

**ASSOCIATED ANGLO-AMERICAN TOBACCO CORPORATION AND
FLORANTE DY, PETITIONERS, VS. HON. COURT OF APPEALS, HON.
CRISPIN C. LARON, IN HIS CAPACITY AS PRESIDING JUDGE,
REGIONAL TRIAL ...**

G.R. No. 167237. April 23, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The appeal of a final order substantially amending only some matters in a previously rendered Decision is also an appeal of the other intimately interwoven matters passed upon in the original decision.

In the present Petition for Certiorari and Prohibition, petitioners assail the May 31, 2004 Decision[1] and the January 17, 2005[2] Resolution of the Court of Appeals (CA) in CA-G.R. SP. No. 75347. The CA dismissed the Petition for Certiorari filed before it assailing the Decision and several Orders of the Regional Trial Court (RTC) of Dagupan City, Branch 44 in Civil Case No. D-8732.

Factual Antecedents

Spouses Paul Pelaez, Jr. (Paul) and Roceli Mamisay Pelaez (Roceli) were employees of petitioner Associated Anglo-American Tobacco Corporation (the Corporation). Paul worked as Sales Supervisor and later as Senior Salesman while Roceli worked as secretary.

As salesman, Paul was required, on April 17, 1986, by the Corporation to post a bond to answer for any amount which he might fail to turnover to the Corporation. He complied by executing a mortgage bond over his family's house and lot in favor of the Corporation. The mortgaged real estate was covered by Transfer Certificate of Title (TCT) No. 155994 of the Registry of Deeds of Pangasinan.

Upon its determination that Paul had defaulted in remitting the sales proceeds, the Corporation initiated the extrajudicial foreclosure of the mortgage bond.

To stop the extrajudicial sale, Paul and Roceli filed on August 21, 1987, a Complaint against the Corporation, Dy and the Sheriff Virgilio S. Villar (Sheriff) before the RTC.

Ruling of the Regional Trial Court

The RTC issued a restraining order and, subsequently, a writ of preliminary injunction to stop the extrajudicial sale. Then, on September 14, 2000, after due hearing, Judge Crispin C. Laron, issued a Decision in favor of the spouses Pelaez, the fallo of which reads:

WHEREFORE, judgment is rendered in favor of the plaintiffs and against the defendants, as follows:

- The defendants Associated Anglo-American Tobacco Corporation and Florante C. Dy are ordered to jointly and severally pay plaintiffs the amount of P23,820.16 representing the overage and the account of Plaintiff

Paul Pelaez, Jr. and to release the mortgage on the parcel of land covered by, and release to plaintiffs, Transfer Certificate of Title No. 155994;

- The defendants Associated Anglo-American Tobacco Corporation and Florante C. Dy are ordered to pay the plaintiffs moral, exemplary damages, attorney's fees and litigation expenses in the amount of P50,000.00;

- The injunction is made permanent.

With costs against defendants.

SO ORDERED.[3]

Upon motion of the spouses Pelaez, the RTC amended its Decision in its February 7, 2001 Order, to wit:

WHEREFORE, the Motion for Partial Reconsideration is granted and the dispositive portion of the Decision dated September 14, 2000 is hereby modified as follows:

The defendants Associated Anglo-American Tobacco Corp. and Florante C. Dy are ordered to jointly and severally pay plaintiffs the amount of P843,383.11 representing the overage and the amount of award of moral and exemplary damages and attorney's fees is increased from P50,000.00 to P2,000,000.00.

Furnish copies of this Order to Atty. Efren Moncupa and Atty. Da Vinci Crisostomo.

SO ORDERED.[4]

On February 20, 2001, petitioners received their copy of the February 7, 2001 Order and on March 6, 2001, they filed a Notice of Appeal of the September 14, 2000 Decision and the February 7, 2001 Order of the RTC. The spouses Pelaez, on the other hand, filed a "Motion to Dismiss the Appeal and Motion for Partial Execution" dated August 22, 2001.

