

THE PROVINCIAL SHERIFF OF ILOCOS NORTE, NATIVIDAD R. VDA. DE RAVINA, EVELYN RAVINA, APOLONIO RAVINA, GLORIA RAVINA AND THELMA RAVINA, JEANILYN RAVINA, PETITIONERS VS., BRUNO LOR...

G.R. No. 150467. January 31, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The material antecedents which spawned the filing of the present Petition for Review on Certiorari are the following:

By decision of November 27, 1962, the Workmen's Compensation Commission (WCC) affirmed the decision of the Hearing Officer of its Regional Office ordering Bruno Lorenzo and Lorenza de la Cruz Lorenzo, herein respondents, to pay the amount of P4,230.00 to herein petitioner Natividad R. Vda. De Ravina, widow of the late Apolonio Ravina who died under the employ as mechanic of the Lorenzos.

The WCC decision became final and executory. Mrs. Ravina and her co-heirs who all bear the surname Ravina^[1] subsequently filed on February 25, 1964 a petition, for enforcement of the WCC decision, before the then Court of First Instance (CFI) of Ilocos Norte against the Lorenzos, which petition was docketed as Civil Case No. 3818-12.

By decision of October 30, 1964, Branch 12 of the then CFI of Ilocos Norte rendered judgment in favor of Mrs. Ravina et al., the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the petitioners and against the respondents in accordance with the decision of the Workmen's Compensation Commission dated November 27, 1962, x x x

x x x In addition, respondents are condemned to pay 6% of interest on the amount due from the date of the filing of the petition.

SO ORDERED. (Underscoring supplied)^[2]

On July 30, 1965, the Ravinas filed a Motion for Execution of the CFI decision. The motion was granted on August 27, 1965 and a Writ of Execution was accordingly issued on September 17, 1965.

To enforce the Writ of Execution, the Provincial Sheriff of Ilocos Norte, one of herein petitioners, levied on four titled and three unregistered parcels of land belonging to the Lorenzos and sold them at public auction on December 2, 1965.

On January 21, 1971, the Lorenzos filed a complaint, for annulment of Sheriff's sale of their abovesaid properties before the CFI of Ilocos Norte, docketed as Civil Case No. 4651-12. The case was decided twenty (20) years later or on January 27, 1991 in favor of the Lorenzos by Branch 12 of the now Regional Trial Court (RTC) of Ilocos Norte.

In so deciding in favor of the Lorenzos, the trial court held that:

x x x

. . . [T]he greater bulk of evidence is on lack of notice to the judgment debtors and that they had goods and chattels sufficient to answer for the amount adjudged.

x x x

. . . [T]he Court observed that the execution of the judgment has been done posthaste. There was no time allotted for the sheriff to look into the goods or chattels of the judgment debtors. He immediately levied their seven (7) parcels of land as listed at the Municipal Treasurer's Office of Laoag. The Court further noticed that the Certificate of Service was allegedly signed by Lorenza de la Cruz Lorenzo at the Office of the Chief of Police on October 24, 1965, also contrary to the allegation of Mrs. Ravina that she accompanied the policemen to serve the notices to the residence of the plaintiffs. As to the publication in the Daily Record, the sheriff insisted that there was no other newspaper then in general circulation. There being no evidence of any newspaper then in general circulation, the Court is unable to determine the extent of its circulation.

x x x[3]

The trial court went to state that "assuming that there was no irregularity in the notice to the judgment debtor and that of the newspaper that carried the notice," the then Sec. 18 of Rule 39 of the Rules of Court, now Sec. 15 of the present Rules, on notice of sale of property on execution requires the posting of notices on the therein mentioned places. Yet, the trial court concluded, the said rule was not faithfully observed.

The trial court thus disposed as follows:

WHEREFORE, from the facts established, the Court hereby renders judgment as follows:

- Declaring the Sheriff's Final Deed of Sale dated August 11, 1967 over the lands in question null and void;
- Ordering the Register of Deeds of Laoag City to restore to the plaintiffs the lands originally covered by Transfer Certificate of Title No. T-1868, Transfer Certificate of Title No. T-723, Transfer Certificate of Title No. 2621 and Transfer Certificate of Title T-2622 and now covered by Transfer Certificates of Title Nos. T-7991, T-7992, (T2621)-1153 and T-7994, respectively, and three (3) unregistered rural lands described in the deed of sale;
- Ordering the plaintiffs to pay the sum of FOUR THOUSAND TWO HUNDRED THIRTY-FIVE (P4,235.00) (sic) PESOS representing the adjudged sum of money in Civil Case No. 3838-II plus an interest of 12% per annum from February 25, 1964 interest of 12% from February 25, 1964 interest of 12% from February 25, 1964 [sic], up to the time it is fully paid and P5.00 for cost review;
- Ordering whatever benefits derived from these lands by the judgment creditors as solely owned by them to offset whatever expenses incurred in the cultivation or improvements of the lands in question. (Underscoring supplied)[4]

Both parties appealed the CFI decision to the Court of Appeals.

