

ROSARIO M. REYES, PETITIONER, VS. ALSONS DEVELOPMENT AND INVESTMENT CORPORATION, REGISTRY OF DEEDS OF DAVAO CITY AND REGIONAL TRIAL COURT, BRANCH 8 (NOW BR. 15), DAVAO CITY, RES...

G.R. NO. 153936. March 02, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Judicial proceedings must end some time. As Justice Malcolm remarked, public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final at some definite date fixed by law.[1] And once a judgment becomes final and executory, the prevailing party should not be denied the fruits of victory by some subterfuge devised by the losing party.[2] So it must be in this long-drawn case which started as a simple suit for ejectment.

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Rosario M. Reyes seeks to nullify and set aside the Decision[3] dated January 11, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 68007, as reiterated in its Resolution[4] of May 27, 2002 denying the petitioner's motion for reconsideration.

From the petition and the comment thereto, with their respective annexes, and other pleadings, the Court gathers the following facts:

The legal dispute between the private parties started when, on June 30, 1980, in the Municipal Trial Court in Cities (MTCC), Davao City, herein private respondent Alsons Development and Investment Corporation (Alsons, for short) filed a complaint[5] for unlawful detainer against herein petitioner Rosario M. Reyes. Docketed as Civil Case No. 3781-G, the case was raffled to Branch VII of the court. On February 6, 1985, the trial court came out with its decision[6] finding for private respondent Alsons, the petitioner being ordered to pay the former a certain amount until she vacates the Alsons-owned leased commercial building. Other pay items included attorney's fees and litigation expenses.

On appeal, the Regional Trial Court (RTC) of Davao City, Branch 8 (RTC-Davao-8), in its decision[7] in Civil Case No. 17,505 affirmed that of the MTCC.

The RTC's decision soon become final and executory for petitioner's failure to interpose a timely appeal therefrom. Private respondent Alsons then moved for the execution of the MTCC decision which the RTC-Davao-8 granted per its order[8] of September 20, 1985. Pursuant to the corresponding writ of execution issued, the sheriff levied on two (2) titled lots owned by the petitioner. Following the usual notice and publication required by law, these lots were eventually sold at a public auction to private respondent Alsons as sole and naturally the highest bidder.

The following events and proceedings then transpired:

1) On March 30, 1987, the sheriff issued a provisional certificate of sale in favor of respondent Alsons.

2) Before the lapse of the period of redemption, petitioner filed a complaint before the RTC-Davao (Br. 15) to cancel the provisional certificate of sale issued considering that the alleged combined value of the two (2) lots thus levied and sold exceeded the aggregate amount of the judgment award. The complaint, docketed as Civil Case No. 18980, was dismissed by the RTC on November 2, 1988.[9]

Petitioner's appeal from the November 2, 1988 RTC order would, on October 17, 1991, be dismissed by the CA in CA-G.R. CV No. 20189 [10] and finally by this Court per its Resolution dated May 27, 1992[11] in G.R. No. 104572.

3) Meanwhile, or on January 2, 1989, a final certificate of sale[12] was issued over the unredeemed two (2) auctioned lots.

4) On February 22, 1993, RTC-Davao-8 ordered the Register of Deeds of Davao City to issue new certificates of title over the two lots in favor of respondent Alsons.

5) On March 12, 1993, the petitioner filed in Civil Case No. 17,505 an omnibus motion to (1) vacate the order dated February 22, 1993; (2) set aside all execution proceedings conducted by the sheriff; and (3) remand the case to the court of origin for execution of its judgment.

Alsons opposed the omnibus motion since the petitioner never questioned the RTC's lack of jurisdiction to order the execution of the judgment of the trial court.

