

MARY M. BAUSA AND THE LEGAL HEIRS OF THE LATE HONESTO K. BAUSA NAMELY, RODOLFO M. BAUSA, WILHELMINA B. DACANAY, AND HONESTO K. BAUSA, JR., PETITIONERS, VS. HEIRS OF JUAN DINO, N...

G.R. No. 167281. August 28, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This Petition for Certiorari assails the December 22, 2003 Decision[1] of the Court of Appeals in CA-G.R. CV No. 67994 holding that the independent action for revival of judgment filed by petitioners was time-barred, thereby reversing and setting aside the May 17, 2000 Decision[2] of the Regional Trial Court of Sorsogon, Sorsogon, Branch 51, in Civil Case No. 6433; and its January 11, 2005 Resolution[3] denying the motion for reconsideration.

On June 5, 1978, petitioners filed a complaint for recovery of possession of a 1.2 hectare parcel of land located in Caricaran, Bacon, Sorsogon, covered by Transfer Certificate of Title No. 182 registered in the name of petitioner Mary Manion Bausa. The case was docketed as Civil Case No. 639 and raffled to Branch 52 of the Regional Trial Court of Sorsogon, Sorsogon.

On October 2, 1985, the trial court rendered a Decision[4] declaring petitioners as owners of the subject property, thus:

WHEREFORE, judgment is hereby rendered: 1) declaring the plaintiffs owners of the property in question (Lot No. 1346-A described in Exhibit "F-2" and entitled to its fruits and peaceful possession; (2) requiring defendant to return the property in question to plaintiff and not to disturb plaintiffs' possession of the same; (3) requiring defendants to pay plaintiffs the sum of One Hundred Fifty (P150.00) Pesos per month from the filing of the case on June 5, 1978 to the time the property shall have been returned and delivered to plaintiffs as rental and for whatever fruits gathered; and (4) for defendant to pay the sum of Three Thousand (P3,000.00) Pesos to plaintiff as attorney's fee and to pay the cost.

SO ORDERED.[5]

Juan Dino, respondents' predecessor-in-interest, appealed but it was dismissed by the Court of Appeals in a Resolution which became final and executory on January 28, 1987 as shown in the Entry of Judgment.[6]

On November 19, 1987, petitioners' Motion for Execution[7] was granted by the trial court for which the corresponding Writ of Execution was issued. However, it was not served to defendant Juan Dino.

Meanwhile, respondents filed a Petition for Certiorari with this Court docketed as G.R. No. 78229 assailing the decision of the Court of Appeals, however, the case was dismissed in a Resolution dated May 20, 1987. The Resolution became final and executory on November 26, 1987 as shown in the Entry of Judgment.[8]

Considering that the writ of execution was not served to Juan Dino, petitioners filed a motion for the issuance of an alias writ of execution,[9] which was granted. Thereafter, a Delivery of Possession[10] was executed by Deputy Sheriff Edito Buban, a copy of which was received by private respondents but they refused to sign it and they remained in the said property.

Hence, petitioners filed a Petition for Demolition[11] which the court granted. The Writ of Demolition[12] dated April 10, 1990 was issued but it was not implemented due to respondents' resistance as shown in the Sheriff's Return[13] dated May 16, 1990.

Unable to execute the October 2, 1985 Decision of Branch 52, Regional Trial Court of Sorsogon, petitioners filed a Complaint for Execution of Decision on January 30, 1998 docketed as Civil Case No. 98-6433 and raffled to Branch 51 of the Regional Trial Court of Sorsogon. Juan Dino died, hence the complaint was filed against his heirs, herein private respondents who filed an Opposition contending that the action was barred by prescription.

On May 17, 2000, the Regional Trial Court of Sorsogon, Branch 51, rendered its Decision[14] holding that the action to revive the October 2, 1985 Decision was timely filed. The dispositive portion of said decision reads:

WHEREFORE, judgment is hereby rendered:

1)

Reviving the judgment in the case of Juan Dino versus Court of Appeals, et. al., G.R. No. 78229;

2)

Ordering the defendants and their privies to vacate the premises in question and to remove their houses; and

3)

Ordering defendants to pay plaintiffs the amount of money stated in the original, final and executory judgment, and to pay the costs of the suit.

SO ORDERED.[15]

Respondents appealed to the Court of Appeals, docketed as CA-G.R. CV No. 67994, which reversed the Decision of the trial court and ruled that the action was not timely filed.

Petitioners filed a motion for reconsideration but it was denied in a Resolution dated January 11, 2005, a copy of which was received by petitioners on January 19, 2005.

