RESURRECCION OBRA, PETITIONER, VS. SPS. VICTORIANO BADUA & MYRNA BADUA, SPS. JUANITO BALTORES & FLORDELIZA BALTORES, SPS. ISABELO BADUA & PRESCILA BADUA, SPS. JOSE BALANON & SHI...

G.R. NO. 149125. August 09, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

An order of execution must conform to the terms of the dispositive portion of the decision. A court that issues an order of execution in contravention of its final judgment exceeds its jurisdiction and renders its order invalid.

The Case

The present Petition for Review on Certiorari under Rule 45 seeks the annulment of the March 20, 2001[1] and June 20, 2001[2] Orders of the San Fernando City, La Union Regional Trial Court (RTC), Branch 29 in Civil Case No. 5033, directing petitioner Obra to demolish the fence she constructed on the southern portion of her property which blocked a portion of respondents' right-of-way.

The Facts

The case arose from a Complaint for Easement of Right-of-Way filed by respondents against Anacleto and Resurreccion Obra, Donato and Lucena Bucasas, and Paulino and Crisanta Badua in Civil Case No. 5033 entitled Sps. Victoriano Badua and Myrna Badua, et al. v. Sps. Anacleto Obra and Resurreccion Obra, et al. before the RTC. Defendant Anacleto Obra was the husband of petitioner. Respondents alleged that their residential houses, erected on a lot commonly owned by them and covered by Tax Declaration No. 93-01900281 under Cadastral Lot No. 5518 situated in Galongen, Bacnotan, La Union, were located west of the properties of the Obras, Bucasases, and Baduas. Their only access to the national highway was a pathway traversing the northern portion of petitioner's property and the southern portion of the properties of the Bucasases and Baduas. The pathway was more than one meter wide and sixteen meters long. They claimed that this pathway had been established as early as 1955. In 1995, however, petitioner Obra constructed a fence on the northern boundary of their property; thus, blocking respondents' access to the national highway. Respondents demanded the demolition of the fence, but petitioner refused.

In her Answer, petitioner averred that respondents had not established any easement of right-of-way either by law or agreement. She claimed that respondents failed to satisfy the requisites provided in Articles 649 and 650 of the Civil Code in order to establish an easement of right-of-way on the northern portion of her property. Moreover, she alleged that respondents had another access as ingress and egress to the public road other than the one traversing her property.

The spouses Badua and Bucasas failed to file an answer; consequently, they were declared in default.

On July 7, 2000, after trial, the RTC rendered a Decision[3] dismissing the complaint. It held that respondents "were not able to satisfy all the requisites needed for their claim of an easement of right of way."[4] It observed that when petitioner fenced the northern portion of her property, respondents were able to use another pathway as ingress and egress to the highway. It stated further that "the new pathway is more than adequate"[5] for respondents' use. Thus, the applied easement of right-of-way on the northern portion of petitioner's property was not allowed. The said Decision became final and executory.

It must be noted that the "new" pathway used by respondents, however, traversed the southern portion of petitioner's property. Sometime in 2001, petitioner constructed a fence on this portion of her lot, which again restricted the use of respondents' "new" pathway. Aggrieved and prejudiced by petitioner's action, respondents filed on March 6, 2001 a Motion to Enforce[6] the July 7, 2000 Decision of the RTC. They alleged that the Decision of the RTC dismissing the case was based on the existence of a new pathway which they had been using since 1995. Thus, they asserted that petitioner was prohibited from closing said passage.

On March 20, 2001, the RTC granted the said motion. Petitioner filed a Motion for Reconsideration, but it was rejected in the trial court's June 20, 2001 Order.

Clarifying its July 7, 2000 Decision, the trial court, in its March 20, 2001 Order, held that the dismissal of the complaint depended on petitioner's representation that she was allowing respondents to use the southern portion of her property as an alternative pathway. Since the southern portion was an "agreed pathway,"[7] petitioner could not reduce its width; thus, the trial court ordered petitioner to remove the fence blocking the passage.

Hence, we have this petition.

The Issue

Petitioner assigns a lone issue for the consideration of the Court:

> Whether or not the Court can motu proprio declare a compulsory right of way on a property not the subject of a pending case (particularly Civil Case No. 5033).[8]

Essentially, petitioner questions the propriety of the trial court's issuance of an order clarifying its final and executory decision and effectively establishing an easement on petitioner's property without proper adjudication.