On September 17, 1993, RTC-Davao - 8 issued an order denying the motion to set aside its order dated February 22, 1993 but granting the desired remand of the case to MTCC VII. However, on October 1, 1993, the court recalled its earlier order to remand and directed the execution of the judgment.[13]

6. On October 25, 1993, the petitioner interposed a special civil action for certiorari before the CA, docketed thereat as CA-G.R. No. SP-32449, to nullify certain orders, writs and processes issued by RTC Davao-8 in Civil Case No. 17,505. Foremost of these are:

(1) Order of September 20, 1985[14] directing the execution of the judgment of MTCC VII- Davao; the corresponding writ of execution dated January 5, 1987;

(2) Sheriff's provisional certificate of sale dated March 30, 1987;

(3) Order dated February 22, 1993 directing the Davao City Registry to cancel petitioner Reyes' two (2) transfer certificates of title;

(4) Order of September 17, 1993, as amended on October 1, 1993, denying petitioner Reyes's omnibus motion aforestated.

On April 7, 1995, the CA issued a decision[15] denying the petition for certiorari on the ground of laches, rationalizing as follows:

However, xxx the case has dragged on more than a decade xxx. The Supreme Court has consistently ruled that a pleading filed under Rule 65 [of the Rules of Court] should be within a reasonable period of time xxx. Thus, petitioner should have raised this question [of whether or not the RTC, acting as court of appellate jurisdiction, is empowered to execute the judgment of the MTCC] within a reasonable time from the date of the issuance of the execution order dated September 20, 1985, the writ of execution dated January 5, 1987 and the sheriff's provisional certificate of sale dated March 30, 1987. Suffice it to say that eight (8) years does not and cannot fall within the category of "reasonable time." xxx.

To allow the petitioner to successfully question the order issued by the [RTC] would be rewarding her lack of vigilance in pursuing the case. xxx, this Court will not place a premium on apathy and sloth. As the maxim

goes xxx The laws aid those who are vigilant not those who sleep on their rights. The petitioner is, thus guilty of laches xxx.

Besides, xxx [T]he properties of the petitioner have already been levied and sold at a public auction; and the corresponding certificates of sale have already been issued xxx.

Furthermore, the Rules of Court xxx are designed to facilitate xxx the expeditious settlement of controversies and, with it, the prompt dispensation of justice xxx. Thus the questioned orders should not be tampered anymore as Rule 39, Section 8 is a procedural rule which should not be interpreted to overturn an order which has long become final and executory and has not been shown to have been made with patent error, and which had it been remanded, would have the same effect anyway, that is, the [MTCC] would also have issued an order of execution, the Sheriff would also have levied on the execution and would have held a public auction to sell the properties. What the petitioner is actually seeking is a delay of the inevitable (Words in bracket and emphasis added.)

7) Petitioner moved for reconsideration but her motion was denied on July 1995.

8) Petitioner then challenged the CA's ruling in CA-G.R. SP-32449 via a petition for review before this Court, docketed as G.R. No. 121081.[16] This petition, however, was denied per our Resolution of August 30, 1995,[17] the denial effectively reiterated in another Resolution of November 20, 1995.[18]

The series of setbacks the petitioner experienced from the RTC, the CA and this Court did not appear to dampen her spirit. For, six (6) years after the Court issued its November 20, 1995 Resolution adverted to, petitioner, in December 2001, went again to the CA, this time in the guise of a petition for annulment of judgment or final orders and resolutions mentioned in his omnibus motion filed on March 12, 1993 in Civil Case No. 17,505 of RTC-Davao-8. The petition was docketed as CA-G.R. SP No. 68007.

On January 11, 2002, the CA issued its herein assailed decision[19] dismissing the petition, the dismissal predicated on the interplay of the forum shopping rule and the res judicata doctrine. The fallo of the CA decision reads:

WHEREFORE, premises considered, the instant case is OUTRIGHTLY DISMISSED with a stern warning to petitioner's counsel that a similar infraction in the future shall be dealt with more severely.

SO ORDERED.

Petitioner's motion for reconsideration was denied in the appellate court's equally assailed resolution of May 27, 2002.[20]

Hence, this recourse by the petitioner on the lone submission that the CA erred in dismissing her petition for annulment of judgment on the ground of forum shopping and res judicata.

