SPOUSES MAXIMO ABADILLA AND ENGRACIA C. ABADILLA, PETITIONERS, VS. HON. VIRGINIA HOFILEÑA-EUROPA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 11, DAVAO CITY; IÑIGO ESTATE, REP...

G.R. No. 146769. August 17, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

In this petition for certiorari under Rule 65, petitioners Spouses Maximo and Engracia Abadilla question the July 4, 2000 Decision[1] and the October 27, 2000 Order[2]of the Regional Trial Court (RTC), Davao City, Branch 11 (docketed as Civil Case No. 27,784-2000) affirming the dismissal of their complaint for forcible entry by the Municipal Trial Courts in Cities (MTCC), for lack of jurisdiction.

On July 23, 1997, a Complaint[3] for forcible entry and damages was filed by the petitioners with the MTCC, Davao City, Branch 2, docketed as Civil Case No. 4351-B-97. Petitioners alleged that they are the absolute owners and possessors of Lot 211-A-6 with an area of 8,355 square meters located in Bago Gallera, Talomo District, Davao City, covered by Transfer Certificate of Title (TCT) No. T-71229;[4] that at 9 o'clock in the morning of June 26, 1997, private respondents led by Marcelina Cario, together with several security guards and laborers of the Iñigo Estate, by means of force, intimidation, strategy and stealth, entered into and occupied a 300-sq m portion of the lot, and constructed a fence thereon to enclose it; that such act deprived petitioners of their lawful possession, occupation and use of their property;[5] and that despite repeated demands, the private respondents refused to vacate the said portion of the lot.[6]

In their Answer, private respondents traversed the complaint, and by way of defenses, stated that defendant Josephine M. Iñigo is the lawful owner and possessor of the property subject of the complaint; that petitioners' claims were baseless because Lot 211-A-6 [of the petitioners] was outside the Iñigo Estate designated as Lot 1, BCS-112402-000014 (AR);[7] that petitioners had no cause of action against the Iñigos, as it was, in fact, the former who intruded into the latter's property by including a 976- sq m area belonging to the Iñigo Estate in the boundary description of TCT No. T-71229, as revealed in the official survey conducted by the Francinilla Surveying & Engineering Services; and that since the dispute was intertwined with the issue of ownership, the MTCC had no jurisdiction to take cognizance of the case.[8]

On November 11, 1997, a preliminary conference was held and upon the agreement of the parties, the MTCC appointed commissioners--Engr. Geronimo Palermo and Engr. Jimmy Francinilla, the petitioners' and private respondent's nominees, respectively--in order to determine the boundaries of the parties' respective properties and to find out if, indeed, an encroachment had been made by either party. It was agreed by the parties that should the result of the surveys to be undertaken by the engineers be favorable to the petitioners, the private respondents would shoulder the expenses of the surveys, remove the constructed fence, and surrender the possession of the disputed portion of the lot.[9]

On January 14, 1998, Engr. Francinilla reported to the court that, after extensive research and field survey, he found the parties' properties to overlap one over the other by 592.68 sq m, due to the non-conformity of the technical descriptions of the common boundaries of the lots in the cadastral survey of Davao.[10] This overlapping was later confirmed by Engr. Palermo in his Survey Findings[11] submitted to the court on February 4, 1998.

Because of such overlapping in the technical descriptions of the lots in the titles issued to the parties and, consequently, an error having been committed in identifying the monuments defining the perimeter of each property, the MTCC ruled that the case involved a boundary dispute which was cognizable by the RTC. Thus, on December 20, 1999, the MTCC dismissed the complaint for lack of jurisdiction.[12]

Aggrieved by the said development, petitioners appealed the case to the RTC,[13] which affirmed the ruling of the MTCC. The material portions of the RTC Decision[14] dated July 4, 2000 read as follows:

> This Court agrees with the Court a quo. Since the relocation survey was with the consent of both parties and since the finding is that there was a mistake on the part of the Bureau of Lands in determining the monuments of the lots, it would be to the best interests of both parties to have their respective titles corrected to conform to the real technical descriptions. To order the ejectment of the defendants from the premises even with the finding of the commissioners would entail unnecessary expenses and inconvenience for both parties. Clearly, this case involves a boundary dispute over which the MTCC has no jurisdiction. Parties may file the proper action before the Regional Trial Court.
>
> In view of all the foregoing, the decision of the Municipal Trial Courts in Cities Branch 2, Davao City, in Civil Case No. 4351-B-97 is hereby AFFIRMED.
>
> SO ORDERED.[15]

The subsequent motion for reconsideration of the petitioners was denied for lack of merit in the Order[16] dated October 27, 2000.