Ruling on the motion, the RTC in its May 9, 2002 Order, found that the petitioners' Notice of Appeal was filed timely "only insofar as the Order of the Court dated February 7, 2001 is concerned." Hence, it disposed as follows:

WHEREFORE, the appeal insofar as to all matters not raised in the plaintiffs' Motion for Partial Reconsideration is DISMISSED.

Let a writ of execution issue for the release of the mortgage on the parcel of land covered by, and release to plaintiffs Transfer Certificate of Title No. 155994 and that the injunction is made permanent.

Furnish copies of this Order to Atty. Rafael Declaro, Jr., Atty. Da Vinci Crisostomo and Mr. Sancho Esquillo.

SO ORDERED.[5]

On June 7, 2002, a Writ of Execution in favor of the spouses Pelaez was issued and on December 12, 2002, the RTC issued two Orders, one denying petitioners' motion for reconsideration of the May 9, 2002 Order; and the other mandating the release of the mortgage under TCT No. 155994 and causing the issuance of a new title in the name of spouses Pelaez free from any liens or encumbrances.

Ruling of the Court of Appeals

Petitioners then filed a Petition for Certiorari with the CA. The CA found that the September 14, 2000 Decision of the RTC had become final and executory. It found no cogent reason to disturb the RTC's Decision and its subsequent amendment as embodied in the February 7, 2001 Order. The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the petition is DISMISSED for lack of merit.

SO ORDERED.[6]

After the denial by the CA of their motion for reconsideration, petitioners filed the present Petition for Certiorari and Prohibition.

Issues

Petitioners raise the following issues:

Whether or not the Court of Appeals committed grave abuse of discretion tantamount to lack of jurisdiction in holding the trial court's decision to be final and executory notwithstanding that said decision had been modified, superseded and substituted by a subsequent order upon which petitioner had duly perfected an appeal?

Whether or not the Court of Appeals gravely abused its discretion in holding that the petition for certiorari is not the right judicial remedy but ordinary appeal notwithstanding the latter course of action had already been availed of to no avail?

Whether or not the Court of Appeals committed grave abuse of discretion when in dismissing the petition for certiorari it validated in effect the trial court's order to release the mortgage and declaring the injunction permanent notwithstanding the loss of jurisdiction due to the perfection of an appeal?[7]

Petitioners' Arguments

Petitioners contend that their petition for certiorari is the proper remedy and that it was filed on time within 60 days from their receipt of the CA's assailed Resolution.

They contend that the CA gravely abused its discretion when it regarded the September 14, 2000 Decision of the trial court as final and executory even if said Decision was already modified, superseded, vacated and substituted by the subsequent February 7, 2001 Order.

They also contend that it is grossly erroneous for the CA to conclude that the Petition for Certiorari and Prohibition is not the right judicial remedy but ordinary appeal, when the latter action had already been taken and perfected by petitioners but the trial court simply refused to elevate the records to the CA.

Respondents' Arguments

Respondents on the other hand contend that petitioners failed to demonstrate patent and gross abuse of discretion on the part of the CA and since all they say is that the CA erred in dismissing their petition, the CA Resolution can only be assailed by means of a petition for review, not an original petition for certiorari. They also contend that the availability of the remedy of filing a petition for review foreclosed the filing of this original petition for certiorari and justifies its dismissal.

Respondents also submit that the February 7, 2001 RTC Order granting the spouses Pelaez' Partial Motion for Reconsideration by increasing the monetary awards only, did not amend the RTC Decision but merely supplemented it. Thus, they contend that the finality of the Decision was therefore not affected.

Our Ruling

The petition has merit.

Mode of Appeal

Petitioners are questioning a final decision of the CA by resorting to Rule 65, when their remedy should be based on Rule 45. This case would normally have been dismissed outright for failure of the petitioners to adopt the proper remedy. While ordinarily, certiorari is unavailing where the appeal period has lapsed, there are exceptions. Among them are (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority.[8] In the present case, the CA's act of dismissing petitioners' petition for certiorari and in finding the RTC's Decision already final and executory in its entirety, despite the filing by the petitioners of a Notice of Appeal within 15 days from their receipt of the February 7, 2001 RTC Order amending the said RTC Decision is an oppressive exercise of judicial authority. Hence, in the interest of substantial justice, we deem it wise to overlook the procedural technicalities.

