

**VICENTE DACANAY, IN HIS CAPACITY AS ADMINISTRATOR OF THE
TESTATE ESTATE OF TERESO D. FERNANDEZ, PETITIONER, VS. HON.
RAPHAEL YRASTORZA, SR., IN HIS OFFICIAL CAPACITY AS
PRESIDIN...**

G.R. No. 150664. September 03, 2009

Ponente: CORONA, J.

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CORONA, J.:

On July 14, 1992, petitioner Vicente Dacanay, as administrator of the testate estate of Tereso D. Fernandez, filed in the Regional Trial Court (RTC) of Cebu City a case for recovery of real property against respondent spouses Luissa and Raul Samaco and Roberta and Bryan Kersaw.[1] On December 22, 1992, respondent spouses Samaco filed their answer with counterclaim.[2]

On May 12, 1993, petitioner amended his complaint to implead respondent Johnson Mercader.[3] On August 3, 1993, respondent Mercader filed his answer with counterclaim.[4] Respondent spouses Kersaw were declared in default[5] as they did not file an answer despite service of summons by publication.[6]

On May 15, 1994, petitioner filed his second amended complaint[7] which the court granted. On March 30, 1994, respondent spouses Samaco filed their answer with counterclaim,[8] while respondent Mercader filed his on May 30, 1994.[9]

On December 12, 1995, the RTC dismissed[10] petitioner's complaint for lack of merit. Petitioner was likewise ordered to pay P70,000 to respondent spouses Samaco and respondent Mercader by way of attorney's fees,[11] litigation expenses[12] and moral damages.[13]

Not satisfied, petitioner appealed to the Court of Appeals (CA).[14] On October 27, 1999, the CA[15] affirmed the RTC in toto.

Petitioner then filed in the Supreme Court a motion for extension of time to file a petition for review on certiorari. His motion was denied in a minute resolution[16] because of procedural lapses[17] on his part. Petitioner's motion for reconsideration met the same fate.[18]

Consequently, the CA[19] and the Supreme Court[20] entered judgment on their rulings. Thus, the RTC decision dismissing petitioner's complaint and holding him personally liable for P70,000 to respondent spouses Samaco and respondent Mercader became final and executory.

On July 12, 2001, respondent Mercader filed a motion for execution[21] of the RTC decision. Petitioner opposed[22] the motion, contending that he should not be made personally liable for the amount awarded by the RTC. The RTC judgment should be considered as a claim against the estate of Tereso Fernandez. Thus, the writ of execution should be referred to the court where the estate of Tereso Fernandez was being settled.

On August 30, 2001, the RTC granted respondent Mercader's motion for execution.[23] According to the RTC,

there was no impediment to the execution of its decision because it had already become final and executory. Moreover, considering that the decision sought to be executed "(did) not involve money claims,"[24] the writ of execution could not be directed against the estate of Tereso Fernandez.

Petitioner's motion for reconsideration[25] went unheeded.[26]

Refusing to give up, petitioner filed this petition for certiorari[27] in this Court. He reiterates his position that he should not be made personally liable to pay the P70,000 awarded by the RTC in favor of respondent spouses Samaco and respondent Mercader.

At the outset, we note that petitioner filed his petition for certiorari directly in this Court. This is a violation of the doctrine of hierarchy of courts. He should have filed his petition in the CA before seeking relief from this Court.[28] Thus, this petition can be dismissed outright for being procedurally infirm.

Moreover, the petition lacks merit.

The RTC decision sought to be executed has long attained finality. Hence, petitioner can no longer question it.

Once a judgment attains finality, it becomes immutable and unalterable. A final and executory judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.[29] This is the doctrine of finality of judgment. It is grounded on fundamental considerations of public policy and sound practice that, at the risk of occasional errors, the judgments or orders of courts must become final at some definite time fixed by law.[30] Otherwise, there will be no end to litigations, thus negating 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.[31]

The book of entries of judgment of the CA states that its decision in CA-G.R. CV No. 52731 on October 27, 1999 (which affirmed the RTC decision dismissing petitioner's complaint and awarding P70,000 to respondent spouses Samaco and respondent Mercader) became final on June 22, 2000.[32] On the other hand, the book of entries of judgment of the Supreme Court states that its resolution in G.R. No. 143713 on August 9, 2000 (which denied petitioner's motion for extension of time to file petition for review on certiorari) became final on February 14, 2001.[33] Thus, respondent Mercader properly moved for the execution of the RTC decision on July 12, 2001. For the same reason, there was no legal impediment to the RTC's issuance of a writ of execution of its final and executory decision on August 30, 2001.

