

CENTRAL SURETY AND INSURANCE COMPANY, PETITIONER, PLANTERS PRODUCTS, INC., RESPONDENT.

G.R. NO. 149053. March 07, 2007

Ponente: CORONA, J.

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CORONA, J.:

This appeal on certiorari under Rule 45 of the Rules of Court hinges on a pure question of law, that is, whether execution of judgment can be ordered by mere motion despite the lapse of five years from entry of judgment.

The antecedent facts follow.

Sometime in 1977, Ernesto Olson entered into a dealership agreement with respondent Planters Products, Inc. whereby he agreed to purchase, in cash or credit, fertilizers and agricultural chemicals from respondent for resale. To secure Olson's faithful compliance of his obligations, Vista Surety and Insurance, Co. (Vista Insurance) and petitioner executed a surety undertaking in favor of respondent.

After several deliveries, Olson failed to pay respondent prompting the latter to claim the amount due from petitioner and Vista Insurance. However, both refused to settle their liabilities to respondent as Olson's sureties.

On June 25, 1979, respondent filed an action for collection of sum of money[1] against Olson, Vista Insurance and petitioner in the Regional Trial Court (RTC) of Makati, Branch 58. Summons were accordingly served (except as to Olson whose address could not be located).

In a decision[2] dated November 6, 1991, the trial court found petitioner and Vista Insurance liable to respondent. They were ordered to pay the following: (1) P372,502 representing the unpaid principal amount plus interest; (2) 25% of the total amount recoverable as attorney's fees and (3) cost of suit.

Petitioner alone appealed to the Court of Appeals (CA). On December 7, 1992, the CA dismissed petitioner's appeal for failure to pay the required docket fees.[3] On March 12, 1993, the dismissal of petitioner's appeal became final and executory; entry of judgment followed on May 27, 1993.[4]

On October 12, 1993, respondent filed in the RTC a motion for execution of judgment following the CA's dismissal of petitioner's appeal.[5] The RTC issued the writ on October 21, 1993.[6] The writ, however, was not implemented so respondent filed an ex parte motion for the issuance of an alias writ of execution which the trial court granted on February 24, 1994.

In the CA, petitioner filed a "Very Urgent Motion to Set Aside the CA Resolution of December 7, 1992 and to Re-Open Appeal with Prayer for Preliminary Injunction/Temporary Restraining Order." [7] On March 3, 1994, the appellate court issued a resolution restraining the RTC judge and the deputy sheriff from enforcing the writ but, on motion of respondent, the CA lifted the TRO and dismissed petitioner's urgent motion on March 24, 1994.[8]

Through a petition for certiorari under Rule 65 of the Rules of Court, petitioner elevated the CA's dismissal of its urgent motion to this Court. In its petition, petitioner argued that it failed to pay the docket fees only because the

CA's judicial records division did not "re-send" the notice for it to pay said fees. On July 11, 1994, we dismissed the petition[9] and this dismissal became final on September 14, 1994.[10]

On June 18, 1999 or 6 years from the entry of judgment of the RTC's decision,[11] respondent filed another motion for issuance of alias writ of execution in the trial court.[12] On August 20, 1999, the trial court issued an order granting the writ. Petitioner filed an MR of said order but the RTC denied it.

Petitioner thereafter went to the CA via a special civil action for certiorari under Rule 65 of the Rules ascribing grave abuse of discretion on the part of the RTC judge for issuing the writ despite the fact that more than five years had elapsed since the RTC's decision of November 6, 1991 became final and executory. Invoking Rule 39, Section 6 of the Rules, petitioner insisted that the RTC decision could no longer be enforced by mere motion but only by court action.