Trial Court's Decision and Its Modification

Both parties agree that the February 7, 2001 Order increased the monetary awards in the Decision, specifically, the amount of overage from P23,820.16 to P843,383.11 and the award of moral and exemplary damages and attorney's fees from P50,000.00 to P2,000,000.00. They however, differ on whether these changes constituted an amendment of the Decision or merely provided a supplement to the Decision. Petitioners argue that the change constituted a substantial amendment, which therefore makes the entire case reviewable on appeal, while respondents argue that the Order merely supplements the Decision which therefore makes only the changes reviewable on appeal. They both cite *Esquivel v. Alegre*[9] which states:

There is a difference between an amended judgment and a supplemental judgment. In an amended and clarified judgment, the lower court makes a thorough study of the original judgment and renders the amended and clarified judgment only after considering all the factual and legal issues. The amended and clarified decision is an entirely new decision which supersedes the original decision. Following the court's differentiation of a supplemental pleading from an amending pleading, it can be said that a supplemental decision does not take the place or extinguish the existence of the original. As its very name denotes, it only serves to bolster or adds something to the primary decision. A supplement exists side by side with the original. It does not replace that which it supplements.

In the present case, the dispositive portion of the February 7, 2001 Order was crafted in such a way that it initially evades a categorical classification into either of the situations as described in the above-cited case.

Hence, we further take into consideration that what plaintiffs filed was merely a Partial Motion for Reconsideration. It is clear they were seeking a partial change in the original Decision. It follows that there were some parts of the Decision that they sought to remain unchanged. The RTC, thus made a study of only a portion of its original Decision and then amended the pertinent portion. The RTC Decision was indeed, only partially amended. The February 7, 2001 Order cannot be considered as a supplemental Decision because it cannot exist side by side with the original pertinent portion on overage, damages and attorney's fees. The former replaced and superceded the latter.

Now what is the effect of this partial amendment? Is the subject RTC Decision divisible, such that a portion may be considered already final and unappealable while another portion may be considered as not yet final and unappealable? To answer this question we draw some light from some provisions of the Rules of Court that permit divisions, to wit:

Rule 37, Sec. 7. Partial new trial or reconsideration.- If the grounds for a motion under this Rule appear to the court to affect the issues as to only a part, or less than all of the matter in controversy, or only one, or less than all, of the parties to it, the court may order a new trial or grant reconsideration as to such issues if severable without interfering with the judgment or final order upon the rest. (*Italics and emphasis supplied*)

Rule 36, Sec. 5. Separate judgments.-When more than one claim for relief is presented in an action, the court, at any stage, upon a determination of the issues material to a particular claim and all counterclaims arising out of the transaction or occurrence which is the subject matter of the claim, may render a separate judgment disposing of such claim. The judgment shall terminate the action with respect to the claim so disposed of and the action shall proceed as to the remaining claims.

It can be seen that when matters, issues or claims can properly and conveniently be separately resolved, then division is permitted, otherwise it is not. We see no hindrance in applying this thesis to the current situation.

In the present case, the matter of the release of the mortgaged property is material and intertwined with the issue of the amount of overage as well as the issue on the amount of damages.[10] It is difficult to separate these matters because a determination of the correct amount of overage would require the examination and computation of the entire account of deliveries and payments. Necessarily, upon re-examination of the subject account during an appeal, the possibility of finding a shortage instead of an overage is present. And dependent on the result of the re-examination of the entire account is the determination of the correctness of either the foreclosure or release of the mortgaged property. It follows that the ruling on the amount of damages and attorney's fees, if any, may also be affected by a re-examination of the entire account.

As the disposition of some inter-related issues in the original RTC Decision were materially amended by the February 7, 2001 RTC Order, these two issuances must be taken in conjunction with each other. Together, these two issuances form one integrated amended decision.[11] Hence, an appeal from the February 7, 2001 RTC Order must be deemed to be an appeal from the whole integrated amended Decision.

Appeal and Partial Execution

Petitioners received their copy of the February 7, 2001 Order on February 20, 2001. They timely filed a notice of appeal on March 6, 2001, or after 14 days. The appeal was duly perfected.