Before the appellate court, herein petitioners Ravinas faulted the trial court as follows:

I.

THE LOWER COURT ERRED IN HOLDING THAT THE EXECUTION OF THE JUDGMENT WAS DONE POSTHASTE AND THAT THERE WAS NO TIME FOR THE SHERIFF TO LOOK INTO THE GOODS OR CHATTELS OF THE JUDGMENT DEBTORS;

II.

THE LOWER COURT ERRED IN GIVING CREDENCE TO LORENZA C. LORENZO'S CLAIM THAT SHE SIGNED THE CERTIFICATE OF SERVICE, EXHIBIT 1, IN THE OFFICE OF THE CHIEF OF POLICE OF LAOAG CITY ON OCTOBER 24, 1965 WITHOUT HAVING RECEIVED COPIES OF THE WRIT OF EXECUTION, NOTICE OF LEVY AND NOTICE OF AUCTION SALE AND THAT THERE WAS A DEFECT IN AND/OR FAILURE TO GIVE NOTICE OF THE PROCEEDINGS TO PLAINTIFFS.

III.

THE LOWER COURT ERRED IN HOLDING THAT DUE NOTICE OF THE AUCTION SALE AND ITS PUBLICATION WAS NOT COMPLIED WITH AS PROVIDED FOR BY LAW. (Underscoring supplied)[5]

Passing on the merits of the appeal of herein petitioner Ravinas, the appellate court found that "evidence is lacking to show that . . . [the] Sheriff complied with the procedural mandate of the aforecited provision of law [Sec. 9(a) and (b) of Rules 39 of the 1997 Rules of Civil Procedure], e.g., that he (Sheriff) should caused (sic) to show first that the personal property of the judgment debtors is not sufficient to satisfy the judgment and the adjudged financial liability of the [Lorenzos] is merely P4,235.00 plus an interest of 12% per annum On the other hand the total amount (sic) of the seven (7) parcels of land disposed in the public auction is P81,602.00."

Thus noting that procedural lapses attended the execution of judgment and eventual sale at public auction of the Lorenzos' properties their value of which was grossly disproportionate to the judgment obligation, the Court of Appeals concluded that the trial court in Civil Case No. 4651-12 (annulment of the Sheriff's sale at public auction) did not err "in declaring the Sheriff's Final Deed of Sale dated 11 August 1967 as null and void; and in finding petitioners-appellants to be financially liable to private defendant-appellant Vda. de Ravina."

Accordingly, the Court of Appeals disposed as follows:

WHEREFORE, premises considered, the instant appeal [of the Ravinas] is DISMISSED for lack of merit; and the assailed 27 January 1991 Decision of the Regional Trial Court of Ilocos Norte, Branch 12 in Civil Case No. 4651-12 is hereby AFFIRMED in toto. No costs.

SO ORDERED. (Emphasis in the original)[6]

Hence, the present petition of the Provincial Sheriff and the Ravinas which raise the following

GROUND(S)[-BASES] OF THE PETITION

- THE FINDINGS OF THE TRIAL COURT AND THE COURT OF APPEALS DO NOT CONFORM TO THE EVIDENCE ON RECORD, WHICH, IF CONSIDERED, WOULD HAVE DRAWN A DIFFERENT CONCLUSION AND RESOLUTION OF THE CASES.
- THE FINDINGS OF THE LOWER COURTS OVERLOOKED SUBSTANTIAL FACTS AND CIRCUMSTANCES, WHICH, IF CONSIDERED, WOULD MATERIALLY AFFECT THE RESULT OF THE CASE.
- THE FINDINGS OF THE LOWER COURTS ARE BASED ON MERE SPECULATIONS, SURMISES, CONJECTURES, AND INFERENCES MANIFESTLY MISTAKEN WHICH ARE GLARINGLY ERRONEOUS AS TO CONSTITUTE GRAVE ABUSE OF DISCRETION.
- THE FINDINGS OF THE LOWER COURTS ARE PREMISED ON SUPPOSED ABSENCE OF EVIDENCE, WHICH IS CONTRADICTED BY THE EVIDENCE ON RECORD, CONSTITUTING SERIOUS ERROR IF NOT GRAVE ABUSE OF DISCRETION.
- THE LOWER COURTS DECIDED THE CASE NOT IN ACCORDANCE WITH THE EVIDENCE, THE

LAW AND THE APPLICABLE DECISIONS OF THIS HONORABLE COURT.

