

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,
REGION IV-B, PETITIONER, VS. SPOUSES FLORENCIO DE CASTRO
AND ROMELIA CALIBOSO DE...**

G.R. No. 189724. February 07, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The Director of the Bureau of Lands, now Lands Management Bureau (LMB), Manila issued on July 13, 1955 Free Patent No. V-16555 under Free Patent Application No. V-33580 covering Lot No. 6742, Pls-296 (the lot) in the name of Marcelino Manipon (Manipon), with an area of 5.376 hectares, located at Naujan, Oriental Mindoro.

On the basis of the free patent, the Register of Deeds of Oriental Mindoro issued on March 5, 1957 Original Certificate of Title (OCT) No. P-2124 in the name of Manipon.

Manipon later sold the lot to Spouses Florencio and Romelia de Castro (respondents) who, after OCT No. P-2124 was cancelled, were issued Transfer Certificate of Title (TCT) No. T-33730.

An investigation conducted by the representatives of LMB, Manila on the issuance of Free Patent No. V-16555 showed that the lot is not an alienable and disposable land of the public domain since it is within the established reservation for the exclusive use of non-Christian tribes, now known as the Paitan Mangyan Reservation, proclaimed as such by the Governor-General of the Philippine Islands by virtue of Proclamation No. 809 dated June 4, 1935; and that Manipon - who began occupying the lot only in 1944 as indicated in his free patent application - and respondents had not established any right to possess and own the lot.

Since Proclamation No. 809 has not been amended nor repealed/revoked by any subsequent law or presidential issuance, the Republic of the Philippines (petitioner), through the Office of the Solicitor General,[1] filed in 1998 a Complaint[2] for "Cancellation of TCT No. T-33730 and Reversion" against Manipon and herein respondents, as well as the Register of Deeds of Calapan, Oriental Mindoro, docketed as Civil Case No. R-4694, which was raffled to Branch 40 of the Regional Trial Court of Calapan City. Manipon had, at the time of the filing of the complaint, been dead for ten years.[3]

Respondents failed to file their answer to the complaint despite receipt of summons, hence, they were declared in default.[4] Their "Motion To Lift Order Of Default And To Admit Hereto Attached Answer," which alleged that their failure to answer was due to "oversight and excusable neglect,"[5] was denied for lack of merit.

Following the ex parte presentation of evidence by petitioner, the trial court rendered a Decision[6] dated October 9, 2002 in its favor nullifying Manipon's Free Patent No. V-16555 and respondents' TCT No. T-33730; ordering the reversion of the lot to the State; and directing respondents to immediately vacate the lot and surrender their title to the Register of Deeds of Oriental Mindoro for immediate cancellation.

No motion for reconsideration of the trial court's decision, or appeal therefrom was filed by respondents, hence, the decision became final and executory.

On petitioner's motion, the trial court, by Order of April 29, 2004, issued a writ of execution on August 2, 2005.[7] The writ was served on respondents on March 29, 2005 and implemented on July 20, 2006.[8]

On March 15, 2007, respondents filed a petition for annulment of judgment of the trial court's decision of October 9, 2002 before the Court of Appeals (CA) on grounds that it did not acquire jurisdiction over the person of Manipon as he had been dead when petitioner's complaint was filed, hence, his title to the lot - as well as respondents' title which merely emanated from his - stays; and that the trial court's decision did not attain finality as they did not receive a copy of its decision, hence, the execution thereof was void.

By the now assailed Decision[9] of June 26, 2009, the appellate court denied respondents' petition for annulment of judgment. Finding, however, that respondents were not served with a copy of the trial court's decision of October 9, 2002 and, therefore, it had not yet become final and executory, the appellate court nullified the trial court's order of April 29, 2004 granting petitioner's motion for execution, the writ of execution of August 2, 2005, and all execution proceedings, and ordered the trial court to serve a copy of its October 9, 2002 decision to them "so that they can avail of the appropriate remedy under the Rules of Court."[10]

Its motion for partial reconsideration of the appellate court's decision having been denied by Resolution[11] of September 30, 2009, petitioner filed the present petition for review on certiorari.

Respondents maintain that they did not receive a copy of the trial court's decision of October 9, 2002,[12] and that they came to know of it only on September 29, 2005 when the trial court's sheriff personally served upon them a copy of the writ of execution of the decision.[13]

Section 1, Rule 47 of the 1987 Rules of Civil Procedure provides that the remedy of annulment of judgments or final orders/resolutions of a Regional Trial Court in civil actions can only be availed of where "the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner."

