

SPS. ANTONIO AND BELINDA GATCHALIAN, LIWAYWAY V. GATCHALIAN, REPRESENTING THE ESTATE OF LEONOR VALONDO, PETITIONERS, VS. THE HON. COURT OF APPEALS SIXTH DIVISION, D. VIDALLON-MA...

G.R. No. 161645. July 30, 2004

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TINGA, J.:

This is a Rule 65 petition for certiorari relating to the Court of Appeals Decision[1] dated April 23, 2003 denying petitioner's petition[2] for injunction with prayer for issuance of writ of preliminary injunction and temporary restraining Order and Resolution[3] dated November 10, 2003 denying their Motion for Reconsideration.[4] Petitioners filed the aforesaid petition before the Court of Appeals in view of two conflicting decisions of the Regional Trial Court of Manila in Civil Case No. 93-27726 and Civil Case No. 93-67377, involving the ownership and possession of a piece of property and the house built thereon, originally belonging to one Leonor Valondo.

It appears that during the lifetime of Leonor Valondo, she had three foster children, namely Ana Lisa,[5] Michael[6] and Ella, all surnamed Valondo.[7] They all lived together on the subject property in Tondo, Manila. The land was covered by Transfer Certificate of Title (TCT) No. 109253 in Leonor's name.

Leonor died on November 21, 1989. Upon her death, Ana Lisa executed an affidavit of adjudication[8] consolidating the property in her name, as there were allegedly no other compulsory heirs.

On the other hand, the siblings[9] of Leonor Valondo, through their sister herein petitioner Liwayway Valondo Gatchalian, filed a petition for issuance of letters of administration over the Estate of Leonor Valondo. On August 6, 1990, the Regional Trial Court of Manila, Branch 8, granted the petition and letters of administration were issued to petitioner Liwayway.[10] Liwayway demanded that spouses Ana Lisa Valondo and Gerardo Cena surrender the properties, real and personal, of the Estate. Apparently, their demand went unheeded. The spouses Cena moved out of the house in Tondo, Manila but did not hand over its possession of the property to the Estate. Instead, the Cena spouses leased the house to one Carol Ubaldo.

On October 20, 1992, the spouses Cena succeeded in registering the land in Ana Lisa's name without the knowledge of Liwayway and the other legal heirs, the brothers of Leonor. Transfer Certificate of Title (TCT) No. 207366 was issued in Ana Lisa's name. The spouses Cena later decided to sell the property to herein private respondents, spouses Edgar[11] and Agnes Mercado. After conducting an ocular inspection of the property, the Mercado spouses found out that it was occupied by Antonio and Belinda Gatchalian (nephew and niece-in-law of the deceased Leonor Valondo), while a portion thereof was rented out to a certain Ubaldo. According to Liwayway, she herself informed the Mercados that the property was under her administration.[12] Before the consummation of the sale, petitioner filed an adverse claim over the property. The adverse claim, as well as a notice of lis pendens, was annotated on the back of Ana Lisa's TCT.[13]

However, petitioner Belinda Gatchalian withdrew the notice of lis pendens. Hence, on February 1, 1993, the Cena

spouses sold the subject property to the Mercado spouses, who were able to register the property in their names in TCT No. 208949. The Mercados prepared and served a notice to vacate upon petitioners Gatchalian spouses who occupied one-half of the property.

On August 31, 1993, the Mercado spouses filed against the Gatchalian spouses a case for recovery of possession and ownership with damages and issuance of writ of possession before the Regional Trial Court of Manila, Branch 29, docketed as Civil Case No. 93-67377. On February 26, 1999, Branch 29 ruled in favor of the Mercado spouses, ordering the Gatchalian spouses to vacate the property and turn over the possession thereof to the spouses Mercado and to pay rentals and damages.[14] Branch 29 found that the Mercado spouses were purchasers in good faith, there being no defect in their title as well as that of the previous owner, Ana Lisa Valondo Cena. Petitioners admitted that they had no title to the property and were occupying it only “under color of title” as nephew and niece and heirs of the late Leonor Valondo. Petitioners appealed the decision to the Court of Appeals, where it was docketed as CA-G.R. CV No. 67122. However, petitioners failed to file their appellant’s brief so their appeal was considered abandoned and the case dismissed on May 4, 2001. The decision became final and executory and Entry of Judgment was made on June 6, 2001.

