

FELICITACION B. BORBAJO, PETITIONER, VS. HIDDEN VIEW HOMEOWNERS, INC., SPS. MARCELINA A. SARCON, AND ELY D. SARCON, ROBERTO B. ALVAREZ, CORAZON NOMBRADO, AND GILBERT ANDRALES, IN...

G.R. NO. 152440. December 06, 2006

Ponente: TINGA, J.

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TINGA, J.:

For resolution is a Motion for Reconsideration dated 21 March 2005 filed by respondents relative to the Court's Decision[1] dated 31 January 2005. The dispositive portion of the Decision, which was in favor of petitioner Felicitacion Borbajo, read as follows:

WHEREFORE, the Decision of the Court of Appeals dated 21 September 2001 is REVERSED and SET ASIDE and the writ of preliminary injunction issued by the Regional Trial Court of Cebu City, Branch 58, is made permanent, subject to the final outcome of Civil Case No. 21239 pending before the Regional Trial Court of Cebu City, Branch 9.

No cost.

SO ORDERED.[2]

Respondents now argue that the aforementioned Civil Case No. 21239 pending before the Regional Trial Court (RTC) of Cebu City, Branch 9, has since been resolved against petitioner, through a Decision dated 22 April 2003,[3] which is apparently now final and executory.[4] This decision concluded that petitioner had fraudulently obtained the titles over the three (3) road lots that were at the heart of that case, and this case as well. The dispositive portion of this decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants spouses Danilo S. Borbajo and Felicitacion B. Borbajo declaring null and void the deed of sale executed by Jose Bontuyan (particularly the three road lots) in favor of defendants. Consequently, TCT No. 117437, 117563 and 117564 are declared null and void.

The Register of Deeds of Cebu City is directed to cancel said certificates of title and to issue new ones reinstating the certificates of title cancelled by the aforementioned certificates of title.

SO ORDERED.[5]

Parenthetically, it bears noting that petitioner Borbajo had died on 20 December 2002,[6] a fact that was made known to the Court only during the period for deliberation on the Motion for Reconsideration. Counsel for petitioner manifests that her six (6) children, as her surviving legal heirs, should be substituted in the present action.[7]

It should be recalled that the instant case arose from a complaint for injunction filed by petitioner against the

respondents, praying that the latter be enjoined from preventing the petitioner from passing thru or otherwise making use of three (3) road lots inside Hidden View Subdivision I. It so happened that these road lots were titled and registered in the name of the petitioner. It was on that basis that the Court held that petitioner was entitled to the writ of injunction, as she could not be prevented from availing of all the attributes of ownership under the Civil Code, as the owner of the road lots.[8] The Court also set aside the finding of the Court of Appeals that road lots cannot be sold to any person, under Presidential Decree (P.D.) No. 957, as amended, noting instead the settled rule that a Torrens title cannot be collaterally attacked.[9]

Nonetheless, the Court observed that a separate case for annulment of titles over the road lots was then pending before the courts, and it was that case which would serve as the proper forum for the claims regarding the legality of Borbajo's titles over the road lots. The Court did state that if it were found "that the titles of Borbajo were obtained fraudulently, her right to the road lots ceases as well as her right-of-way by virtue of said titles." [10] Hence, the dispositive portion which made the writ of preliminary injunction permanent was tagged with a qualifier "subject to the final outcome of Civil Case No. 21239 pending before the Regional Trial Court of Cebu City, Branch 9." [11]

Petitioner, in her Comment to the Motion for Reconsideration, does not dispute that the RTC, Cebu City, Branch 9 had issued the subject decision against her in Civil Case No. 21239. Instead, she claims that the decision did not attain finality for the intervenors in Civil Case No. 21239 "were not furnished copy (sic) of the decision." [12] This claim cannot be accepted at face value, especially since an entry of judgment, recording the Decision as final and executory, was issued by the RTC, Cebu City, Branch 9 on 26 June 2003. [13] Petitioner does not allege that the intervenors who purportedly did not receive any copy of the judgment have availed of any legal remedies as a result, and she cannot assert such failure to acquit herself of any liability arising from that judgment.

Hence, there is no doubt that a final judgment has been rendered canceling petitioner's titles over the road lots. It likewise appears that this decision has been executed. Attached to the Motion for Reconsideration are certified true copies of three (3) Transfer Certificates of Title, each dated 24 June 2003, covering the three (3) road lots which are now registered in the name of Hidden View Subdivision Homeowners Association, Inc. [14] It is also stated in each of these titles that the previous titles in the name of petitioner (T-117437, T-117563, and T-117564) have accordingly been cancelled by these new titles.

Following the Court's Decision, petitioner's right to the road lots as well as her right-of-way by virtue of her titles thereto, had ceased as a result of the decision rendered by the RTC, Cebu City, Branch 9. Notably, even the petition itself conceded that "until and unless the certificate of title covering these three road lots shall have been decreed to be null and void in a direct proceedings instituted for that purpose, the same shall be respected and in case of violation of its use and enjoyment, the registered owner thereof, is entitled to the protection of law." [15] Consequently, the Writ of Injunction confirmed by this Court had since become functus officio, the legal basis thereof having been expired by reason of the 2003 RTC Cebu City Decision.

The Court still maintains that the Court of Appeals erred in failing to accord due recognition to petitioner's rights as the registered owner of the road lots, still extant at the time it rendered its Decision. Yet considering that petitioner's titles over the road lots have since been nullified in a final and executory judgment which has in fact been executed, there is no longer any basis in law to entitle petitioner to the sought injunctive relief, or for the Court to confirm that such right of relief still exists.

WHEREFORE, in view of the Decision of the RTC, Cebu City, Branch 9, dated 22 April 2003, in Civil Case No. 21239, the writ of preliminary injunction issued by the RTC, Cebu City, Branch 58 made permanent by the Decision of this Court dated 31 January 2005 is hereby declared FUNCTUS OFFICIO.

SO ORDERED.

Puno, (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 73-89.

[2] Id. at 89.

[3] Attached as Annex "A" to the Motion for Reconsideration. See rollo, pp. 96-115. Decision penned by Acting Presiding Judge Meinrado P. Paredes.

[4] Evidenced by an Entry of Judgment dated 26 June 2003, attached as Annex "B" to the Motion for Reconsideration. See id. at 116.

[5] Id. at 114-115.

[6] Id. at 140; Manifestation dated 26 September 2006.

[7] Id.

[8] See id. at 85.

[9] Id. at 85-86.

[10] Id. at 81.

[11] Id. at 89.

[12] Id. at 122-123.

[13] Id. at 116.

[14] See id. at 117-119.

[15] Id. at 11.

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