The Court's Ruling

The petition is impressed with merit.

Dispositive Portion of a Decision Controlling

The controversy of this petition stemmed from the alleged conflict between the body of the trial court's July 7, 2000 Decision and its dispositive portion. Respondents aver that notwithstanding the dismissal of Civil Case No. 5033, the body of the Decision evidently established an easement on the southern portion of petitioner's property. On the other hand, petitioner maintains that the trial court's reference to the "new" pathway was merely a declaration of its existence and not necessarily a creation of an easement of right-of-way.

We agree with petitioner's postulation.

The resolution of the court in a given issue embodied in the fallo or dispositive part of a decision or order is the controlling factor as to settlement of rights of the parties.[9] Thus, where there is a conflict between the fallo and the ratio decidendi or body of the decision, the fallo controls. This rule rests on the theory that the fallo is the final order while the opinion in the body is merely a statement ordering nothing.[10] The rule applies when the dispositive part of a final decision or order is definite, clear, and unequivocal, and can wholly be given effect

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without need of interpretation or construction.[11]

In the case at bench, the decretal portion of the July 7, 2000 Decision is plain and clear - "[w]herefore, in view of the foregoing, this case is hereby dismissed." When a court rules that the case or complaint is dismissed, then it is concluded that the cause of action embodied in the allegations of the initiatory pleading has no merit or basis, and the prayer is consequently denied.

The amended complaint filed by respondents in Civil Case No. 5033 revealed that their cause of action was the recognition of their easement of right-of-way of "more than one (1) meter wide and more than sixteen (16) meters in length [which] traversed the northern portion of the property of defendants spouses Anacleto Obra and Resurreccion Obra."[12] As prayer, respondents asked for the demolition of the concrete fence constructed by petitioner and her spouse, Anacleto, that closed the pathway on the northern portion of Obra's lot; the declaration of right-of-way over said area in favor of respondents; and the payment of damages and attorney's fees. When the RTC dismissed the case in its July 7, 2000 Decision, it ruled that respondents had no cause of action against petitioner and her husband, Anacleto, because they failed to satisfy one of the four requisites for the entitlement of a right-of-way, namely-that the dominant estate is surrounded by other immovables and is without adequate outlet to a public highway. The trial court took note of the fact that the new pathway which incidentally traversed the southern portion of petitioner's lot is an adequate outlet to a public highway. While its body mentioned the existence of an alternative pathway located south of petitioner's lot, such was made only to emphasize that respondents failed to satisfy the requirements for an easement of right-of-way. As held by the trial court:

> The insistence of the plaintiffs to open up the old pathway is therefore without basis considering that there is another outlet adequate enough as an access route for them in their passage to the public highway and the alleged inconvenience cannot be a ground for the opening of said old pathway.
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> x x x x
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> In fine, plaintiffs were not able to satisfy all the requisites needed for their claim of an easement of right of way; failing to prove that there is no adequate outlet from their respective properties to a public highway.[13]

Apparently, no pronouncement was ever made regarding the nature and legality of this "new" pathway; therefore, no easement was established by the Court on petitioner's property in Civil Case No. 5033. Thus, their claim for a right-of-way on the southern portion had no basis.

The parties and even the trial court were confined to the averments of the complaint, and the answer and the issues joined by the major pleadings. It could not be disputed by respondents that there was no mention at all of any right-of-way on the southern portion of petitioner's lot in the complaint nor any claim or prayer for the declaration of respondents' entitlement to a right-of-way over the said area. Thus, there was no joinder of issue on this matter and, therefore, the dismissal of the case cannot, by any stretch of imagination, be construed to encompass any grant of right-of-way to respondents relating to the southern portion owned by petitioner.

More importantly, the case was dismissed by the RTC, meaning no relief was granted by the court to respondents. Granting arguendo that the issue on the entitlement to respondents of a right-of-way over the southern portion was likewise raised and was implicit from the pleadings; nevertheless, respondents, by the dismissal of the case, were not granted any affirmative relief by the trial court. As such, the trial court clearly erred in issuing the March 20, 2001 Order which granted a relief not found in the fallo of the decision.