Hence, they filed the instant Petition for Certiorari[16] raising the following issues:

PRINCIPAL ISSUE

WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ISSUED ITS DECISION DATED DECEMBER 22, 2003 (ANNEX A) AND THE RESOLUTION DATED JANUARY 11, 2005 (ANNEX B) DENYING PETITIONERS OF THEIR RIGHT TO EXECUTE OR ENFORCE THE DECISION ISSUED IN THEIR FAVOR FOR THE RECOVERY OF THEIR REGISTERED PROPERTY;

I. LEGAL ISSUES

i.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN DISREGARDING THE FILING OF MOTIONS FOR EXECUTION AND DEMOLITION, AND THE

SERVICE OF WRITS ENFORCING THE SAME AS ACTS THAT EFFECTIVELY SUSPENDED THE RUNNING OF THE TEN-YEAR PRESCRIPTIVE PERIOD FOR EXECUTION BY INDEPENDENT ACTION;

ii.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN ALLOWING PRESCRIPTION ON EXECUTION BY INDEPENDENT ACTION TO RUN AGAINST THE PETITIONERS SEEKING TO RECOVER POSSESSION OF LAND REGISTERED UNDER THE TORRENS SYSTEM;

II. FACTUAL ISSUES

i.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN RULING THAT THE FILING OF PETITIONERS' VERIFIED COMPLAINT FOR EXECUTION IS ALREADY BARRED BY PRESCRIPTION.

ii.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN RULING THAT THE WRIT OF EXECUTION SERVED AGAINST PRIVATE RESPONDENTS WAS NOT SPECIFIC AS TO WHICH AREA IS CLAIMED BY PETITIONERS.

In their Comment, respondents alleged that a petition for certiorari is erroneous because the same lies only when there is no plain, speedy and adequate remedy in the ordinary course of law; that petitioners' remedy is to file a petition for review on certiorari under Rule 45 of the Rules of Court, the availability of which forecloses the use of certiorari; and that having been filed beyond the 15-day period prescribed by Rule 45, the assailed judgment of the Court of Appeals has become final.

The proper recourse of an aggrieved party to assail the decision of the Court of Appeals is to file a petition for review on certiorari under Rule 45 of the Rules of Court. However, if the error subject of the recourse is one of jurisdiction, or the act complained of was granted by a court with grave abuse of discretion amounting to lack or excess of jurisdiction, the proper remedy is a petition for certiorari under Rule 65 of the said Rules.[17] These few significant exceptions are: when public welfare and the advancement of public policy dictates, or when the broader interests of justice so require, or when the writs issued are null, or when the questioned order amounts to an oppressive exercise of judicial authority.[18]

In the instant case, the Court gives due course to the petition for certiorari in the broader interest of justice and in view of the substantive issues raised. The Court of Appeals gravely abused its discretion in ruling that petitioners can no longer enforce the judgment of the trial court. Petitioners, in whose names the title of the subject property was registered, were stripped of their rights of ownership contrary to the provisions of Section 47 of P.D. No. 1529. The Court of Appeals erred in appreciating the tax declarations presented by respondents as evidence of ownership vis-à-vis the transfer certificate of title of the petitioners. Moreover, the issue of ownership over the subject property had long been adjudicated in favor of petitioners, which judgment has become final and executory. Thus, the Court of Appeals exceeded its authority in ruling on the issue of ownership. The only issue submitted for its resolution is whether petitioners' independent action to revive the October 2, 1985 Decision of the trial court was timely filed. Likewise, the appellate court was without authority to rule that the trial court erred in ordering respondents to vacate the premises on the ground that the writ of execution was not specific as to which area is claimed.

Section 47 of P.D. No. 1529 provides that "no title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession." Since petitioners are the registered owners of the

lot in question, the adverse possession by the respondents cannot result to the forfeiture of their ownership. The trial court's declaration that petitioners are the owners of the subject property only affirms petitioners' ownership which requires no specific and positive act of execution which a sheriff may perform for enforcement unlike the other aspects of the decision ordering the defendants to vacate the premises and to pay rentals.[19] In recognition of such ownership, it would be more in keeping with justice and equity to allow the revival of the subject judgment.

An action for revival of judgment is governed by Article 1144 (3) of the Civil Code and Section 6, Rule 39 of the Rules of Court. Pursuant to Section 6 of Rule 39, once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right by mere motion within five years from date of entry of the judgment. If the prevailing party fails to have the decision enforced by a motion after the lapse of five years from the date of its entry, the said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court within 10 years from the time the judgment became final.[20]

In the instant case, petitioners are seeking to revive the judgment rendered on October 2, 1985 by Branch 52 of the Regional Trial Court of Sorsogon in Civil Case No. 639 declaring them as rightful owners of the property, and ordering respondents to vacate the premises, and to pay rents and other damages. The judgment became final and executory on January 28, 1987 as shown in the Entry of Judgment.[21] Thus, petitioners have five years therefrom to execute said judgment by mere motion and, should they fail to do so, have ten years from said date to revive the judgment by an independent action, which they filed on January 30, 1998.