Meanwhile, on September 24, 1993, or just over a month from the filing by the spouses Mercado of their case for recovery of ownership and possession of the subject property, the Estate of Leonor Valondo, through petitioner Liwayway, filed a case for reconveyance of title and damages before the Regional Trial Court of Manila, Branch 26. Named defendants were the spouses Ana Lisa and Gerardo Cena, the spouses Edgardo and Agnes Mercado, and the Registry of Deeds of Manila. The complaint was docketed as Civil Case No. 93-67726. On March 17, 1999, Branch 26 rendered its decision.[15] It found that defendant Ana Lisa Cena is not the true and genuine legal heir of the late Leonor Valondo, as she was only a ward or foster child. Hence, the Affidavit of Adjudication as sole heir she executed was an absolute nullity and the transfer of title from the late Leonor Valondo to her was also null and void. The spouses Edgardo and Agnes Mercado were buyers in bad faith since it had been shown that they had previous knowledge of the defect of the title of their vendor Ana Lisa Cena. Branch 26 declared petitioner Estate of Leonor Valondo to be the lawful owner of the subject property and ordered cancellation of the titles in the name of respondent spouses Mercado and payment of damages. Respondent spouses appealed the decision to the Court of Appeals. The appeal, docketed as CA-G.R. CV No. 69186, was declared submitted for decision on February 14, 2002 and is still pending before the First Division.[16]

The Mercados moved to execute the decision in Civil Case No. 93-67377. This was granted and writ of execution issued on June 28, 2002.[17] On July 1, 2002, a Sheriff’s Notice to Vacate and Notice of Levy and Sale was served upon petitioners.[18] The petitioners failed to vacate the premises and to pay the rental fees and damages; hence, the personal properties of the petitioners were attached and were set for public auction on July 9, 2002.[19]

Petitioners moved to quash the writ of execution but this was denied on July 5, 2002.[20]

Thereafter, petitioners then filed the petition for injunction before the Court of Appeals on July 9, 2002 to enjoin the execution.[21] The appellate court, in the assailed Decision of April 23, 2003, dismissed the petition for lack of merit.[22]

According to the Court of Appeals, a writ of injunction cannot enjoin the final and executory judgment rendered in Civil Case No. 93-67377. The said judgment had long become final and executory on June 6, 2001 and a corresponding entry of judgment had already issued thereon, the Mercados’ ownership of the property and the directive for petitioners to surrender possession thereof had become final and could no longer be questioned. It had become *res judicata*. As it had become final and executory, respondents, as the prevailing party, could have it executed as a matter of right and the issuance of the writ of execution becomes a ministerial duty of the court.

Petitioners moved for reconsideration but it was denied for lack of merit on November 10, 2003.[23] Hence, petitioners filed this Petition for Certiorari.

Petitioners now allege that the Court of Appeals committed grave abuse of discretion in denying the petition for injunction. Essentially they argue that there is a need to issue the injunction because of the pendency of the appeal in CA-G.R. CV No. 69186 (Civil Case No. 93-67726). Allegedly, there is still a question as to the ownership of the subject property. They do not agree that the issue of ownership had been settled in Civil Case No. 93-67377. Rather, they claim that the issue of ownership was not discussed or touched directly in Civil Case No. 93-67377 filed by the Mercado spouses. The dispositive portion of the decision spoke only of turning over possession of the property and did not make a pronouncement as to the issue of ownership. On the other hand, the decision in Civil Case No. 93-67726 discussed the issue of ownership more substantially and directly. Petitioners' superior right of ownership over the property was purportedly clearly established in Civil Case No. 93-67726.

