

TONGONAN HOLDINGS AND DEVELOPMENT CORPORATION, PETITIONER, VS. ATTY. FRANCISCO ESCAÑO, JR. RESPONDENT.

G.R. No. 190994. September 07, 2011

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court filed by Tongonan Holdings and Development Corporation (THDC) assailing, on questions of law, the August 12, 2009 Decision[1] of the 19[th] Division of the Court of Appeals, Cebu City (CA), in CA-G.R. SP No. 03935, entitled "Atty. Francisco Escaño, Jr. v. Hon. Apolinario Buaya, in his capacity as Presiding Judge, Regional Trial Court, Branch 35, Ormoc City and Tongonan Holdings & Development Corporation, represented by its president, Mr. Antonio Diano," and its December 10, 2009 Resolution denying the motion for the reconsideration thereof.

The Facts

This controversy between petitioner THDC and its erstwhile counsel, respondent Atty. Francisco Escaño, Jr. (Atty. Escaño) arose from a case for eminent domain, docketed as Civil Case No. 3392-0 entitled "Philippine National Oil Company v. Sps. Dominador and Minerva Samson" before the Regional Trial Court, Branch 35, Ormoc City (RTC). THDC was named as Defendant-Intervenor in the said case, as it had purchased the subject parcels of land from the defendant spouses (Spouses Samson) and was represented by Atty. Escaño of the Escaño Montehermoso Oliver and Trias Law Office from February 24, 1997 to June 30, 1999. After the dissolution of the law firm, Atty. Escaño continued to represent THDC from July 1, 1999 until his services was terminated by THDC in April 2005.[2]

Eventually, in the RTC Order[3] dated November 27, 2000, THDC was awarded just compensation in the amount of ₱33,242,700.00 with legal interest at the rate of 6% per annum from the date of the filing of the complaint on June 10, 1996.

Meanwhile, Atty. Escaño sought the entry of his attorney's liens on the basis of the Memorandum of Agreement (MOA) dated February 24, 1997, contracted between him and THDC, stipulating the 30% professional or attorney's fees. The RTC, in its Order[4] dated June 13, 2001, declared the claim of 30% attorney's fees on the judgment as unconscionable. The amount of attorney's fees was then fixed at 15% of the judgment award in the name of the partners. On appeal, this reduction of attorney's fees was affirmed by the CA in its Decision[5] dated July 31, 2002.

Upon dismissal of PNOC's appeal in the main case in the CA, Atty. Escaño, representing THDC, moved for the execution of the RTC decision. The RTC then ordered the issuance of a writ of execution in its Order[6] dated March 11, 2005.

Subsequently, Atty. Escaño filed an Urgent Manifestation with Motion[7] alleging that THDC had lost its juridical personality as a corporation due to the revocation of its certificate of registration. He prayed that the

enforcement of the said writ of execution be held in abeyance until the termination of the NBI's investigation relative to the allegations that the RTC Decision of November 27, 2000 and the dismissal of the appeal were secured through fraud. THDC later furnished the RTC with a copy of a certification from the Securities and Exchange Commission (SEC) that the corporation had not been dissolved. As a result, THDC terminated the services of Atty. Escaño on the ground of loss of confidence, which was approved by the RTC.

Afterward, Atty. Escaño filed a "Motion to Enter Into the Records Attorney's Lien"[8] for additional attorney's fees of 15% for his professional services, rendered after the dissolution of their law firm, from July 1, 1999 to April 29, 2005. He also asked for another 33.7% as additional attorney's fees for Atty. Lino Dumas and partners, whom he claimed to be his consultants when the case was on appeal. These amounts were on top of the 15% already finally awarded. In all, he was demanding a total of 63.7% of the judgment award.