The purpose of the law in prescribing time limitations for enforcing judgments by action is to prevent obligors from sleeping on their rights.[22] In the instant case, far from sleeping on their rights, petitioners pursued every available remedy to recover the subject property but failed due to the machinations of respondents. After the decision declaring them as rightful owners of the property became final and executory on January 28, 1987, petitioners filed on May 8, 1987 a motion for execution which was granted. However, the same was not served on defendant Juan Dino. Consequently, petitioners applied for the issuance of an alias writ of execution. Thereafter, the sheriff executed a Delivery of Possession. However, respondents refused to sign the same and remained in the premises. Thus, petitioners applied for a writ of demolition. Although the same was granted, it was not implemented due to respondents' resistance. Thus, petitioners filed an action to revive the judgment of the trial court declaring them as owners of the property. Despite diligent efforts and the final and executory nature of the Decision, petitioners have yet to regain possession of what is legally their own. These circumstances clearly demonstrate that the failure to execute the judgment was due to respondents' refusal to follow the several writs ordering them to vacate the premises. It would be unfair for the Court to allow respondents to profit from their defiance of valid court orders.

It is a better rule that courts, under the principle of equity, will not be guided or bound strictly by the statute of limitations or the doctrine of laches when to do so, manifest wrong or injustice would result.[23] It would be more in keeping with justice and equity to allow the revival of the judgment rendered by Branch 52 of the Regional Trial Court of Sorsogon in Civil Case No. 639. To rule otherwise would result in an absurd situation where the rightful owner of a property would be ousted by a usurper on mere technicalities. Indeed, it would be an idle ceremony to insist on the filing of another action that would only unduly prolong respondents' unlawful retention of the premises which they had, through all devious means, unjustly withheld from petitioners all these years.[24]

The Court also notes that petitioners claim of ownership and right to recovery of possession was by virtue of a title registered in their names. The ruling of the trial court regarding the identity of the land in question and its inclusion in the said title was duly proven in the proceedings before it and said decision has attained finality. Thus, it was improper for the Court of Appeals to appreciate the tax declarations presented by respondents as

evidence of ownership. It should be stressed that the issue of who has better rights of possession and ownership over the properties has long been adjudicated by the courts and has attained finality. The Court of Appeals likewise erred in reversing the order to vacate the premises on the ground that the writ of execution was not specific as to which area is claimed as the identity of the property under litigation was resolved in the earlier proceedings between the parties. Besides, the sufficiency of the writ should have been raised in the proceedings in Civil Case No. 639 before Branch 52; it is not an issue in the complaint for execution which is an independent action the cause of action of which is the judgment sought to be revived.[25]

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals dated December 22, 2003 in CA-G.R. CV No. 67994 and its Resolution dated January 11, 2005 are ANNULLED and SET ASIDE. The Decision of the Regional Trial Court, Sorsogon, Sorsogon, Branch 51 dated May 17, 2000 allowing the revival of the final and executory judgment in "Juan Dino vs. Court of Appeals" (G.R. No. 78229), and ordering the defendants therein and their privies to vacate the premises and remove their houses, and to pay the money judgment plus costs, is REINSTATED and AFFIRMED.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 47-55; penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Arsenio J. Magpale.

[2] Id. at 89-93; penned by Judge Jose L. Madrid.

[3] Id. at 57-58.

[4] Id. at 60-68; penned by Judge Felix B. Mintu.

[5] Id. at 68.

[6] Id. at 69.

[7] Id. at 71-72.

[8] Id. at 74.

[9] Id. at 75-76.

[10] Id. at 78.

[11] Id. at 79-80.

[12] Id. at 82.

[13] Id. at 83.

[14] Id. at 89-93; penned by Judge Jose L. Madrid.

[15] Id. at 93.

[16] Id. at 125.

[17] Delgado v. Court of Appeals, G.R. No. 137881, December 21, 2004, 447 SCRA 402, 411.

[18] Ruiz, Jr. v. Court of Appeals, G.R. No. 101566, March 26, 1993, 220 SCRA 490, 501.

[19] *Caiña v. Court of Appeals*, G.R. No. 114393, December 15, 1994, 239 SCRA 252, 265.

[20] New Civil Code provides:

Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

(1) Upon a written contract;

(2) Upon an obligation created by law;

(3) Upon a judgment.

x x x x

Art. 1152. The period for prescription of actions to demand the fulfillment of obligations declared by a judgment commences from the time the judgment became final.

[21] Though Juan Dino filed a Petition for Certiorari before the Supreme Court, which was subsequently dismissed, the same did not prevent the CA decision dismissing the case from becoming final and executory. A petition for certiorari is an original action and does not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding. See *Tomas Claudio Memorial College, Inc. v. Court of Appeals*, G.R. No. 152568, February 16, 2004, 423 SCRA 122.

[22] See *Macias v. Lim*, G.R. No. 139284, June 4, 2004, 431 SCRA 20, 38.

[23] *Spouses Santiago v. Court of Appeals*, 343 Phil. 612, 627 (1997).

[24] *David v. Ejercito*, G.R. No. L-41334, June 18, 1976, 71 SCRA 484.

[25] See *Caiña v. Court of Appeals*, *supra* note 19.

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