The CA dismissed the petition for patent lack of merit.[13] It held that:

While it is true that the judgment sought to be executed became final and executory on March 12, 1993, it bears stressing that the delay was caused by petitioner's dilatory maneuvers filed in this Court and all the way to the Supreme Court, viz: the Very Urgent Motion to Set Aside Resolution of December 7, 1992 and to Re-Open the Appeal with Prayer for Preliminary Injunction/Temporary Restraining Order which resulted in the issuance of the Court of Appeals Resolution dated March 3, 1994 enjoining respondents from enforcing the subject decision; the Motion for Reconsideration of [the] Court of Appeals Resolution dated March 24, 1994; and Petition for Certiorari before the Supreme Court which was ultimately dismissed by the High Court on July 11, 1994.

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WHEREFORE, for patent lack of merit, the petition is DISMISSED pursuant to Rule 65, [S]ec. 8[,] 2nd par.[,] Rules of Civil Procedure.

Petitioner filed an MR but this was likewise denied by the CA.[14] Hence, this petition.

The only relevant issue for our resolution is whether the execution of a final judgment may be made by mere motion despite the lapse of five years.

In this case, we answer in the affirmative.

Under Rule 39, Section 6,[15] the rule is that a final judgment may be executed by mere motion within five years from the date of entry of judgment. However, the rule is not absolute and admits one notable exception and that is when the delay in enforcing the judgment is caused by the party assailing the filing of the motion.

In *Republic v. Court of Appeals*,[16] we declared that, on meritorious grounds, execution of final judgment by mere motion may be allowed even after the lapse of five years when delay in the execution is caused or occasioned by the actions of the judgment debtor and/or is incurred for his benefit.

Similarly, in *Camacho v. Court of Appeals*,[17] we ruled that the five-year period allowed for enforcement of judgment by mere action is deemed effectively interrupted or suspended when the delay in the execution is occasioned by the oppositor's own initiatives in order to gain an undue advantage.

Based on the attendant facts, the present case falls within the exception. Petitioner triggered the series of delays in the execution of the RTC's final decision by filing numerous motions and appeals in the appellate courts, even causing the CA's issuance of the TRO enjoining the enforcement of said decision. It cannot now debunk the filing of the motion just so it can delay once more the payment of its obligation to respondent. It is obvious that petitioner is merely resorting to dilatory maneuvers to skirt its legal obligation.

Lastly, in Republic and Camacho, we ruled that the purpose of the law in prescribing time limitations for enforcing a judgment or action is to prevent a party from sleeping on his rights. Far from sleeping on its rights, respondent pursued its claim by persistently seeking the execution of the RTC's final judgment of November 6, 1991. It would be unjust to frustrate respondent's effort to collect payment from petitioner on sheer technicality. While strict compliance to the rules of procedure is desired, liberal interpretation is warranted in cases where a strict enforcement of the rules will not serve the ends of justice.

WHEREFORE, the petition is hereby DENIED.

Triple costs against petitioner whose counsel is hereby warned of severe disciplinary sanctions for any further attempt to delay the final disposition of this case.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1] Civil Case No. 2924, entitled Planters Products, Inc. v. Ernesto D. Olson, Vista Surety and Insurance Co., Inc. and/or Central Surety and Insurance Co., Inc.

[2] Decided by Judge Zosimo C. Angeles, rollo, pp. 35-37.

[3] CA Resolution, rollo, p. 39.

[4] Id., p. 40.

[5] Id., pp. 41-43.

[6] Id., pp. 44-45.

[7] Id., pp. 50-65.

[8] Id., pp. 67-72.

[9] SC Minute Resolution, rollo, pp. 128-129.

[10] Rollo, p. 180.

[11] See footnote 4. Entry of judgment was made on May 27, 1993.

[12] Id., pp. 136-137.

[13] Penned by Associate Justice Portia Alino-Hormachuelos and concurred in by Associate Justices Fermin A. Martin (retired) and Mercedes Gozo-Dadole (retired) of the Second Division of the Court of Appeals; rollo, pp. 22-25.

[14] Id., p. 27.

[15] SEC. 6. Execution by mere motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

[16] 329 Phil. 115 (1996).

[17] 351 Phil. 108 (1998).

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