The RTC, in its September 26, 2005 Order,[9] denied the motion and approved only the 15% Attorney's Lien on the money judgment in favor of Atty. Escaño and his former partners. It held that Atty. Escaño was not entitled to an additional compensation on the ground that when he took over the case from their law firm there was no separate contract for his legal services. The said case became his case after the partners divided all of the firm's cases among themselves; thus, the continuation of his services was still covered by the MOA previously entered between him and THDC. After his motion for reconsideration was denied on January 26, 2006, Atty. Escaño filed a Notice of Appeal.

On April 2, 2007, the RTC gave due course to the Notice of Appeal. The pertinent portion of the order states:

Nevertheless, in order to afford Atty. Escaño of all avenues available to him in pursuing his claim for attorney's liens, despite the fact that the main case has long become final and executory, his appeal is given due course. Despite the granting of the appeal, the execution will still proceed but the money recovered will be held in escrow until the final determination of the attorney's fees.

Let the records of this case be forwarded to the Court of Appeals.

SO ORDERED.[10]

THDC then filed its Motion for Reconsideration and Motion to Dismiss Appeal arguing that the Notice of Appeal was not the proper remedy as the order being questioned was interlocutory which could not be the subject of an appeal. It also questioned the order to hold the proceeds of the execution in escrow without any motion from the parties.

On June 25, 2007, the RTC issued a Resolution[11] granting THDC's motion and setting aside the April 2, 2007 Order. It reasoned out that the issue of attorney's fees was indeed interlocutory considering that it was only incidental to the principal action and that the claim for attorney's fees could be properly raised in another forum so as not to prejudice the main case. Atty. Escaño moved for a reconsideration of the said resolution but it was denied in an Order dated November 19, 2008.

Aggrieved, Atty. Escaño filed a Petition for Certiorari under Rule 65 with the CA assailing both the June 25, 2007 Resolution and November 19, 2008 Order of the RTC. His petition included a prayer to put in escrow all the proceeds of the money judgment in Civil Case No. 3392-0.

On August 12, 2009, the CA ruled that the RTC acted with grave abuse of discretion in denying the appeal. The CA concluded that giving due course to Atty. Escaño's Notice of Appeal and putting in escrow the money judgment was proper and appropriate as there was still a need to determine the issue of attorney's fees. The dispositive portion of the assailed CA Decision reads:

WHEREFORE, the petition is GRANTED. The orders of respondent court dated June 25, 2007 and November

19, 2008, denying petitioner's Notice of Appeal is SET ASIDE. The Order of the public respondent dated April 2, 2007 is REVIVED and is DECLARED immediately EXECUTORY.

Accordingly, petitioner's Notice of Appeal is given due course and respondent court is DIRECTED to transmit the records of Civil Case No. 3392-0 to this Court for review on appeal of the Orders dated September 26, 2005 and January 26, 2006 regarding the issue of petitioner's attorney's fees.

Further, public respondent is directed to put in escrow account at the local branch of the Land Bank of the Philippines the proceeds of the judgment in Civil Case No. 3392-0 not subject to existing liens, until the issues as to petitioner's attorney's fees on the basis [of] quantum meruit is finally resolved and until the identity of the person or persons duly authorized to receive the proceeds of the judgment in Civil Case 3392-0 are clearly established on appeal.

SO ORDERED.[12]

THDC filed a motion for reconsideration of the above decision but the CA denied the same in its Resolution[13] dated December 10, 2009. Hence, on February 19, 2010, THDC interposed the present petition before this Court anchored on the following

GROUND

(1)

THE CA ERRONEOUSLY BASED ITS DECISION ON THE PRESUMPTION THAT THE APPEAL OF ATTY. ESCAÑO WAS PROPERLY LODGED

(2)

THE CA MISINTERPRETED AND MISAPPLIED THE MEANING OF "INTERLOCUTORY ORDER"

(3)

AN INTERLOCUTORY ORDER CANNOT BE APPEALED

(4)

THE CA ERRONEOUSLY RULED ON AN ISSUE THAT IT DID NOT RECOGNIZE

(5)