- THE LOWER COURTS GRAVELY ERRED AND GRAVELY ABUSED THEIR DISCRETION WHEN THEY DECLARED THE SHERIFF'S FINAL DEED OF SALE OF AUGUST 11, 1967 NULL AND VOID.
(Underscoring supplied)[7]

This Court directed the parties to file their respective memoranda. Respondents have filed theirs but this Court's rollo of the case does not show that petitioners filed theirs.

Assailing the appellate court's finding that evidence is lacking to show that the Sheriff complied with Sec. 9(a) & (b) of Rule 39 on Execution of Judgments, petitioners, in their petition, draw attention to portions of the therein quoted transcript of the stenographic notes of the testimony of the Sheriff. From the quoted transcript, the Sheriff declared that, inter alia, he found no appliance or furniture or even work animals in the residence of the Lorenzos; the total assessed value of the 7 parcels of land was "I think" about P700.00; and he "do[es] not remember" if there were minutes of the public auction sale, and does not remember which of the properties were sold first and bidden last.

On the lower court's crediting of the Lorenzos' claim that they were not furnished copies of the Writ of Execution, Notice of Levy and Notice of Auction Sale conducted in 1965 and that it was only in 1970 that they were furnished such copies, petitioners again draw attention to portions of the transcript of the stenographic notes of the testimony of the Sheriff. It is gathered from the Sheriff's testimony that the Lorenzos refused to receive the documents bearing on the public auction; and "[a]fter the execution, [he] presented the necessary papers] to Bruno Lorenzo at his house but the latter said 'I do not like to pay . . . because [I] did not kill the victim and because the victim died by accident only.'"

To refute the Lorenzos' claim that they received copies of the documents only in 1970, petitioners draw attention to the transcript of stenographic notes of the testimony of policeman Graciano Gallardo who claims to have served a copy each of the Writ of Execution, Notice of Levy and Notice of Auction Sale on October 24, 1965 at the residence of the Lorenzos as shown by a Certificate of Service (Exh. "1") wherein Mrs. Lorenzo acknowledged receipt of the said documents by affixing her signature thereon.

Petitioners thus conclude that the mere denial by the Lorenzos of having received the documents cannot prevail over the "documented Certificate of Service" and the "convincing testimonies" of the sheriff and the policeman.

The petition fails.

As reflected above, the Sheriff's testimony relied upon by petitioners is not straightforward. He is not certain on some matters relevant to the issue of regularity of the enforcement of the writ of execution including the conduct of the sale at public auction. This Court is not thus prompted to hold that he followed the mandate of the Rules, particularly Sec. 9(b) which reads:

SEC. 9. Execution of judgments for money, how enforced. —

x x x

(b) Satisfaction by levy. — If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment. (Underscoring supplied)

The implementation of the writ of execution was thus flawed.

This leaves it unnecessary to still pass on petitioners' claim that the Lorenzos received on October 24, 1965 copies of the writ of execution and notice of levy of sale at public auction of the latter's properties. Suffice it to state that the Certificate of Service which purports to show that Mrs. Lorenzo received the said documents on October 24, 1965 cannot be relied upon, policeman witness Gallardo having himself candidly, if not evasively, answered, when asked if he remembered who wrote on the Certificate the date of service, answered "I do not remember."

In fine, petitioners failed to establish that the trial court overlooked or misconstrued some significant fact or facts that would alter the outcome of the case. The findings of the trial court thus binds this Court especially in light of the affirmance thereof by the appellate court.[8]

WHEREFORE, the petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman) Sandoval-Gutierrez, Corona and Garcia, JJ., concur

[1] Page 1 of RTC decision in Civil Case No. 4651-12, annexed to Defendants-Appellants' Brief before the Court of Appeals, CA Rollo at 51.

[2] CA Rollo at 70.

[3] RTC Decision in Civil Case No. 4651-12 at 15-16 and 17-18.

[4] Rollo at 69-70.

[5] Id. at 71-72.

[6] Court of Appeals decision at 8; Id. at 39.

[7] Rollo at 5.

[8] Montecillo v. Reynes, 385 SCRA 244 (2002).

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