When an appeal had been duly perfected, execution of the judgment, whether wholly or partially,[12] was not a matter of right, but of discretion provided good reasons therefor existed. The compelling grounds for the issuance of the writ must be stated in a special order after due hearing. Aside from the existence of good reasons, the rules also require that the motion for partial execution should have been filed while the trial court still had jurisdiction over the case.[13]

In the present case, the RTC's May 9, 2002 Order granting the issuance of the writ of execution failed to state good reasons for the issuance of the writ. The RTC mistakenly deemed that the execution should issue as a matter of right because it had held that part of its September 14, 2001 Decision had become final and executory. As previously discussed, the said proposition is erroneous because the Decision in the present case is not properly severable.

Furthermore, the motion for partial execution was filed only on August 22, 2001, more than four months after the appeal was perfected. "In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties." [14] Each party only has at most 15 days from their receipt of the final order to appeal it. Thus, when respondents filed their motion for partial execution the RTC no longer had jurisdiction over the case and it no longer had jurisdiction to act on the said motion for partial execution.

Aside from the fact that the appeal was filed on time and should thus not have been dismissed in the assailed May 9, 2002 Order, the said Order, which also resolved the motion for partial execution, fell short of the requirements of Section 2, Rule 39, as previously discussed. Where the order of execution is not in conformity with the rules,

the same is null and void.[15] Therefore, the CA erred in not nullifying the May 9, 2002 Order.

Finally, we address the December 12, 2002 RTC Orders. These Orders proceeded from, and implemented, the May 9, 2002 Order that was null and void. These Orders were also issued more than a year after the RTC had already lost jurisdiction over the case. Clearly, like the May 9, 2002 Order, the December 12, 2002 Orders were also null and void. Thus the CA should have also nullified these Orders instead of dismissing the petition for certiorari questioning these Orders before it.

WHEREFORE, the petition is GRANTED. The assailed May 31, 2004 Decision and January 17, 2005 Resolution of the Court of Appeals in CA-G.R. SP. No. 75347 are REVERSED and SET ASIDE. The May 9, 2002 and both December 12, 2002 Orders of the Regional Trial Court in Civil Case No. D-8732 are DECLARED NULL and VOID. The Regional Trial Court of Dagupan City, Branch 44 is ORDERED to TRANSMIT forthwith the records of Civil Case No. D-8732 to the Court of Appeals for the appeal.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] CA rollo, pp. 334-340; penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Presiding Justice Cancio C. Garcia and Associate Justice Lucas P. Bersamin.

[2] Id. at 376; penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Rodrigo V. Cosico and Lucas P. Bersamin

[3] Rollo, pp. 136-137.

[4] Id. at 147.

[5] CA rollo, pp. 241-242.

[6] Rollo, p. 229.

[7] Id. at 295-296.

[8] *Martillano v. Court of Appeals*, G.R. No. 148277, June 29, 2004, 433 SCRA 195, 201; *Sps. Go v. Tong*, 462 Phil. 256, 266 (2003); *Uy Chua v. Court of Appeals*, 398 Phil. 17, 30 (2000).

[9] 254 Phil. 316, 325-326 (1989).

[10] Cf. *De Leon v. Court of Appeals*, 432 Phil 775, 786-787 (2002); *Bangkok Bank Public Company Limited v. Lee*, G.R. No. 159806, January 20, 2006, 479 SCRA 267, 273.

[11] Cf. *De Leon v. Court of Appeals*, id.

[12] RULES OF COURT, Rule 39, Section 2(b).

[13] RULES OF COURT, Rule 39, Section 2 provides:

Sec. 2. Discretionary execution. - (a) Execution of a judgment or a final order pending appeal.- On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

(b) Execution of several, separate or partial judgments. - A several, separate or partial judgment may be executed under the same terms and conditions as execution of a judgment or final order pending appeal.

[14] RULES OF COURT, Rule 41, Section 9: [P]rior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with section 2 of Rule 39, and allow withdrawal of the appeal.

[15] *Bangkok Bank Public Company Limited v. Lee*, supra note 10 at 274.

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