We dismiss the petition.

Petitioners pursued the wrong mode of appeal in filing this Petition for Certiorari. As they are questioning a decision of the Court of Appeals which finally disposed of their Petition for Injunction, they should have filed a petition for review and not a petition for certiorari. We have time and again stated that certiorari is not available where the proper remedy is an appeal in due course.[24] In this case, such remedy has lapsed for the failure of petitioners to take the appeal within the reglementary period.

In any event, we find that the Court of Appeals committed no grave abuse of discretion in upholding the final and executory nature of the decision in Civil Case No. 93-67377. Petitioners failed to demonstrate that the assailed decisions of the Court of Appeals constitute a whimsical and capricious exercise of judgment.

It should be noted that the parties in Civil Case No. 93-67377 were only the spouses Edgar and Agnes Mercado, as plaintiffs, and the spouses Antonio and Belinda Gatchalian and "all persons claiming rights under them," as defendants.[25] The Estate of Leonor Valondo, represented by petitioner Liwayway V. Gatchalian, was not a party. Hence, while the ownership of the subject property was settled in Civil Case No. 93-67377 and had become final due to petitioners' abandonment of their appeal, the same is final and executory only insofar as the parties therein is concerned. With the failure of petitioner spouses to file the appellant's brief with the Court of Appeals, there is in effect no more appeal involving the decision so that the same had become final and executory. Once a judgment becomes final, all the issues between the parties (in this particular case, the Mercado spouses and the Gatchalian spouses) are deemed resolved and laid to rest.[26] We can no longer disturb the determination of the issue of ownership in the decision in Civil Case No. 93-67377. All that remains is the execution of the decision which is a matter of right, pursuant to Section 1, Rule 39 of the Rules of Court. The prevailing party is entitled to a writ of execution, the issuance of which is the trial court's ministerial duty.[27]

It should be noted that the judgment is effective only against the supposed shares of petitioners Mercado in the subject property. The share of the other legal heir, petitioner Liwayway Gatchalian, is not affected. Her share which is part of the Estate of Leonor Valondo still has to be decided in the other Civil Case No. 93-67726.

With respect to the Gatchalian spouses, even if they base their claim for an injunction on their alleged right of ownership to one-half of what they expect to be the favorable disposition in Civil Case No. 93-67726 for the Estate of Leonor Valondo, the fact remains that the controversy still remains to be determined by the Court of Appeals. It is the settled doctrine in this jurisdiction that injunction, whether preliminary or final, is not designed to protect contingent or future rights. Thus:

An injunction will not issue to protect a right not in esse and which may never arise, or to restrain an act which does not give rise to a cause of action. The complainant's right or title, moreover, must be clear and

unquestioned, for equity, as a rule, will not take cognizance of suits to establish title, and will not lend its preventive aid by injunction where the complainant's title or right is doubtful or disputed. The possibility of irreparable damage, without proof of violation of an actual existing right, is not ground for an injunction, being mere *damnum absque injuria*.^[28]

In any event, sound legal practice requires us to respect the finality of judgments. At the risk of occasional errors, the judgment of the courts must become final at some definite date fixed by law.

Sound legal practice requires us to respect the finality of judgments. At the risk of occasional errors, the judgment of the courts must become final at some definite date fixed by law.^[29]

WHEREFORE, in view of the foregoing, the petition is dismissed. Costs against the petitioners.

SO ORDERED.

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

[1]Penned by Justice Delilah Vidallon-Magtolis and concurred in by Justices Remedios A. Salazar-Fernando and Edgardo F. Sundiam of the Sixth Division; Rollo, pp. 85-92.

[2]Rollo, pp. 23-33.

[3]Id. at 103.

[4]Id. at 93-101.

[5]Also referred to as Liza.

[6]Also referred to as Mickel.