Petitioner maintains that the anti-forum-shopping rule cannot be set up against her, absent the elements of *litis pendentia*. As she puts it:

Based on [my] personal knowledge...there is no other action or proceeding that is pending before the [Court], the [CA] or any tribunal or administrative bodies involving the same issues or subject matter as in this case. This is the only pending case which challenges the assailed Resolutions and Orders of the respondent RTC. Thus, petitioner believes that there is no forum shopping because the elements of *litis pendentia* are not present. (Words in bracket added)

The contention is not well-taken. It is, to be sure, a strained attempt by the petitioner to resuscitate a lost cause by foisting on the Court a cock-eyed application of the forum shopping rule. Contrary to the petitioner's appreciation,

the prescription against forum shopping contextually operates regardless of whether or not one of the two (2) or more identical suits commenced or claims filed are pending.

The essence of forum shopping is the filing by a party against whom an adverse judgment has been rendered in one forum of another suit other than by appeal or special civil action for certiorari;[21] the act of filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively for the purpose of obtaining a favorable judgment.[22] Forum shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the action under consideration. [23]

In CA-G.R. SP No. 68007, the decision in which is the subject of the present recourse, the petitioner presented the core issue of lack of jurisdiction of the RTC to enforce the judgment of the MTCC in its Civil Case No. 3781-G. It is the same issue she earlier raised in CA-G.R. SP No. 32449 and which the appellate court dismissed via its decision[24] of April 7, 1995. And as may be recalled, the Court veritably wrote *finis* to the jurisdictional issue when it resolved to affirm the dismissal action of the CA.[25]

Upon the foregoing perspective, private respondent Alsons is correct in saying that the petition for annulment of judgment is barred by *res judicata* as all the elements of this preclusive doctrine are present, to wit: 1) there is a final judgment or order on the merits; 2) the court rendering it has jurisdiction over the subject matter and the parties; and 3) there is between the two cases identity or parties, subject matter and causes of action.[26]

It is petitioner's submission that the element of identity of causes of action does not, under the premises, obtain because the petition in CA-G.R. SP No. 32449 is for certiorari under Rule 65 of the Rules of Court, whereas CA-G.R. SP No. 68007 is a petition for annulment of judgment under Rule 47 of the Rules based on lack of jurisdiction. Petitioner's posture is untenable. As earlier explained, the identity of the issues raised in both cases is unmistakable. The same relief is in fact sought in both cases, i.e., to annul the orders, writs and processes issued by RTC-Davao-8 to enforce the decision of the MTCC in Civil Case No. 3781-G. The differing designations of the petitions thus filed, i.e., certiorari for the first, and for annulment of judgment for the second, are really of no moment. For, it is not the caption of the pleading but the allegations therein made that determine the nature of the action and the court shall grant relief warranted by the allegations.[27]

Accordingly, we accord concurrence to the following observations of the CA:

The Court, through its former Fourteenth Division, denied [in CA G.R. SP No. 32449] the petition finding laches on the part of the petitioner having filed the petition more than eight (8) years from the accrual of her cause of action. The Court also reasoned out that to order the remand of the case to the court of origin would not serve the best interest of justice considering that execution was already effected at the level of public respondent and that the MTCC would, just the same, order the execution of the same judgment.

After almost seven (7) years from the time the Court's decision in CA-G.R. SP No. 32449 was promulgated, the same petitioner is again ... assailing the same Orders, writs and processes but this time through a petition for annulment of judgment, final orders and resolution under Rule 47 of the 1997 Rules of Civil Procedure.

This is clearly forum-shopping and a devious disregard of the principle of *res judicata*.

xxx xxx xxx

The xxx propriety of the issuance of the questioned orders, resolutions and writs was already judiciously put to rest by the decision of this Court in CA-G.R. SP No. 32449. As such, it cannot again be passed upon in any proceeding before any court without transgressing the principle of *res judicata* and the declared policy on forum shopping. And it matters not that the subsequent proceeding is disguised as a different action governed by separate rules. xxx.