On January 2, 2001, petitioners filed the instant Petition[17] for certiorari under Rule 65 with this Court, raising the following grounds:

> - THAT GROSS AND PATENT ERRORS OF FACTS AND LAW, AMOUNTING TO GRAVE ABUSE OF DISCRETION AND LACK AND/OR EXCESS OF JURISDICTION WERE COMMITTED BY THE RESPONDENT JUDGE WHEN IT AFFIRMED THE FINDING OF THE LOWER COURT THAT THE INSTANT CASE "INVOLVES A BOUNDARY DISPUTE WHICH FALLS UNDER THE JURISDICTION OF THE REGIONAL TRIAL COURT," INSTEAD OF FORCIBLE ENTRY WHICH IS THE ISSUE IN DISPUTE;
>
> - THAT GROSS AND PATENT ERRORS OF FACTS AND LAW, AMOUNTING TO GRAVE ABUSE OF DISCRETION AND LACK AND/OR EXCESS OF JURISDICTION WERE COMMITTED BY THE RESPONDENT JUDGE IN AFFIRMING THE FINDING OF THE LOWER COURT THAT THE COMMISSIONER'S REPORT (SURVEY) OF THE PRIVATE SURVEYOR IS BINDING, CONSIDERING THAT THE AUTHORITY MANDATED BY LAW TO DETERMINE THE BOUNDARIES OF LANDS IS THE DIRECTOR OF LANDS;
>
> - THAT THE RULING OF THE RESPONDENT JUDGE IN AFFIRMING THE FINDING OF THE LOWER COURT THAT "SINCE THE RELOCATION SURVEY WAS WITH THE CONSENT OF BOTH PARTIES AND SINCE THE FINDING IS THAT THERE WAS A MISTAKE ON THE PART OF THE BUREAU OF [LANDS] IN DETERMINING THE MONUMENTS OF THE LOTS, IT WOULD BE TO THE BEST INTERESTS OF BOTH PARTIES TO HAVE THEIR RESPECTIVE TITLES CORRECTED TO CONFORM TO THE REAL TECHNICAL DESCRIPTIONS," HAD NO FACTUAL AND LEGAL BASIS,

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> EVEN AS IT CONSTITUTES GROSS AND PATENT ERRORS OF FACTS AND LAW, AMOUNTING TO GRAVE ABUSE OF DISCRETION AND LACK AND/OR EXCESS OF JURISDICTION;
>
> - THAT RESPONDENT JUDGE HAD COMMITTED GRAVE ABUSE OF DISCRETION AND GROSS AND PATENT ERRORS OF FACTS AND LAW, AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION, IN AFFIRMING THE FINDING OF THE LOWER COURT THAT "CLEARLY, THIS CASE INVOLVES A BOUNDARY DISPUTE OVER WHICH THE MTCC HAS NO JURISDICTION;"
>
> - THAT GROSS AND PATENT ERRORS OF FACTS AND LAW, AMOUNTING TO GRAVE ABUSE OF DISCRETION AND LACK AND/OR EXCESS OF JURISDICTION WERE COMMITTED BY THE RESPONDENT JUDGE WHEN IT FINALLY DISMISSED PETITIONERS' APPEAL, WHICH, IF NOT REVERSED/ANNULLED WILL CAUSE GREAT AND IRREPARABLE DAMAGE AND INJURY AND MANIFEST INJUSTICE TO THE PETITIONERS.[18]

The petition must fail.

It must be noted that what is being assailed before this Court are the July 4, 2000 Decision and the October 27, 2000 Order rendered by the RTC in the exercise of its appellate jurisdiction.[19] Section 1, Rule 42 of the Rules of Court provides that a party who desires to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction shall file a verified petition for review with the Court of Appeals.[20] This Rule is taken from Section 22 of Batas Pambansa Blg. 129 which states:

> SEC. 22. Appellate jurisdiction. - Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Court of Appeals which may give it due course only when the petition shows prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed. [Emphasis ours]

The law and the Rules clearly provide that the remedy is an appeal to the Court of Appeals in a situation such as that obtaining in the instant case. Thus, appeal being available to them, petitioners effectively foreclosed their right to resort to a special civil action for certiorari, a limited form of review and a remedy of last recourse, which lies only where there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law.[21] The aforesaid remedies are mutually exclusive. Certiorari cannot co-exist with an appeal or any other adequate remedy.[22]