[7]By the time the complaints before the Regional Trial court were filed, Ana Lisa was already married to Gerardo Cena, while Michael and Ella were still minors. The three were brought up by Leonor Valondo as her own children, although without the benefit of legal adoption. See Rollo, p. 35. However, according to the decision in Civil Case No. 93-67377, Ana Lisa is an illegitimate child of the late Leonor Valondo, and Ana Lisa also presented an Affidavit of Acknowledgment executed by Leonor Valondo in her favor. See Rollo, p. 47.

[8]The document is entitled "Affidavit of Adjudication;" see Rollo, p. 43.

[9]Leonor Valondo's other siblings, aside from Liwayway Valondo are her brothers Roberto dela Cruz and Ceferino Valondo; Ibid.

[10]Rollo, pp. 35-37. According to the decision in Civil Case No. 93-67377, Liwayway Gatchalian was appointed administratrix of the Estate of Ella Valondo. See Rollo, p. 44.

[11]Sometimes referred to in the records as Edgardo.

[12]Rollo, p. 42.

[13]Id. at 10. See also pp. 26, 39, 46, 86.

[14]By Judge Cielito N. Mindaro-Grulla; Id. at 43-48. The dispositive portion of the decision reads as follows: "WHEREFORE. In view of the foregoing, judgment is hereby rendered in favor of the plaintiffs EDGAR and AGNES MERCADO and against defendants who are hereby ordered to peacefully turn over the apartment unit they are occupying located at No. 1831 Tecson De Guia Street, Tondo, Manila, to herein plaintiffs, and pay the

following sums: 1. The amount of P3,000.00 per month as reasonable compensation for the use of the property since January 1993 until they vacate the premises, with interest at the legal rate from the time this suit was instituted; 2. The amount of P30,000.00 as moral damages; The sum of P25,000.00 as attorney's fees plus the amount of P1,500.00 for every court appearance; 4. Costs of the suit. SO ORDERED."

[15]By Judge Guillermo L. Loja, Sr.; Rollo, pp. 39-42. The dispositive portion of the decision states: "WHEREFORE, PREMISES CONSIDERED, this Court finds the plaintiff, (sic) cause of action fully established and hereby renders judgment follows (sic): (a) Finding the plaintiff, Estate of the late Leonor Valondo, represented by Liwayway V. Gatchalian, Administratrix, to be the lawful owner of the subject property located at no. 1831 G. Tecson Street, Tondo, Manila; (b) Ordering the defendant, Register of Deeds of Manila, to cancel TCT No. 208949 in the name of defendants, spouses Edgardo and Agnes Mercado; (c) Ordering the same defendant, Register of Deeds of Manila, to issue in lieu thereof another TCT to cover the same subject property in favor of and in the name of Estate of the late Leonor Valondo, represented by Adminstratrix Liwayway V. Gatchalian; (d) Ordering the defendants, spouses Ana Lisa and Gerardo Cena, and spouses Edgardo and Agnes Cena, jointly and severally, to pay the plaintiff the sum of (50,000) as and by way of attorney's fees; and (e) To pay the costs of this suit. SO ORDERED."

[16]Ibid.

[17]Id. at 55-56.

[18]Id. at 57.

[19]Id. at 58.

[20]Id. at 59-62, 65.

[21]Id. at 23-33. See note 1.

[22]Id. at 84-92. See note 1.

[23]Id. at 103. See note 2.

[24]Government Service Insurance System v. Olisa, G.R. No. 126874, March 10, 1999, 304 SCRA 421, 425.

[25]Rollo, p. 43.

[26]Salva v. Court of Appeals, G.R. No. 132250, March 11, 1999, 304 SCRA 632, 645.

[27]Ulang v. Court of Appeals, G.R. No. 99299, August 26, 1993, 225 SCRA 637, 641.

[28]Id at 642.

[29]Philippine Rabbit Bus Lines, Inc. vs. Arciaga, 148 SCRA 433 [1987].

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