

**NARCISO TUMIBAY, RUPERTO TUMIBAY, ELENA TUMIBAY,
EDUARDO TUMIBAY, CORAZON TUMIBAY, MANUELA SEVERINO
VDA. DE PERIDA AND GREGORIA DELA CRUZ, PETITIONERS, VS. SPS.
YOLANDA T. SORO ...**

G.R. No. 152016. April 13, 2010

Ponente: BRION, J.

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BRION, J.:

Before us is the petition for review on certiorari,[1] filed by petitioners Narciso Tumibay (Narciso), Ruperto Tumibay, Elena Tumibay, Eduardo Tumibay, Corazon Tumibay, Manuela Severino Vda. De Perida and Gregoria Dela Cruz (petitioners), to reverse and set aside the decision[2] dated August 24, 2001 and resolution[3] dated January 29, 2002 of the Former Special Tenth Division of the Court of Appeals (CA) in CA-G.R. SP No. 56489. The assailed CA decision nullified, for having been issued with grave abuse of discretion, the order dated September 6, 1999 of the Regional Trial Court (RTC), Branch 30, Cabanatuan City in Civil Case No. 8269. The assailed CA Resolution denied the petitioners' subsequent motion for reconsideration.

FACTUAL BACKGROUND

The facts of the case, gathered from the records, are briefly summarized below.

The petitioners, including the respondent Julita T. Sta. Ana (Julita), were the defendants in Civil Case No. 8269, an action for annulment and recovery of ownership with damages, filed on January 17, 1984 by the respondent Yolanda T. Soro (Yolanda) and her husband, respondent Honorio Soro. The subject of the case was a 1,083 square meter parcel of land in Cabanatuan City (subject property) originally titled in the name of Francisca Sacdal, the grandmother of Yolanda and Julita, under Original Certificate of Title (OCT) No. 1738 of the Registry of Deeds of Cabanatuan City. Thru a "Bilihang Tuluyan ng Lupa" dated February 2 and 13, 1967, OCT No.1738 was cancelled and Transfer Certificate of Title (TCT) No. T-11574 was issued in Narciso's name. Narciso subsequently sold the subject property to the other petitioners in this case, thereby causing the issuance of TCT Nos. T-23150, 27151 and 42467 in their names.

On December 30, 1993, the RTC rendered a decision, whose dispositive portion reads:

WHEREFORE, premises considered, decision is hereby rendered, as follows:

- Declaring the "Bilihang Tuluyan ng Lupa" dated February 2 & 13, 1967 and all sales executed subsequent thereto as null and void ab initio;
- Ordering the annulment of Transfer Certificate of Title No. T-11574, issued in the name of Narciso Tumibay and all subsequent titles issued thereafter, such as TCT Nos. T-23150, 27151 and 42467 of the Register of Deeds of Cabanatuan City, in the name of the other defendants;
- Declaring the plaintiff Yolanda T. Soro and defendant Julita T. Sta. Ana, as the sole heirs of Estela Perida and

owners of the land covered originally by Original Certificate of Title No. 1738;

- Ordering the defendants to reconvey the said property to the said Yolanda T. Soro and Julita T. Sta. Ana, and in default thereof, the Branch Clerk of Court of this Court is hereby authorized to execute the necessary deed of conveyance in favor of said Yolanda T. Soro and Julita T. Sta. Ana; and

- Ordering the defendants, jointly and severally to pay the plaintiff P5,000.00 as actual and moral damages, and attorney's fee of P5,000.00 and cost of suit.

SO ORDERED.

The RTC decision was affirmed, successively, by the CA and by this Court. After finality, the RTC - on Yolanda's motion - issued a writ of execution. In obedience to the writ, the Register of Deeds of Cabanatuan City issued TCT No.T-98649[4] and TCT No. T-98650[5] in the names of Yolanda and Perlita.

On March 3, 1999, Yolanda and Perlita, with their respective spouses, filed with the RTC a motion to be restored to the possession of the subject property and to demolish the improvements thereon, in accordance with paragraphs (c) and (d) of Section 10, Rule 39 of the Rules of Court.[6]

The petitioners opposed the motion on the ground that there was nothing in the RTC decision that ordered the demolition of existing improvements.

THE RTC RULING

The RTC issued an Order (dated September 6, 1999) denying the respondents' motion. In sustaining the petitioners' views, the RTC noted that a writ of execution should conform to the dispositive portion of the decision sought to be executed; it cannot go beyond the terms of the judgment.[7]

When the RTC denied[8] their motion for reconsideration,[9] the respondents elevated their case to the CA via a petition for certiorari under Rule 65 of the Rules of Court. They insisted that the removal or demolition of the improvements was the logical consequence of the RTC decision.

