RAYMUNDO VILLAMOR AND WENEFREDA VILLAMOR, PETITIONERS, VS. HEIRS OF SEBASTIAN TOLANG; HEIRS OF PELAGIA TOLANG; HEIRS OF ANGELA TOLANG; HEIRS OF EMILIA TOLANG; HEIRS OF FRANCISCO...

G.R. NO. 144689. June 09, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

At bar is this petition for review on certiorari under Rule 45 of the Rules of Court to nullify and set aside the March 9, 2000 resolution[1] of the Court of Appeals, denying due course to and dismissing the petition for certiorari, prohibition and mandamus with prayer for preliminary injunction filed by the petitioners in CA G.R. SP No. 57288 for failure to comply with procedural requirements, thereby effectively affirming the resolution dated October 28, 1999 and order dated December 14, 1999 of the Regional Trial Court at Dipolog City in its Civil Case No. 1848, which resolution and order, challenged in the dismissed petition, respectively (1) granted respondents' motion for a third Writ of Execution with motion for demolition; and (2) denied petitioners' motion to modify the first.

Similarly assailed herein is the appellate court's subsequent resolution of July 24, 2000,[2] denying petitioners' motion for reconsideration.

The present controversy stems from an action for Annulment of Deed of Extra-Judicial Partition, Reconveyance of ½ share of each lot, and Damages filed by respondents against the petitioners before the then Court of First Instance of Zamboanga del Norte, thereat docketed as Civil Case No. 1848.

In a decision[3] dated October 10, 1974, the trial court rendered judgment in favor of respondents, declaring, to wit:

> - Lot Nos.1104 and 627 covered by Original Certificate of Title No. 11275 and RT-612(10771) now Transfer Certificate of Title No. T-10005, as conjugal properties of spouses Eugenio Margate and Antonia Tolang who all died intestate and without issue;
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> - Extrajudicial Settlement/Partition executed by the defendants on October 17, 1966 covering Lots 1104 and 627, Dipolog Cadastre, null and void;
>
> - The Deed of Sale executed by Felix Margate in favor of Paulina Margate on October 20, 1966 covering Lots No. 1104 and 627, null and void;
>
> - Subdivision Plan (LRC) Psd-91779, covering Lot No. 627, and Subdivision Plan (LRC) Psd-91776 covering Lot No. 1104, null and void;
>
> - All Certificates of Tile issued pursuant to Subdivision Plan (LRC) Psd-91779 and 91776, null and void and of no legal effect, consisting of the following, viz:

xxx xxx xxx

- Declaring one-half (½) of Lots No. 1104 and 627 of the Cadastral Survey of Dipolog, together with improvements thereon, to go to the plaintiffs as their lawful shares of the late Antonia Tolang; and the remaining one-half (½) share to go to the defendants as heirs of the late Eugenio Margate after deducting the 1,000 square meters which was sold to Dr. Reglino Gurdiel, known as Lot No. 1104-A-1 covered by Transfer Certificate of Title No. T-13786;

- Ordering defendants to execute the proper Deed of Conveyance of the one-half (½) share of Lots 1104 and 627 in favor of plaintiffs within fifteen (15) days from the finality of the decision, and upon failure of defendants to do so, the Clerk of Court is hereby authorized to execute the same at the expense of the defendants, to be considered as valid and legal; and the Register of Deeds of Zamboanga del Norte is hereby directed to issue the corresponding titles to each and every one of the plaintiffs upon payment of the legal fees for the one-half (½) share, and the remaining one-half (½) share to the herein defendants.

- Ordering the defendants to pay jointly and severally the following amounts:

a) P10,000.00 to the plaintiffs for the value of one-half (½) of the produce of Lot 1104 illegally appropriated by defendants from October 1966 up to October 1974;

b) P4,800.00 to the herein plaintiffs corresponding to the one-half (½) of the rental of Lot 627 from October, 1966 up to October 1974 at the rate of P100.00 per month;

c) P1,000.00 as attorney's fees and

d) Costs.

Petitioners appealed the aforesaid decision to the then Intermediate Appellate Court which, in a decision[4] dated December 26, 1984 in AC-G.R. CV No. 57804, affirmed in toto the decision of the trial court.

Thereafter, petitioners elevated the case to this Court via a petition for review on certiorari but it, too, was denied by this Court in a resolution dated May 15, 1985[5], which became final on June 24, 1985, the dispositive portion of which reads, as follows:

Acting on the petition for review on certiorari of the decision of the Intermediate Appellate Court, the court Resolved to DENY the petition for lack of merit.

Pursuant to an order of the trial court, a Writ of Execution was issued on November 22, 1985[6].

Initially, the deputy sheriff made it appear that the above writ of execution was duly executed and effected on January 30, 1986 by allegedly placing the prevailing parties in possession of the one-half (½) portion of the two (2) lots. The supposed compliance with the aforesaid writ was stated in: (1) the handwritten certification[7] of the sheriff duly signed by respondents' supposed authorized representatives; and (2) the Sheriff's Return dated May 8, 1986[8] submitted by Deputy Sheriff Ignacio M. Barbaso, Sr. However, the purported signatures of the parties found in the sheriff's certification were neither the signatures of respondents nor their duly authorized representatives.