THE CA ERRONEOUSLY RULED ON A CAUSE OF ACTION THAT IS NOT WITHIN ITS ORIGINAL AND EXCLUSIVE JURISDICTION

(6)

THE CA ERRONEOUSLY RULED THAT THE ORDER OF THE RTC OF APRIL 2, 2007 WAS REVIVED AND FURTHER DECLARED IT TO BE IMMEDIATELY EXECUTORY

(7)

DEPRIVATION OF THE PETITIONER'S RIGHT TO DUE PROCESS.[14]

It appears from the records that on September 6, 2010, the judgment in Civil Case No. 3392-0 was duly satisfied with the full payment by PNOC of the judgment obligation. On September 22, 2010, Atty. Escano filed before this Court an Urgent Manifestation alleging certain irregular acts of the RTC pertaining to the money judgment deposited in its fiduciary fund.

Likewise, he filed a Supplemental Manifestation with Urgent Motion for Issuance of a Cease and Desist Order dated October 4, 2010 stating that an Order dated October 1, 2010 was issued by the RTC directing the release to THDC of ₱45,454,683.68 out of the ₱53,476,098.45 proceeds of the judgment in Civil Case No. 3392-0 which was ordered to be put in escrow account. Acting on the said manifestations, this Court, in a Resolution dated October 6, 2010, issued a Temporary Restraining Order enjoining THDC and the RTC from implementing and enforcing the Order of October 1, 2010.

On the main issue, the Court finds the petition impressed with merit.

At the outset, Atty. Escaño alleges that the petition failed to comply with Rule 45 as it did not distinctly set forth the questions of law THDC raised before this Court, and that the seven (7) grounds raised by THDC involved questions of facts, rather than of law, which are not proper in a petition for review under Rule 45. He likewise alleges that the petition did not include clearly legible duplicate original or certified true copies of the material documents of CA-GR SP No. 03935.

In *Republic of the Philippines v. Malabanan*,^[15] this Court distinguished a question of law from a question of fact. A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.^[16]

A perusal of the present petition shows that the issues raised by THDC are questions of law, as the same can be resolved solely on what the law provides under the undisputed facts. The issues are the correct appreciation of Atty. Escaño's appeal, the exact meaning, interpretation and application of "interlocutory order;" the rule that an interlocutory order cannot be appealed; the legality of the CA decision on the issue of escrow; whether the CA can make a determination of an issue that it did not recognize; the legality of the CA decision on the issue of attorney's fees when there is no pending case yet on the matter; the CA's declaration in the questioned decision that the RTC Order dated April 2, 2007 is revived and immediately executory; and the question of denial of due process. All of these, indeed, are questions of law. Thus, Atty. Escaño's argument that the grounds thereof are factual is misleading.

On the issue of whether the RTC's order of denial of the motion for entry for additional attorney's fees was interlocutory or final, THDC contends that it was merely interlocutory because the issue was only collateral to the main issue of eminent domain. It submits that the main action of eminent domain could exist independently without the issue of attorney's fees. The RTC decision of November 27, 2000 did not even mention the award of attorney's fees. According to THDC, the matter of attorney's fees arose only when Atty. Escaño requested that his attorney's liens be entered into the records of the case. Thus, it insists that the orders relative to the issue of attorney's fees being interlocutory, the same cannot be the subject of appeal in accordance with the provision of Section 1(c), Rule 41 of the Revised Rules of Court.

Atty. Escaño, on the other hand, counters that the Orders of September 26, 2005 and January 26, 2006 are not interlocutory, but final orders and, therefore, appealable, as correctly ruled by the CA. He reasons that both orders finally disposed the issue of his attorney's fees before the RTC and there was nothing more to be done pertaining to the same matter.