Petitioner's other unmeritorious contention that her petition for annulment of judgment based on lack of jurisdiction is imprescriptible need not detain us long. Section 3, Rule 47 of the Rules of Court provides that an action for annulment of judgment based on lack of jurisdiction may be filed any time, unless laches has, in the meantime, set in.[28]

To reiterate, the RTC-Davao-8 issued on September 20, 1985 the underlying order[29] granting private respondent Alson's motion for a writ of execution. Petitioner's challenge against the jurisdiction of the RTC to issue such order came initially in the form of an omnibus motion filed some eight (8) years later in March 1993, followed, after the denial of the omnibus motion, by an appeal to the CA in CA-G.R. SP No. 32449. It cannot be over-emphasized that the April 7, 1995 CA's ruling in CA-G.R. SP No. 32449 declared the petitioner as already precluded, on the ground of laches, from questioning the RTC's jurisdiction to order the enforcement of the judgment of the MTCC of Davao City. The Court, in its Resolution[30] of August 30, 1995 in G.R. No. 121081, agreed with the ratio of the CA's case disposition and thus affirmed the same.

At bottom, the petitioner had trifled with the inter-related rules and jurisprudence on forum shopping and res judicata all for the purpose of frustrating the satisfaction of a final judgment. In the process, she unduly taxed the manpower and financial resources not only of the judiciary, but those of the prevailing party as well. This loathsome practice cannot be countenanced. Accordingly, the petitioner and her counsel are thus forewarned that any attempt to revive this case in whatever form shall be appropriately dealt with.

WHEREFORE, the instant petition for review is hereby DENIED. This denial is FINAL.

With treble costs against the petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, and Corona, JJ., concur.
Azcuna, J., on official leave.

[1] Dy Cay v. Crossfield & O'Brien, 38 Phil. 527 (1918).

[2] Rubenito v. Lagata, G.R. No. 140959, December 21, 2004, 447 SCRA 417, citing Nasser v. Court of Appeals, G.R. No. 115829, June 5, 1995, 245 SCRA 20.

[3] Penned by Associate Justice Rodrigo V. Cosico, concurred in by Associate Justices Eubulo G. Verzola and Eliezer R. De Los Santos (now both deceased); Rollo, pp. 36-40.

[4] Id. at 41.

[5] Id. at 42 et seq.

[6] Id. at 51 et seq.

[7] Id. at 62 et seq.

[8] Id. at 66.

[9] Id. at 67 et seq.

[10] Id. at 116 et seq.

[11] Id. at 123.

[12] Id. at 70-72.

[13] CA Decision in CA-G.R. SP No. 32449, p. 9; id. at 90.

[14] Supra note 8.

[15] Rollo, pp. 82 et seq.

[16] Id. at 124 et seq.

[17] Id. at 144.

[18] Id. at 145.

[19] Supra note 3.

[20] Supra note 4.

[21] Heirs of Trinidad de Leon Vda. De Roxas v. Court of Appeals, G.R. No. 138660, February 5, 2004, 422 SCRA 101.

[22] Executive Secretary v. Gordon, G.R. No. 134171, November 18, 1998, 298 SCRA 736.

[23] Marcopper Mining Corporation v. Solidbank Corporation, G.R. No. 134049, June 17, 2004, 432 SCRA 360, citing cases.

[24] Supra note 15.

[25] Supra note 17 & note 18.

[26] Romero v. Tan, G.R. No. 147570, February 27, 2004, 424 SCRA 108.

[27] Solid Homes, Inc. v. Court of Appeals, G.R. No. 108451, April 11, 1997, 271 SCRA 157, citing Ras v. Sua, G.R. No. L-23302, September 25, 1968, 25 SCRA 153.

[28] Sec. 3 Period for filing action. - If based on extrinsic fraud, the action [for annulment of judgment] must be filed within four (4) years from its discovery, and if based on lack of jurisdiction, before it is barred by laches or estoppel.

[29] Supra note 8.

[30] Supra note 17.

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