Hence, on June 14, 1986, respondents filed a motion for issuance of an alias writ of execution[9] which was granted by the trial court on June 20, 1986.[10]

In the execution of said alias writ, Deputy Sheriff Lamberto Cabuguas' return shows that respondents were not actually in possession of their one-half (½) share of Lots 1104 and 627. The lots were being occupied, not only by petitioners Raymundo Villamor and Wenefreda Villamor, but also by other persons who claim to be their lessees and vendees. Respondents were never placed in possession of their one-half (½) northern portion share of Lots

1104 and 627, because the deputy sheriff merely informed petitioners that the one-half (½) share of Lots 1104 and 627 belongs to the respondents, and that petitioners should vacate the same, without, however, specifying which portion, northern or southern. Furthermore, there was no specific and definite survey of the lots in question delineating the extent of the one-half (½) share of respondents whereat they shall be put in possession because at the time the trial court is yet to approve the subdivision survey.

On July 19, 1994, respondents filed anew a Motion for Issuance of Third Writ of Execution with Motion for Demolition, which petitioners opposed.

In a resolution dated October 28, 1999[11], the trial court granted respondents' aforementioned motion, thus:

> Finding the motion for issuance of a Third Writ of Execution and Motion for Demolition to be meritorious and justified, the same is hereby GRANTED.

In time, petitioners moved for a modification of the same resolution but their motion was denied by the court in its order of December 14, 1999[12].

Unrelenting, petitioners elevated said resolution and order of the trial court to the Court of Appeals via a petition for certiorari, prohibition and mandamus with prayer for preliminary injunction, thereat docketed as CA-G.R. SP No. 57288.

As stated at the threshold hereof, the Court of Appeals, in a resolution dated March 9, 2000[13], denied due course to and dismissed the petition due to technical lapses, to wit:

> A perusal of the instant petition reveals that:
>
> The petitioners failed to indicate the material dates as to when they received the assailed resolution dated 29 October 1999 and the date when the petitioners filed the 'Motion to Modify Order dated 29 October 1999, dated 19 November 1999 which is in effect a motion for reconsideration to determine the timeliness of the herein petition in violation of Section 3, Rule 46 of the 1997 Rules of Civil Procedure as amended by Supreme Court Circular No. 39-98 which states that:
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> xxx xxx xxx
>
> In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.
>
> xxx xxx xxx

Likewise, the petitioner (sic) is short of P150.00 in the payment of docketing fee.

WHEREFORE, for being insufficient in substance, the petition is hereby DENIED DUE COURSE and is consequently DISMISSED.

SO ORDERED.

With their motion for reconsideration having been denied by the appellate court in its subsequent resolution of July 24, 2000[14], petitioners are now before this Court praying for judgment in their favor: (1) annulling and setting aside of the resolutions dated March 9, 2000 and July 20, 2000 of the Court of Appeals; and (2) ordering the Court of Appeals to give due course to their amended petition in CA G.R. SP No. 57288 and decide said petition on the merits.

We DENY.

It is doctrinally entrenched that the right to appeal is merely statutory and a party seeking to avail of that right must comply with the statute or rules. This principle is stated by this Court in Oro vs. Diaz,[15] thus:

> It should be stressed that the right to appeal is not a natural right or a part of due process. Rather, it is a procedural remedy of statutory origin and, as such, may be exercised only in the manner prescribed by the provisions of law authorizing its exercise."[16] Hence, its requirements must be strictly complied with.[17]

The case under review involves a petition for certiorari filed by herein petitioners before the Court of Appeals. It is an original action for certiorari, prohibition, mandamus with preliminary injunction[18] filed with the Court of Appeals, governed by Rule 46 of the 1997 Rules on Civil Procedure, Section 3 of which, provides:

> SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.
>
> In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.
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> xxx xxx xxx
>
> The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.[19] (Emphasis supplied.)

The present case did not comply with the aforecited rule by failing to indicate the material dates when petitioners received the assailed resolution dated October 28, 1999. Perforce, the Court of Appeals dismissed the petition pursuant to the aforequoted Section 3 of Rule 46.

This Court invariably sustains the Court of Appeals' dismissal on technical grounds under this provision unless considerations of equity and substantial justice present cogent reasons to hold otherwise. In Moncielcoji Corporation vs. National Labor Relations Commission,[20] the Court stated the rationale –

> Rules of procedure are tools designed to promote efficiency and orderliness as well as to facilitate attainment of justice,[21] such that strict adherence thereto is required. The application of the Rules may be relaxed only when rigidity would result in a defeat of equity and substantial justice.[22] But, petitioner has not presented any persuasive reason for this Court to be liberal, even pro hac vice. Thus, we sustain the dismissal of its petition by the Court of Appeals on technical grounds.