An order or judgment of the RTC is deemed final when it finally disposes of a pending action, so that nothing more can be done with it in the trial court. In other words, the order or judgment ends the litigation in the lower court. On the other hand, an order which does not dispose of the case completely and indicates that other things remain to be done by the court as regards the merits, is interlocutory.[17]

In *Santos v. People of the Philippines*, this Court laid down the test in finding whether an order is interlocutory or final, thus:

The test to determine whether an order or judgment is interlocutory or final is this: "Does it leave something to be done in the trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final". A court order is final in character if it puts an end to the particular matter resolved or settles definitely the matter therein disposed of, such that no further questions can come before the court except the execution of the order. The term "final" judgment or order signifies a judgment or an order which disposes of the cause as to all the parties, reserving no further questions or directions for future determination. The order or judgment may validly refer to the entire controversy or to some definite and separate branch thereof. "In the absence of a statutory definition, a final judgment, order or decree has been held to be x x x one that finally disposes of, adjudicates, or determines the rights, or some right or rights of the parties, either on the entire controversy or on some definite and separate branch thereof, and which concludes them until it is reversed or set aside." The central point to consider is, therefore, the effects of the order on the rights of the parties. A court order, on the other hand, is merely interlocutory in character if it is provisional and leaves substantial proceeding to be had in connection with its subject. The word "interlocutory" refers to "something intervening between the commencement and the end of a suit which decides some point or matter but is not a final decision of the whole controversy." [18]

In *Planters Products, Inc. v. Court of Appeals*, [19] the Court ruled that the order of the respondent trial court awarding attorney's fees in favor of a claimant-lawyer is a final order and not interlocutory. In the said case, petitioner entered into an agreement for an Omnibus Credit Line with private respondent bank. The latter engaged the services of private respondent counsel in filing a suit against the petitioner to enforce the latter's obligation under the agreement. As attorney's fees, respondent bank assigned to respondent lawyer the right to collect fees due and collectible from the petitioner under the trust receipts. Respondent bank was able to realize from the sale of the attached merchandise covered by the trust receipt agreement. In as much as respondent lawyer had not yet been paid his attorney's fees, he filed a claim for attorney's fees which was granted by the trial court.

On the basis of the aforecited distinction and applying the foregoing test, this Court is of the view that the RTC orders of September 26, 2005 and January 26, 2006 denying the claim for additional attorney's fees were final considering that the main action, which was Civil Case No. 3392-0 for eminent domain, was already final. In fact, it was the subject of several motions for execution. Thus, the RTC had nothing more to do with respect to the relative rights of the parties therein. There is nothing left for the judge to perform except to enforce the judgment.

Moreover, as correctly noted by the CA, the RTC ended with finality the issue of Atty. Escaño's attorney's fees when it rendered the aforementioned orders, having ruled that he was not entitled to it. The RTC need not resolve anything else thereby making the said orders final.

Nevertheless, both the RTC and CA were wrong when they entertained the motion of Atty. Escaño for additional attorney's fees. Indeed, the RTC was correct when it denied the same but it should have added as the more important reason that the matter of his attorney's fees was already final and could no longer be opened and litigated upon.

The reason is that the matter of attorney's fees of Atty. Escaño was already covered by a final judgment and can no longer be questioned. The issue on the matter is now *res judicata*. It must be recalled that the RTC in its Order

dated June 13, 2001,[20] reduced Atty. Escaño's attorney's fees from thirty percent (30%) to fifteen percent (15%) for being "too unconscionable." This decrease in the amount of attorney's fees was sustained by the CA on appeal in its July 31, 2002 Decision.[21] No appeal was taken from the decision of the CA. Thus, the decision of the CA on the matter of attorney's fees constituted *res judicata*.

It is a fundamental legal principle that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the highest court of the land. The only exceptions to the general rule on finality of judgments are the so-called *nunc pro tunc* entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire after the finality of the decision which render its execution unjust and inequitable.[22] None of these exceptions is obtaining in the present case.

