

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. SPS. FELIX BAES AND RAFAELA BAES AND THE REGISTER OF DEEDS OF PASAY CITY, RESPONDENTS.

G.R. NO. 139464. September 09, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.

Before us is the instant petition for review on certiorari seeking to reverse the Decision[1] of the Court of Appeals dated May 28, 1999 and Resolution dated July 23, 1999 in CA-G.R. SP No. 49521.

The facts as gleaned from the records are:

On November 29, 1980, the Regional Trial Court (RTC), Branch 110, Pasay City rendered its Decision in Civil Case No. 0460-P for annulment of titles and reversion in favor of the Republic of the Philippines, herein petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered declaring null and void TCT Nos. 14405, 29592, 29593, 29594, 29595, and TCT No. 29593's derivative titles TCT No. 124725, 124726, 124727, and 124729 and ordering the Register of Deeds for Pasay City to cancel them and to issue new ones in their stead in the name of the plaintiff after segregating from TCT No. 29593 452 sq.m., the actual area of Lot 2958-C (covered by cancelled TCT No. 11043) belonging to defendant Felix Baes. The counterclaim is hereby dismissed.

Let a copy of this Decision be furnished the Register of Deeds for Pasay City.

SO ORDERED.[2]

The Decision was affirmed by the Court of Appeals on November 27, 1992 in CA-G.R. CV No. 30907 and by this Court on July 6, 1993 in G.R. No. 108065.[3]

The RTC Decision then became final and executory.

Notwithstanding the finality of the RTC Decision, spouses Felix and Rafaela Baes, respondents, mortgaged the parcels of land (reverted to petitioner Republic) covered by Transfer Certificates of Title (TCT) Nos. 124725, 124726, and 124727 (still in their names), with the Philippine Savings Bank for P15 million. Atty. Augusto Tobias, Register of Deeds of Pasay City, annotated the mortgage contract at the back of the said land titles.

On March 6, 1995, the trial court upon petitioner's motion, issued an Order directing the execution of its Decision. Despite receipt of the Order, Atty. Tobias refused to cancel the contested land titles and to issue new ones to petitioner Republic.

On November 16, 1995, Atty. Tobias again annotated on the same titles an amendment to the mortgage contract between respondent spouses Baes and the Philippine Savings Bank. The amendment increased the amount of respondent spouses' loan from P15 million to P30 million.

For failure of Atty. Tobias to comply with the Order of the trial court directing the execution of its Decision and for annotating the mortgage contract and its amendment on the said titles, petitioner filed a motion to declare him in contempt of court.

On January 7, 1997, Atty. Tobias submitted to the trial court an "Explanation and Full Compliance." He explained that he failed to fully comply with the Decision reverting Lot 2958-C (covered by TCT No. 11043) consisting of 452 square meters to petitioner since a part thereof, covered by TCT No. 124728, had been transferred to and was registered in the name of the Light Rail Transit Authority.

Before the motion for contempt against him could be resolved, Atty. Tobias died.

Upon receipt of the newly-issued titles in its name, petitioner Republic observed that the annotations earlier mentioned also appear thereon.

Petitioner then filed with the trial court a motion that the new Register of Deeds of Pasay be substituted as defendant in place of Atty. Tobias or that the said new Register of Deeds be ordered to comply with its Order of March 6, 1995 directing the execution of its Decision.

On July 20, 1995, the trial court issued an Order denying the motion, holding that a contempt proceeding is in the nature of an original action and is a personal liability of the person charged. Thus, the death of Atty. Tobias extinguished his liability. Moreover, it has no jurisdiction to order the new Register of Deeds of Pasay City to cancel the annotations because to do so will affect the vested right of the Philippine Savings Bank not impleaded as a party in the case.

Petitioner filed a motion for reconsideration but it was denied by the trial court on August 28, 1998.

This prompted petitioner to file with the Court of Appeals a special civil action for certiorari, docketed as CA-G.R. SP No. 49521. Petitioner alleged therein that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying its motion to substitute the new Register of Deeds of Pasay City in place of the late Atty. Tobias and to order the former to implement the March 6, 1995 Order of Execution.

On May 28, 1999, the Court of Appeals rendered its Decision dismissing the petition and sustaining the assailed Order of the trial court.