The petition before us does not justify the relaxation of the rules, because the Court finds equity and substantial justice tilting in favor of respondents, rather than the petitioners, under the facts obtaining in this case, to wit:

Firstly, a judgment in favor of respondents became final and executory way back on June 24, 1985.

Petitioners' contention that the judgment of the trial court dated October 10, 1974 could not be executed by mere motions because more than five (5) years have already elapsed from its finality, and, therefore, should have been done through independent action, has no leg to stand on.

The factual antecedents are very material in determining the propriety of the issuances of the trial court. It must be stressed that from the time the judgment had become final, there were continuing acts of execution, which, unfortunately, were never fully realized and accomplished. It is for this reason that, for the third time, respondents had to once more ask the trial court for another writ, this time with a motion for demolition. Respondents cannot be faulted for such delay in the full execution of the judgment in this case. Petitioners used all dilatory tactics against the complete execution of the judgment. To quote the trial court in its resolution of October 28, 1999: [23]

> xxx Mostly to be blamed for the delay in the disposition of this case particularly in the execution of judgment xxx are the Defendants (now, petitioners) who used all the legal tactics they can muster and think of, whether fair or foul, they used them to their advantage against the prevailing party – the plaintiffs (now respondents).

Parenthetically, execution of judgment through an independent action is required only when it is established that the judgment has become dormant,[24] which is not the situation in this case. In a decision or during a partition, the execution of that part of the judgment which will not necessitate any further proceedings may be enforced.[25] In here, the main judgment can not be enforced yet without the necessity of conducting a survey and subdivision of Lots 1104 and 627, subject matters of this case, and the determination of which one-half (½) portion shall belong to respondents and which portion shall go to petitioners.

It is, thus, sad to note that until now, the decision in this case which become final way back on June 24, 1985, is yet to be properly executed even as the original prevailing parties had already passed to the great beyond without seeing the dawn of their toils and efforts, all because of petitioners' frivolous maneuvers, fair or foul.

This Court had consistently frowned upon the abhorrent practice of some losing litigants in attempting to frustrate justice. So it is that in Rovels Enterprises, Inc. vs. Ocampo,[26] we stressed:

> Every litigation must come to an end once a judgment becomes final, executory and unappealable. This is a fundamental and immutable legal principle. For '(j)ust as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case' by the execution and satisfaction of the judgment, which is the 'life of the law'. Any attempt to thwart this rigid rule and deny the prevailing litigant his right to savour the fruit of his victory, must immediately be struck down".

Secondly, although it appeared on paper that the writ of execution dated November 22, 1985 had been duly satisfied, per handwritten certification[27] of the sheriff allegedly signed by respondents' supposed representatives, and Sheriff's Return dated May 8, 1986[28] submitted by Deputy Sheriff Ignacio M. Barbaso, Sr., the truth is that, the purported signatures of the parties found in the sheriff's certification were neither the signatures of respondents nor their duly authorized representatives. The respondents were defrauded by such misrepresentations in the trial court.

Finding, therefore, that equity and substantial justice will not justify a relaxation of the rules, the Court sees no reason to reverse the Court of Appeals' proper dismissal of the petition for certiorari in CA G.R. SP No. 57288 on technical grounds. As correctly noted by the petitioners no less, the inevitable result thereof is that the resolutions of the trial court which were assailed in the said petition before the Court of Appeals become final and executory.

WHEREFORE, the instant petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Corona, and Carpio-Morales, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

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[1] Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justice Fermin A. Martin, Jr. (now retired) and then Associate, now Presiding Justice Romeo A. Brawner, concurring.

[2] Rollo, p. 124.

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[3] Rollo, p. 29-44.

[4] Rollo, pp. 45-56.

[5] See: recitals in the Writ of Execution dated November 22, 1985, at 4; Rollo, p. 60.

[6] Rollo, pp. 57-61.

[7] Rollo, p. 63.

[8] Rollo, p. 62.

[9] Rollo, p. 64.

[10] Rollo, p. 66.

[11] Rollo, pp. 67-79.

[12] Rollo, pp. 96-97.

[13] Rollo, pp. 117-118.

[14] Rollo, p. 124.

[15] 361 SCRA 108 [2001].

[16] Citing: Ortiz v. Court of Appeals, 299 SCRA 708, [1998].

[17] Citing: Pedrosa v. Hill, 257 SCRA 373, June 14, 1996

[18] Rollo, pp. 100-114.

[19] As amended by Circular No. 39-98 effective September 1, 1998.

[20] 357 SCRA 423 [2001].

[21] Citing: Casa Filipina Realty Corporation v. Office of the President, 241 SCRA 165 [1995].

[22] Citing: South Villa Chinese Restaurant & City Foods Corporation v. NLRC, 250 SCRA 246 [1995].

[23] Rollo, p. 67.

[24] Prudence Realty and Development Corporation vs. Court of Appeals, 231 SCRA 379 [1994].

[25] See De Mesa vs. Court of Appeals, 231 SCRA 773 [1994].

[26] 391 SCRA 176 [2002].

[27] Rollo, p. 63.

[28] Rollo, p. 62.

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