Litigation must at some time end, even at the risk of occasional errors. Public policy dictates that once a judgment becomes final, executory and unappealable, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. Unjustified delay in the enforcement of a judgment sets at naught the role and purpose of the courts to resolve justiciable controversies with finality.[23]

The CA could have just dismissed the matter of additional attorney's fees outright on the ground of *res judicata*. Instead of doing so, however, it provided a semblance of propriety to it when it gave due course to Atty. Escaño's appeal. The fact that Atty. Escaño had complied with all the requirements of appeal under Rule 41 of the Revised Rules of Court is irrelevant considering that an appeal from the final and immutable judgment of the RTC is not proper. The appeal should have been dismissed on the ground that the order appealed from is not appealable (Section 1(i) Rule 50). An appeal which requires the elevation of the entire records of the case entails a long process which would cause unnecessary delay. This, in effect, would negate an expeditious disposition of the case at bench.

The CA compounded the problem when it ordered the entire proceeds of the judgment in Civil Case No. 3392-0, not subject to existing liens, to be held in an escrow account at the local branch of the Land Bank of the Philippines. The order of the CA was anchored on the argument that the identity of the person(s) duly authorized to receive the proceeds of the judgment would still be resolved in the appeal.

Indeed, this Court recognizes the inherent power of the courts to control its processes and orders and to employ all auxiliary writs, processes and other means necessary to carry its jurisdiction into effect, as embodied in the Rules of Court. An order directing the proceeds of the judgment to be deposited in escrow may be one of these auxiliary writs and processes. So, also, the act of placing property in litigation under judicial possession, whether in the hands of a receiver, an administrator, or as in this case, in a government bank, is an ancient and accepted procedure.[24]

Under the prevailing circumstances, however, the order to hold in escrow the entire judgment award, including the portion that should have been the just compensation of THDC as owner of the parcels of land subject of the eminent domain case, was certainly not proper. To delay the payment of just compensation is virtually tantamount to a deprivation of one's property rights.

Considering the attendant circumstances, Atty. Escaño cannot validly invoke the ruling in *Go v. Go*.^[25] In that case, the Court sustained the escrow order issued by the trial court to deposit the monthly rentals of the property subject therein pending the resolution of the main action for partition or until the question of co-ownership is finally determined. In upholding the propriety of such order, the Court held that the rental deposit was the most prudent way to preserve the rights of the contending parties pending the final determination of who was lawfully entitled thereto.

In this case, however, the rights of the petitioner were already finally determined in the main case for eminent domain. Verily, the recipient of the judgment proceeds had already been ascertained, THDC, the judgment-obligee, who has yet to receive the just compensation for the property wrested from it by the government in the exercise of its power of eminent domain. It was, therefore, manifestly unnecessary and highly irregular for the CA to order the escrow of the entire amount.

Moreover, THDC's personality as a corporation was only belatedly questioned by Atty. Escaño after his failure to receive more than the 15% attorney's fees as ruled by the RTC. Records disclose that Atty. Escaño has already been awarded his attorney's fees, in accordance with the MOA he signed with THDC, which were supposed to be contingent on his client receiving its award. Atty. Escaño is now estopped to question the personality of his client. As properly argued by THDC, the CA cannot pass upon the issue of the legality of THDC as a corporation, which is not within its exclusive and original jurisdiction. Such authority belongs to the SEC, which is the agency vested with absolute jurisdiction, supervision and control over corporations as provided for in Presidential Decree No. 902-A. Furthermore, there is no pending case yet in any court of competent jurisdiction questioning THDC's juridical personality. Yet, the CA hastily issued the escrow order even when the sole pending issue in the dismissed notice of appeal was Atty. Escaño's attorney's liens. This compelling circumstance warrants a reversal of the CA decision. THDC should not be prevented from receiving its judgment-award.