Moreover, the construction of the fence on the southern portion was done by petitioner after the rendition and finality of the July 7, 2000 Decision dismissing the case. It is plain to see that such act of constructing the fence was subsequent to the Decision and could not have been covered by said judgment. The dispute that arose from

the blockade of the pathway on the southern portion could be the subject matter of another complaint but definitely was not an issue in Civil Case No. 5033. In the new case, respondents are obliged to prove all the essential elements of the easement of right-of-way-a requirement which they failed to satisfy in Civil Case No. 5033.

Lastly, the assailed March 20, 2001 Order directing the demolition of the concrete fence was in the nature of an execution of a final judgment. It is settled that what can be enforced by a writ of execution under Rule 39 are the dispositions in the decretal portion of the decision or the fallo. Since the case was dismissed, there was nothing to enforce or implement.

No Voluntary Easement of Right-of-Way

The trial court, seemingly aware that it did not determine the legality of an easement of right-of-way over the pathway located south of petitioner's property, nevertheless, concluded that the said passage was an agreed or voluntary easement of right-of-way which petitioner should respect.

The trial court was in error.

It is a settled doctrine that a decision, after it becomes final, becomes immutable and unalterable.[14] Thus, the court loses jurisdiction to amend, modify, or alter a final judgment and is left only with the jurisdiction to execute and enforce it. Any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose.[15]

To recapitulate, the dismissal of Civil Case No. 5033 meant that no easement was ever established on petitioner's property. However, the trial court, by issuing its March 20, 2001 Order directing petitioner to remove the fence that limited respondents' passage, effectively created a right-of-way on petitioner's property in favor of respondents allegedly on the basis of a voluntary agreement between the parties. This directive was in contravention of its July 7, 2000 Decision; thus, it was null and void for having been issued outside of the court's jurisdiction.

Granting for the sake of argument that the issue of voluntary easement of right-of-way, subject of the assailed March 20, 2001 Order, was proper, relevant, and material to the issue of right-of-way as averred in the complaint in Civil Case No. 5033, still, the conclusion that there was an agreed or voluntary easement of right-of-way had no basis. The records of Civil Case No. 5033 do not reveal any agreement executed by the parties on the claimed right-of-way. Glaring is the fact that the terms of the arrangement were not agreed upon by the parties, more particularly, the payment of the proper indemnity. The evidence is not ample enough to support the conclusion that there was a verbal agreement on the right-of-way over the southern portion.

More so, since a right-of-way is an interest in the land, any agreement creating it should be drawn and executed with the same formalities as a deed to a real estate, and ordinarily must be in writing.[16] No written instrument on this agreement was adduced by respondents.

In the light of the foregoing considerations, the assailed March 20, 2001 and June 20, 2001 Orders are null, void, and without any legal effect.

WHEREFORE, the petition is GRANTED. The June 20, 2001 and March 20, 2001 Orders of the San Fernando City, La Union RTC, Branch 29 in Civil Case No. 5033 are hereby ANNULLED AND SET ASIDE.

No costs.

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SO ORDERED.

Quisumbing, Carpio, Carpio-Morales, and Tinga, JJ., concur.

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[1] Rollo, p. 16; issued by Judge Robert T. Cawed.

[2]Id. at 17.

[3] Id. at 23-31.

[4] Id. at 31.

[5] Id.

[6] Id. at 32.

[7] Id. at 16.

[8]Id. at 65; original in capital letters.

[9] Velarde v. Social Justice Society, G.R. No. 159357, April 28, 2004, 428 SCRA 283, 308; citations omitted.

[10]Asian Center For Career and Employment System And Services, Inc. v. NLRC, 358 Phil. 380, 386 (1998).

[11]Suntay v. Suntay, G.R. No. 132524, December 29, 1998, 300 SCRA 760, 772.

[12] Rollo, p. 23.

[13] Supra note 3, at 31.

[14]Equitable Banking Corp. v. Sadac, G.R. No. 164772, June 8, 2006, 490 SCRA 380, 416.

[15]Torres v. Sison, G.R. No. 119811, August 30, 2001, 364 SCRA 37, 43.

[16]25 Am. Jur. 2d § 20, pp. 431-432.

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