayed in the petition they filed in CA-G.R. SP No. 45879 that a writ of prohibition be issued commanding the sheriff to cease and desist from further enforcing the Writ of Demolition because, according to them, the properties whereon their houses stand are not among the parcels of land involved in the ejectment suits filed against them by the petitioner. Appeal, therefore, is not the remedy they ought to have availed of under the circumstances.

But even assuming, so petitioner argues, that no appeal was available, nonetheless, respondents should have filed with the appellate court a petition for certiorari and not prohibition, invoking, in support thereof, our ruling in Presbiterio, et al. vs. Judge Sotero Rodas.[14]

The Court disagrees.

To begin with, petitioner's reliance on Presbiterio, et al. is misplaced.

Presbiterio involved the propriety of the trial court's order directing the execution of its judgment pending appeal unless the defendants therein post a supersedeas bond of P92,000.00. We there held that the proper remedy for the petitioners is certiorari, not prohibition, thus:

> Upon the facts above stated, we think the proper remedy for the petitioners, if any, is certiorari to annul or modify the order of the respondent judge for the filing of a supersedeas bond (section 1, rule 67), and not prohibition to require the respondent judge to desist from enforcing said order.

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In here, the propriety of the MTC's issuance of an Order of Execution, Writ of Execution and Writ of Demolition is beyond question, more so that its decision of December 19, 1996 has already become final and executory. What is dubious in this case is the sheriff's act of implementing the writs thus issued insofar as Lots 5 and 7 are concerned, which lots, so respondents maintain, are not the "premises in question" referred to in the decision sought to be executed.

Besides, the special civil action of certiorari is directed only against a tribunal, board or officer exercising judicial or quasi-judicial functions.[15] It is not available as a remedy for the correction of acts performed by a sheriff during the execution process, which acts are neither judicial nor quasi-judicial but are purely ministerial functions.[16] Upon the other hand, prohibition is directed against a tribunal, corporation, board, officer or person exercising judicial, quasi-judicial or ministerial functions.[17]

Likewise, certiorari and prohibition differ as to purpose. For while certiorari is aimed at "annulling or modifying" a proceeding, prohibition is directed at "commanding the respondent to desist from further proceedings in the action or matter specified in the petition".[18]

Precisely, in the petition for prohibition filed by respondents in CA-G.R. SP No. 45879, they did not seek to annul or modify the Order of Execution, Writ of Execution and Writ of Demolition issued by the MTC. What they there assailed was the sheriff's power and authority to implement said writs vis-à-vis the lots actually occupied by them, namely, Lot No. 5 and Lot No. 7 of TCT Nos. T-66140 and T-61703, respectively, then registered in the name of the Philippine Sugar Estate Development Corporation. It is as regards those lots that they want the sheriff restrained and prohibited from implementing said writs, more particularly the writ of demolition. Consequently, prohibition, not certiorari, is the appropriate remedy for them.

We shall now address the lynchpin issue in this case. Petitioner puts the Court of Appeals to task in ruling that the MTC decision does not include Lots No. 5 and 7, the very lots occupied by respondents.

We sustain the Court of Appeals.

Be it remembered that in the very complaints filed by the petitioner before the MTC, it is there clearly stated that the subjects thereof are its parcels of land in Barrios Bocal and Lechirea, more specifically those covered by its TCT No. T-159894, T-162413, T-159897, T-204488 and T-159898. As borne by the records, and this is not disputed by the petitioner, TCT No. T-159894 refers to Lot 2-B-3-D-2; TCT No. T-162413 to Lot 2-B-3-C; TCT No. T-159897 to Lot 8; TCT No. T-204488 to Lot 3; and TCT No. T-159898 to Lot 4.

When, in its decision, the MTC ordered the respondents "to vacate the premises in question", said premises could be none other than the aforementioned lots, to wit: Lot 2-B-3-D-2; Lot 2-B-3-C; Lot 8; Lot 3; and Lot 4, precisely because these are the lots respectively covered by petitioner's five (5) titles mentioned in its complaints.

Lots 5 and 7, respectively covered by TCT No. T-66140 and T-61703, in the name of the Philippine Sugar Estate Development Corporation, and whereon respondents built their houses, are and could not have been embraced in the phrase "premises in question" spoken of in the MTC decision.

For sure, petitioner no less admits in the present petition that in the complaints it filed with the MTC, it "did not list down lots 5 and 7 covered by TCT-66140 and T-61703", alleging that it was "not aware that said lots were separately titled and that the same were still with the seller".[19]

Yet, in the process of executing the writs of execution and demolition, the sheriff proceeded to implement the same on Lots 5 and 7 which, as above-observed, could not have been embraced in the phrase "premises in question", found in the MTC decision.

In short, the sheriff went beyond the very mandate of the MTC. This, the sheriff cannot do as his duty is to strictly comply with the directive of the court in accordance with its letter and without deviating therefrom, and to see to it that the execution is done in strict conformity with the judgment sought to be executed. He is in no capacity to vary the judgment and deviate therefrom based on his own interpretation thereof. “As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court’s writs and processes and implementing its order, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice” [20](Emphasis supplied).

In Wenceslao vs. Madrazo,[21] the Court stressed:

> It is a settled rule that the sheriff's duty in the execution of a writ issued by a court is purely ministerial.[22] When a writ is placed in the hands of a sheriff it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate. He is to execute the order of the court strictly to the letter[23] (Emphasis supplied).