Petitioner's subsequent motion for reconsideration was denied by the Appellate Court on July 23, 1999.

In dismissing CA-G.R. SP No. 49521, the Court of Appeals ruled that the motion to declare Atty. Tobias in contempt of court "partakes the nature of a criminal suit and is, therefore, personal to those against whom it is filed. It is never transmitted to one's successor in office."

Hence, the instant petition.

The issues for our resolution are: (1) whether the new Register of Deeds may be substituted in place of his deceased predecessor for the purpose of complying with the RTC Order of Execution dated March 6 1995; and (2) whether the annotations on petitioner's new TCTs are valid.

In *Slade Perkins v. Director of Prisons*,^[4] this Court held that the power of the courts to punish respondent for contempt has "a twofold aspect, namely: First, the proper punishment of the guilty party for his disrespect to the court or its order, and the second, to compel his performance of some act or duty required of him by the court which he refuses to perform." Because of this twofold aspect, a contumacious act is either civil or criminal. In *People v. Godoy*,^[5] citing *Slade Perkins*,^[6] this Court defined a criminal contempt as conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration

of justice which tends to bring the court into disrepute or disrespect. A civil contempt is the failure to do something ordered to be done by a court or by a judge in a civil action for the benefit of the opposing party therein. The delineation line may be drawn from the purpose for which the power is exercised. Where the primary purpose is to preserve the court's authority and to punish for disobedience of its orders, the contempt is criminal. Where the primary purpose is to provide a remedy for an injured litigant and to coerce compliance with an order, the contempt is civil. Simply put, when the purpose is primarily punishment, the contempt proceedings are to be regarded as criminal and civil when the purpose is primarily compensatory or remedial. Obviously, in its criminal aspect, the action for contempt against respondent is personal to him. It cannot be passed on to his successor in office.

Here, petitioner's motion was filed "for the failure of Atty. Tobias to comply with the Order of the Court directing the cancellation of the titles on the lots subject matter of the instant case and the issuance of new ones to the plaintiff." [7] Clearly, this partakes of the nature of a civil contempt.

Section 17, Rule 3 of the 1997 Rules of Civil Procedure, as amended, provides:

SEC. 17. Death or separation of a party who is a public officer. – When a public officer is a party in an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if, within thirty (30) days after the successor takes office or such time as may be granted by the court, it is satisfactorily shown to the court by any party that there is a substantial need for continuing and maintaining it and that the successor adopts or continues or threatens to adopt and continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting otherwise, shall be given reasonable notice of the application therefor and accorded an opportunity to be heard.

It is thus clear from the above Rules that upon the death of Atty. Tobias, the new Register of Deeds can be substituted in his place and may comply with the RTC Order of Execution. However, before the substitution is made, the new Register of Deeds shall be given reasonable notice of the motion for substitution and an opportunity to be heard.

On the second issue, there is no question that respondents mortgaged the lots in question with the Philippine Savings Bank after the Decision in Civil Case No. 0460-P had become final and executory. In other words, the titles they presented to the bank had already been declared void. Consequently, the mortgage contract and its amendment annotated thereon by the late Register of Deeds Atty. Tobias are likewise void and have no binding on petitioner. In *Palanca vs. Director of Lands*, [8] we held that registration to be effective must be made in good faith. Obviously, respondent spouses Baes acted in bad faith.

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 49521 are REVERSED. This case is hereby REMANDED to the Regional Trial Court, Branch 110, Pasay City for execution of its Decision in Civil Case No. 0460-P, with prior notice to the present Register of Deeds regarding the matter of substitution.

SO ORDERED.

Panganiban, Acting C.J., (Chairman), Corona, and Garcia, JJ., concur.
Carpio-Morales, J., no part, on official leave.

[1] Rollo, pp. 22-29. Penned by Associate Justice Conrado M. Vasquez, Jr., and concurred in by Associate Justices Teodoro P. Regino and Mariano M. Umali (both retired).

[2] Id. at 57.

[3] See *Baes v. Court of Appeals*, 224 SCRA 562 (1993).

[4] 58 Phil. 271 (1933).

[5] G.R. Nos. 115908-09, March 29, 1995, 243 SCRA 64, 76-77.

[6] *Supra*, at 276.

[7] *Rollo*, p. 44.

[8] 43 Phil. 149 (1922).

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