THE CA RULING

The CA decided the petition on August 24, 2001. The appellate court, applying Rule 39, Section 10, paragraph (d) of the Rules of Court, noted that since the RTC ordered the petitioners to reconvey to the respondents the subject property that contains improvements the petitioners introduced, the demolition of the improvements can be done only after a special order of the RTC, issued upon the respondents' motion, after due hearing, and after the petitioners failed to remove the improvements within the time fixed by the RTC. Thus, the CA declared void the September 6, 1999 RTC Order and directed the RTC to fix the time within which the petitioners should remove the improvements from the subject property.

After the CA's denial[10] of their motion for reconsideration,[11] the petitioners filed the present petition for review on certiorari under Rule 45 of the Rules of Court.

THE PETITION

The petitioners argue that the writ of execution should conform to the dispositive portion of the decision sought to be executed and the demolition of the existing improvements was not expressly ordained in the decision. They submit that to effect the demolition, the respondents must file an ejectment case. They cite *Nazareno v. Court of Appeals*,[12] which held that "being declared owner of the subject lot does not also mean that [the winning party]

is automatically entitled to possession of all improvements thereon."

THE CASE FOR THE RESPONDENTS

The respondents submit that the petitioners' argument runs counter to the express provisions of Rule 39, Section 47 of the Rules of Court that a judgment is conclusive on all matters that the parties could have raised; to further require them to file an ejectment suit to oust the petitioners would amount to encouraging multiplicity of suits.

THE ISSUE

The core issue is whether the CA erred when it declared void the September 6, 1999 RTC Order denying the respondents' motion to be restored to possession of the subject property and to demolish the improvements thereon.

OUR RULING

We find no merit in the petition.

A judgment is not confined to what appears on the face of the decision

We are not persuaded by the petitioners' argument that, since the RTC decision to reconvey to respondents the subject property did not expressly order the removal of improvements thereon, the RTC cannot, by order, reach these improvements and accordingly act to enforce its decision.

As a general rule, the writ of execution should conform to the dispositive portion of the decision to be executed; an execution is void if it is in excess of and beyond the original judgment or award. The settled general principle is that a writ of execution must conform strictly to every essential particular of the judgment promulgated,[13] and may not vary the terms of the judgment it seeks to enforce, nor may it go beyond the terms of the judgment sought to be executed.[14]

Nonetheless, we have held that a judgment is not confined to what appears on the face of the decision, but extends as well to those necessarily included therein or necessary thereto.[15] Thus, in *Perez v. Evite*,[16] where the ownership of a parcel of land was decreed in the judgment, the delivery of possession of the land was considered included in the decision where the defeated party's claim to possession was based solely on his claim of ownership.

In *Baluyut v. Guiao*,[17] we stressed that this rule fully conforms with Rule 39, Section 47, paragraph (c) of the Rules of Court that provides:

SECTION 47. Effect of judgments or final orders. -- The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto. (Emphasis supplied.) [18]

Petitioners misread *Nazareno v.*

Court of Appeals

We find that the petitioners misread the ruling in *Nazareno v. Court of Appeals*[19] when they understood the

ruling to mean that in all cases, a declaration of ownership does not include a declaration of the right to possession. What Nazareno actually holds is that adjudication of ownership would include the delivery of possession if the defeated party has not shown any right to possess the land independently of his rejected claim of ownership. This ruling, as understood in its correct sense, fully applies to the present case, as there is no allegation, much less any proof, that the petitioners have any right to possess the improvements on the land independently of their claim of ownership of the subject property. Thus, the respondents have full right to possession of the subject property.

We remind the petitioners that we do not allow the piecemeal interpretation of our Decision as a means to advance one's case. To get the true intent and meaning of a decision, no specific portion thereof should be isolated and read in this context; the decision must be considered in its entirety.[20] Read in this manner, the respondents' right to possession of the subject property fully follows.

Rule 39, Section 10 sets the
procedure for execution of judgment
for specific acts

In addition, Rule 39, Section 10, paragraphs (c) and (d), of the Rules of Court provides the procedure for execution of judgments for specific acts, as follows:

SECTION 10. Execution of judgments for specific act.-

x x x x

(c) Delivery or restitution of real property. - The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within the three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money.