Even assuming, arguendo, that certiorari may lie, the Court still cannot grant the instant petition because it violates the principle of hierarchy of courts. The choice of where to file the petition for certiorari is not left to the party seeking the writ.[23] The hierarchy of courts serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals.[24] This Court's original jurisdiction to issue extraordinary writs should be exercised only when absolutely necessary, or where serious and important reasons therefor exist.[25]

As we held in Santiago v. Vasquez,[26] and reiterated in cases subsequent to it, the propensity of litigants and lawyers to disregard the hierarchy of courts in our judicial system by seeking relief directly from this Court must be put to a halt for two reasons: (1) it would be an imposition upon the precious time of this Court; and (2) it would cause an inevitable and resultant delay, intended or otherwise, in the adjudication of cases which, in

numerous instances have to be remanded or referred to the lower court, the latter being the proper forum under the rules of procedure, or being better equipped to resolve the issues because this Court is not a trier of facts.[27] In the case at bench, we again apply, as well as remind litigants and lawyers of, the said policy.

Moreover, evident from the records is the fact that petitioners filed the instant certiorari petition to remedy their lapsed appeal. Petitioners received the RTC Order denying their motion for reconsideration on November 3, 2000.[28] Following the Rules, petitioners had fifteen (15) days, or up to November 18, 2000 to file a petition for review with the Court of Appeals.[29] However, no appeal was ever filed. Instead, petitioners instituted the instant Petition for certiorari on January 2, 2001[30] to resuscitate their lost appeal. Well-settled is the rule that a petition for certiorari under Rule 65 cannot be availed of to substitute a lost appeal.[31] Certiorari is not a procedural devise to deprive the winning party of the fruits of the judgment in his or her favor.[32]

For failing to file an appeal before the appellate court within the fifteen (15)-day reglementary period, the assailed ruling of the RTC attained finality, thus, preventing this Court from reviewing the merits of the instant petition. When a decision becomes final and executory, the court loses jurisdiction over the case and not even an appellate court would have the power to review the said judgment. Otherwise, there would be no end to litigation. It would set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.[33]

WHEREFORE, premises considered, the petition for certiorari is DISMISSED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

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[1] Records, pp. 179-180.

[2] Id. at 187-189.

[3] Id. at 1-7.

[4] Id. at 8.

[5] Id. at 1-2.

[6] Id. at 2-3.

[7] Id. at 51.

[8] Id. at 33-34.

[9] Id. at 55.

[10] Id. at 60-67.

[11] Id. at 70.

[12] Id. at 135-140.

[13] Id. at 141-142.

[14] Id. at 179-180.

[15] Id. at 180.

[16] Id. at 187-189.

[17] Rollo, pp. 4-21.

[18] Id. at 7-8.

[19] Ybañez v. Court of Appeals, 323 Phil. 643, 652 (1996).

[20] RULES OF COURT, Rule 42, Section 1 provides:

SECTION 1. How appeal taken; time for filing. - A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

[21] Heirs of Lourdes Potenciano Padilla v. Court of Appeals, G.R. No. 147205, March 10, 2004, 425 SCRA 236, 242.

[22] Macawiag v. Balindong, G.R. No. 159210, September 20, 2006, 502 SCRA 454, 465.

[23] Tolentino v. People, G.R. No. 170396, August 31, 2006, 500 SCRA 721, 725.

[24] Advincula-Velasquez v. Court of Appeals, G.R. Nos. 111387 and 127497, June 8, 2004, 431 SCRA 165, 182.

[25] Torres, Jr. v. Esteves, G.R. No. 155403, March 31, 2006, 486 SCRA 349, 364.

[26] G.R. Nos. 99289-90, January 27, 1993, 217 SCRA 633, 651-652.

[27] The Liga ng mga Barangay National v. The City Mayor of Manila, 465 Phil. 529, 543 (2004).

[28] Rollo, p. 7.

[29] REVISED RULES OF COURT, Rule 42, Section 1.

[30] Rollo, p. 4.

[31] Nippon Paint Employees Union-Olalia v. Court of Appeals, G.R. No. 159010, November 19, 2004, 443 SCRA 286, 291; Manila Midtown Hotel v. Borromeo, G.R. No. 138305, September 22, 2004, 438 SCRA 653, 657.

[32] Ang v. Grageda, G.R. No. 166239, June 8, 2006, 490 SCRA 424, 439.

[33] Macawiag v. Balindong, supra note 22, at 466.

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