WHEREFORE, the petition is hereby DISMISSED.

Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Leonardo-De Castro and Bersamin, JJ., concur.

[1] Annex B of the petition; rollo, pp. 22-26.

[2] Annex C of the petition; id., pp. 30-32.

[3] Annex D of the petition; id., pp. 33-38.

[4] Annex E of the petition; id., pp. 45-50.

[5] Annex G of the petition; id., p. 56.

[6] Annex F of the petition; id., pp. 51-55.

[7] Annex H of the petition; id., pp. 57-64. The second amended complaint included the additional causes of action of cancellation of certificates of title and damages.

[8] Annex I of the petition; id., pp. 72-73.

[9] Annex J of the petition; id., pp. 74-75.

[10] Decision penned by then Judge Renato C. Dacudao. Annex L of the petition; id., pp. 78-83.

[11] P10,000 apiece.

[12] P5,000 apiece.

[13] P20,000 apiece.

[14] Annex M of the petition; rollo, p. 84.

[15] Decision penned by Justice Bernardo LL. Salas (retired) and concurred in by Justices Cancio C. Garcia (a retired member of the Supreme Court) and Candido V. Rivera (retired). Annex O of the petition; id., pp. 87-102.

[16] Annex P of the petition; id., p. 103.

[17] Petitioner's motion for extension of thirty days within which to file petition for review on certiorari was denied for his failure to a) serve a copy of the motion on the CA pursuant to Section 4, Rule 13 in relation to Sections 2 and 3, Rule 45 of the Rules of Court; b) show that he has not lost the fifteen-day reglementary period provided in Section 2, Rule 45 of the Rules of Court since he failed to state in the motion the material dates of receipt of the assailed CA decision and of filing of his motion for reconsideration of said decision and c) submit a written explanation on the non-personal filing of the motion in accordance with Section 11, Rule 13 of the Rules of Court. Id.

[18] Annex Q of the petition; id., p. 105.

[19] Annex R of the petition; id., p. 108.

[20] Annex S of the petition; id., pp. 109-110.

[21] Annex T of the petition; id., pp. 111-112.

[22] Annex U of the petition; id., p. 113.

[23] Annex W of the petition; id., pp. 115-116.

[24] Id., p. 115.

[25] Annex X of the petition; id., pp. 117-118.

[26] Annex A of the petition; id., p. 21.

[27] Rollo, pp. 3-20. Under Rule 65 of the Rules of Court.

[28] This Court's original jurisdiction to issue writs of certiorari (as well as prohibition, mandamus, quo warranto, habeas corpus and injunction) is not exclusive. It is shared by this Court with Regional Trial Courts (formerly Courts of First Instance), which may issue the writ, enforceable in any part of their respective regions. It is also

shared by this Court, and by the Regional Trial Court, and with the Court of Appeals (formerly, Intermediate Appellate Court), although prior to the effectivity of Batas Pambansa Bilang 129 on August 14, 1981, the latter's competence to issue the extraordinary writ was restricted to those "in aid of its appellate jurisdiction." This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also 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 ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy (*People v. Cuaresma*, G.R. No. 67787, 18 April 1989, 172 SCRA 415, 423-424).

The reason for the rule is two-fold, i.e., 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 some instances had to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as better equipped to resolve the issues because this Court is not a trier of facts (*Heirs of Bertuldo Hinog v. Melicor*, G.R. No. 140954, 12 April 2005, 455 SCRA 460).

[29] *Ram's Studio and Photographic Equipment, Inc. v. CA*, G.R. No. 134888, 1 December 2000, 346 SCRA 691.

A judgment which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes. An executory and final decision cannot be lawfully altered or modified even by the court which rendered the same, especially where the alteration or modification is material or substantial. In such a situation, the trial court loses jurisdiction over the case except for execution of the final judgment. Any amendment or alteration made which substantially affects the final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose (*Filcon Manufacturing Corp. v. NLRC*, G.R. No. 78576, 31 July 1991, 199 SCRA 814).

[30] *Bañares II v. Balising*, G.R. No. 132624, 13 March 2000, 328 SCRA 36.

[31] *Gallardo-Corro v. Gallardo*, G.R. No. 136228, 30 January 2001, 350 SCRA 568.

[32] See note 19.

[33] See note 20.

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