(d) Removal of improvements on property subject of execution. - When the property subject of execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements, except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court. (Emphasis supplied)

In *Buñag v. Court of Appeals*,^[21] we explained that a judgment for the delivery or restitution of property is essentially an order to place the prevailing party in possession of the property. If the defendant refuses to surrender possession of the property to the prevailing party, the sheriff or other proper officer should oust him. No express order to this effect needs to be stated in the decision; nor is a categorical statement needed in the decision that in such event the sheriff or other proper officer shall have the authority to remove the improvements on the property if the defendant fails to do so within a reasonable period of time. The removal of the improvements on the land under these circumstances is deemed read into the decision, subject only to the issuance of a special order by the court for the removal of the improvements.^[22]

In light of the foregoing, we find that the CA committed no reversible error in declaring void the September 6, 1999 RTC Order.

Treble costs against petitioners

We lament that the petitioners, by instituting the present petition, has effectively delayed the full execution of the final and executory RTC judgment. In doing so, they deprived the winning respondents of the fruits of the judgment, and made a mockery of the RTC judgment that has stood scrutiny all the way to our level. We have always frowned upon any scheme to prolong litigations and we view the present dispute as an unwarranted effort to avoid the implementation of a judgment painstakingly arrived at. We cannot countenance, and in fact, condemn this kind of abuse of judicial process. Thus, we deem it fit to impose treble costs against the petitioners.

We note that the petitioners filed a Manifestation dated August 28, 2008[23] informing us that Julita sold her pro indiviso share in the subject property to one Corazon T. Logramente thru a "Bilihang Lubusan ng Lupa" dated July 17, 2003, and the latter caused the annotation of her adverse claim in the TCT Nos. T-98649 and T-98650. However, this supervening event has no bearing to the present case where the only issue involved is the propriety of the September 6, 1999 RTC Order that denied the respondents' motion to be restored in possession. Besides, whatever right Corazon T. Logramente, a third party to the present dispute, may have on the subject property is adequately protected by the inscription of her adverse claim in the land titles. Any right she may have can only be raised or brought by her as the affected party, or the real party-in-interest, in a proper forum.

WHEREFORE, in light of all the foregoing, we hereby DENY the petition and AFFIRM the decision dated August 24, 2001 and resolution dated January 29, 2002 of the Former Special Tenth Division of the Court of Appeals (CA) in CA-G.R. SP No. 56489 insofar as it declared void the Order dated September 6, 1999 of the Regional Trial Court, Branch 30, Cabanatuan City in Civil Case No. 8269. The Court is directed to conduct a hearing with dispatch, in accordance with Section 10 (d) of Rule 39 of the Revised Rules of Court, with due notice to the parties involved.

Treble costs against the petitioners.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and [**]Mendoza, JJ., concur.

[*] Died on September 30, 2003. See rollo, p. 146.

[**] Designated additional Member vice Justice Roberto A. Abad per Special Order No. 832 dated March 30, 2010.

[1] Filed under Rule 45 of the 1997 RULES OF CIVIL PROCEDURE.

[2] Penned by Associate Justice Conchita Carpio Morales (now a member of this Court), with Justices Bienvenido L. Reyes and Rebecca De Guia-Salvador, concurring. See rollo, pp. 17-23.

[3] Rollo, pp. 24-25.

[4] Id. at 158.

[5] Id. at 159.

[6] Id. at 53-54.

[7] Id. at 55.

[8] Id. at 60.

[9] Id. at 56-59.

[10] Resolution of June 29, 2002; *id.* at 24-25.

[11] *Id.* at 26-35.

[12] 383 Phil. 229 (2000).

[13] *Mahinay v. Asis*, G.R. No. 170349, February 12, 2009, 578 SCRA 562, 574.

[14] *Ingles v. Cantos*, G.R. No. 125202, January 31, 2006, 481 SCRA 140.

[15] *DHL Philippines Corp. United Rank and File Asso.-Federation of Free Workers v. Buklod ng Manggagawa ng DHL Philippines Corp.*, 478 Phil. 842, 853; *Jaban v. Court of Appeals*, 421 Phil. 896, 904; 370 SCRA 221,228 (2001).

[16] 111 Phil 564 (1961).

[17] 373 Phil 1013 (1999).

[18] *Id.* at 404-405.

[19] *Supra* note 12.

[20] *Suico Rattan & Buri Interiors, Inc. v. Court of Appeals*, G.R. No. 138145, June 15, 2006, 490 SCRA 560, 579.

[21] 363 Phil 216 (1999).

[22] *Id.* at 597-598.

[23] *Rollo*, pp. 152-154.

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