In Villareal vs. Rarama, et al.[24] the Court emphasized the importance of the faithful implementation of a writ of execution:

The sheriff, as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the law. Thus, when a writ is placed in the hands of a sheriff it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate. He is to execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom (Emphasis supplied).

To stress, Lots 5 and 7 are never included in the complaints for ejectment filed by the petitioner before the MTC. Consequently, the sheriff’s act of implementing the writs on said lots by causing the demolition of respondents’ houses thereat clearly constitutes a violation of his mandate, restrainable by prohibition.

Finally, petitioner insists that the appellate court committed error when it prohibited the implementation of the Writ of Demolition even as the sheriff has already caused the demolition of respondents’ houses and other constructions. To petitioner, the acts sought to be restrained are already fait accompli, and, therefore, may no longer be abated.

Again, we disagree. It is a matter of record that the petition for prohibition in CA-G.R. SP No. 45879 was filed on November 6, 1997, while the Writ of Demolition was scheduled for implementation only on November 7, 1997. To quote the Court of Appeals in its decision of January 7, 1998:

> Thus on November 6, 1997, the defendants [referring to herein respondents] filed this petition seeking a writ of prohibition against the respondent Sheriff, commanding him to cease and desist from further proceeding with the writ of demolition which was scheduled for implementation on November 7, 1997 (Emphasis supplied).

Sure, petitioner would want to take exception from the above factual finding of the Court of Appeals by invoking the Sheriff’s Return,[25] which we quote, as follows:

> Respectfully returned to the Honorable Court, Municipal Trial Court, Calamba, Laguna the attached herein Writ of Demolition in the above-entitled case with the information that defendants’ houses and construction from plaintiff’s subject premises were already demolished. Hence, the Writ of Demolition is hereby returned Satisfied.

We observe, however, that the above quoted Sheriff’s Return is dated November 25, 1997. In no way, therefore, does the same return conclusively – or at least, persuasively – prove that the demolition was effected prior to

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respondents' filing of their petition for prohibition with the Court of Appeals. Petitioner having failed to prove its point, the Court of Appeals' finding must be left undisturbed. Besides, it appears undisputed that respondents are still in occupancy of Lots 5 and 7.

In any event, insofar as Lots 5 and 7 are concerned, we agree with the Court of Appeals when it said in its resolution of March 5, 1998, thus:

xxx But granting that the order of demolition has been fully implemented, this does not alter our decision setting aside the order of execution and writs complained of and ordering respondents to desist from further implementing the same.[26]

WHEREFORE, the instant petition is DENIED, and the assailed decision and resolution of the Court of Appeals AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by then Presiding Justice (now retired) Salome A. Montoya, with Associate Justices Delilah Vidallon-Magtolis and Rodrigo V. Cosico, concurring; Rollo, pp. 11-15.

[2] Rollo, pp. 8-9.

[3] Rollo, pp. 44-48.

[4] Rollo, p. 49.

[5] Rollo, pp. 94-101.

[6] Rollo, pp. 117-119.

[7] Rollo, pp. 120-121.

[8] Rollo, p. 123.

[9] See CA decision dated January 7, 1998.

[10] Rollo, pp. 11-15.

[11] Rollo, p. 8-9.

[12] Mutia vs. Court of Appeals, 159 SCRA 328 [1988]; Gold City Integrated Port Services, Inc. vs. Intermediate Appellate Court, 171 SCRA 579[1989]; Lamagan vs. De la Cruz, 148-B Phil. 86 [1971]; Bimeda vs. Perez, 93 Phil. 636 [1953]; and Phil. Surety & Ins. Co., Inc. vs. Jacala, et al., 108 Phil. 177 [1960].

[13] GSIS vs. Olisa, GR. No. 126874, March 10, 1999.

[14] 73 Phils. 300 [1941].

[15] Sec. 1, Rule 65, Rules of Court.

[16] e.g., Villareal vs. Rarama, et al., 317 Phil. 589 [1995] and Del Rosario, et al. vs. Bascar, Jr., 206 SCRA 678 [1992].

[17] Sec. 2, Rule 65.

[18] Feria, Jose Y. and Noche, Maria Concepcion S., CIVIL PROCEDURE ANNOTATED Vol. II, p. 457; Herrera, Oscar M., REMEDIAL LAW, Vol. III, p. 137.

[19] See: Petition, p. 9-10; Rollo, pp. 25-26.

[20] Mendoza vs. Sheriff IV Tuquero, 412 Phil. 435 [2001], citing Teresa T. Gonzales La'o & Co., Inc. v. Sheriff Jadi T. Hatab, 386 Phil. 88 [2000].

[21] 317 Phil. 812 [1995].

[22] Citing Evangelista v Penserga, 312 Phil. 806 [1995].

[23] Citing Padilla v. Arabia, 312 Phil. 276 [1995]; Junio v. Egay-Eviota, 231 SCRA 551 [1994]; Eduarte v. Ramos, 238 SCRA 36 [1994]; Young v Mombian, 105 SCRA 33 [1992]; Smith Bell v Saur, 95 SCRA 668 [1980].

[24] Supra.

[25] Rollo, p. 134.

[26] Rollo, p. 8.

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