A petition for annulment of judgment under Rule 47 is a remedy granted only under exceptional circumstances where a party, without fault on his part, has failed to avail of the ordinary or other appropriate remedies provided by law. Such action is never resorted to as a substitute for a party's own neglect in not promptly availing of the ordinary or other appropriate remedies.[14]

Upon notice of the writ of execution on, by respondents' own information, September 29, 2005, respondents - if indeed they were completely unaware of the trial court's decision - had available remedies to question it. They could have promptly filed a motion to quash the writ of execution or, in the alternative, a petition for relief from judgment under Rule 38[15] of the 1987 Rules of Civil Procedure. That they had ample opportunity to do so is gathered from the fact that the writ of execution of the decision was not immediately implemented by the sheriff as it was satisfied only on July 20, 2006. Having failed to avail of any of the aforesaid remedies without any justification, respondents are barred from resorting to the action for annulment of judgment under Rule 47; otherwise, they would benefit from their own inaction or negligence. So *Lazaro v. Rural Bank of Francisco Balagtas (Bulacan), Inc.*[16] teaches:

Let it be stressed at the outset that before a party can avail of the reliefs provided for by Rule 47, i.e., annulment of judgments, final orders, and resolutions, it is a condition sine qua non that one must have failed to move for new trial in, or appeal from, or file a petition for relief against said issuances or take other appropriate remedies thereon, through no fault attributable to him. If he failed to avail of those cited remedies

without sufficient justification, he cannot resort to the action for annulment provided in Rule 47, for otherwise he would benefit from his own inaction or negligence (*Republic v. Sandiganbayan*, G.R. No. 140615, Feb. 19, 2001, 352 SCRA 235, 250).

In the instant case, not only did petitioner fail to avail of the ordinary and appropriate remedies in assailing the questioned judgments of the trial court, but he also failed to show to the satisfaction of this Court that he could not have availed of the ordinary and appropriate remedies under the Rules. According to petitioner, he allegedly learned of the cases filed against him by respondent bank only when the writs of execution were issued against him. At the very least then, he could have moved to quash the writs of execution. In the alternative, he could have filed a petition for relief from judgment under Rule 38. Instead, petitioner merely alleged that he approached Atty. Gregorio Salazar, the bank's counsel, for clarification and assistance, which is not one of the ordinary and appropriate remedies contemplated by the Rules. Petitioner's failure to explain why he failed to avail of said remedies, which were still available to him at that time, in both Civil Case No. 7355-M and Civil Case No. 2856-V-88, is fatal to his cause. To be sure, a petition for annulment of judgment under Rule 47 is not a substitute for one's own neglect in not availing of the ordinary and appropriate remedies, but a peculiar remedy granted under certain conditions to those who failed to avail of the ordinary remedies without their fault. Thus, in our considered view, based on the cited reasons and circumstances, the Court of Appeals did not err when it denied the petition for annulment of judgment. (Emphasis and underscoring supplied)

WHEREFORE, the petition for review on certiorari is GRANTED and the assailed Court of Appeals Decision dated June 26, 2009 and Resolution dated September 30, 2009 are REVERSED and SET ASIDE, but only insofar as the Court of Appeals nullified 1) the Order dated April 29, 2004 of the Regional Trial Court, Br. 40 of Calapan City granting petitioner's motion for the issuance of a writ of execution, 2) the Writ of Execution dated August 2, 2005, and all execution proceedings/actions pursuant thereto, and 3) the trial court's order to immediately serve a copy of its Decision dated October 9, 2002 upon respondents.

The trial court's Order dated April 29, 2004, the Writ of Execution dated August 2, 2005 and all proceedings/actions pursuant to the implementation of its October 9, 2002 Decision, are declared in order and accordingly REINSTATED.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Then headed by Solicitor General Ricardo P. Galvez.

[2] CA rollo, pp. 17-22.

[3] CA Decision dated June 26, 2009, rollo, pp. 32, 36.

[4] Annexes "E" (Summons dated December 28, 1998), "E-1" (Sheriff's Return dated May 24, 1999), "E-2" (Order dated September 8, 1999), rollo, pp. 71-73, and "F" (RTC Decision of October 9, 2002) of present Petition, p. 75.

[5] CA Decision, *supra* note 3 at 46.

[6] Penned by Judge Tomas C. Leynes, rollo, pp. 74-80.

[7] CA Decision, *id.* at 40.

[8] *Id.* at 48; see also Sheriff's affidavit, at 87.

[9] Penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justice Juan Q. Enriquez, Jr. and Associate Justice Sesonando E. Villon; *id.* at 32-51.

[10] The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the Petition for Annulment of the Decision dated 09 October 2002 rendered by the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 40 in Civil Case No. R-4694 is DENIED. However, the RTC is hereby ORDERED to immediately serve a copy of the said Decision to petitioners Sps. Romelia Caliboso de Castro and Florencio de Castro so they can avail of the appropriate remedy under the Rules of Court. Further, the Order dated 29 April 2004, Writ of Execution dated 02 August 2005, and all proceedings/actions pursuant thereto are declared VOID.

SO ORDERED.

[11] Rollo, pp. 52-54.

[12] Comment, *id.* at 91-96.

[13] Petition for Annulment of Judgment, CA rollo, p. 3.

[14] *Lazaro v. Rural Bank of Francisco Balagtas (Bulacan), Inc.*, G.R. No. 139895, August 15, 2003, 409 SCRA 186, 192.

[15] Section 1 thereof provides: "Petition for relief from judgment, order, or other proceedings.- When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside."

[16] *Supra* note 14 at 191-192.

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