To recapitulate, Atty. Escaño is not entitled to the escrow of the entire proceeds of the case. Neither is he entitled to the escrow of additional claim for attorney's fees of 15% for his personal services after the dissolution of their law firm and 33.7% in favor of his consultant, Atty. Lino Dumas and Partners. Atty. Escaño has already collected his fees through his former law firm and is now enjoying the fruits of his labor, the uncertainty of the release of his client's award notwithstanding. He, therefore, has no more right to prevent the release of the judgment award in favor of THDC.

In fine, this Court holds that THDC, being the rightful claimant, is entitled to the proceeds of the judgment not subject to existing liens. To uphold the escrow of the full judgment award would ultimately result in patent injustice and prejudice to THDC, which, to this date, has yet to be compensated for the taking of its property. This Court is not only a court of law, but also a court of justice.[26]

WHEREFORE, the petition is GRANTED. The August 12, 2009 Decision and the December 10, 2009 Resolution of the Court of Appeals are REVERSED and SET ASIDE. Accordingly, the RTC is ordered to allow the immediate release to the petitioner the total amount due in Civil Case No. 3392-0 not subject to existing liens.

The Temporary Restraining Order issued by the Court on October 6, 2010 is ordered LIFTED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Villarama, Jr.,[*] JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Maria Lourdes P.A. Sereno, per Special Order No. 1076 dated September 6, 2011.

[1] Annex A of Petition, rollo, pp. 25-33. Penned by Associate Justice Stephen C. Cruz with Associate Justices Florito S. Macalino and Rodil V. Zalameda, concurring.

[2] Id. at 121.

[3] Id. at 72.

[4] Id. at 81-82.

[5] Id. at 83.

[6] Id. at 108-109, Annex "O" of Petition.

[7] Id. at 111-112, Annex "Q" of Petition.

[8] Id. at 122-128.

[9] Id. at 139-141, Annex "X" of Petition.

[10] Id. at 148-149, Annex "AA" of Petition.

[11] Id. at 156-158, Annex "CC" of Petition.

[12] Id. at 32-33.

[13] Id. at 36-38, Annex "B" of Petition.

[14] Id. at 9.

[15] G.R. No. 169067, October 6, 2010.

[16] Id., citing Leoncio v. De Vera, G.R. No. 176842, February 18, 2008, 546 SCRA 180, 184, citing Binay v. Odeña, G.R. No. 163683, June 8, 2007, 524 SCRA 248, 255-256, further citing Velayo-Fong v. Velayo, G.R. No. 155488, December 6, 2006, 510 SCRA 320, 329-330.

[17] Sarsaba v. Vda. De Te, G.R. No. 175910, July 30, 2009, 594 SCRA 410.

[18] G.R. No. 173176, August 26, 2008, 563 SCRA 341, 357-358, citing De la Cruz v. Paras, G.R. No. L-41053, February 27, 1976, 69 SCRA 556, 560-561.

[19] G.R. No. 76591, February 6, 1991, 193 SCRA 563.

[20] Rollo, p. 81.

[21] Id. at 83

[22] Land Bank of the Philippines v. Listana, G.R. No. 168105, July 27, 2011, citing Sacdalan v. Court of Appeals, G.R. No. 128967, May 20, 2004, 428 SCRA 586, 599.

[23] Edillo v. Dulpina, G.R. No. 188360, January 21, 2010, 610 SCRA 590, 602, citing Huerta Alba Resort, Inc. v. Court of Appeals, 394 Phil. 22, 28 (2000).

[24] The Province of Bataan v. Hon. Villafuerte, Jr., 419 Phil. 907, 919 (2001), citing Republic vs. Sandiganbayan, G.R. No. 88228, June 27, 1990, 186 SCRA 864, 872 citing Gustilo, et al. vs. Matti, et al., 11 Phil 611, 615 (1908).

[25] G.R. No. 183546, September 18, 2009, 600 SCRA 775.

[26] Id., citing Valarao v. Court of Appeals, G.R. No. 130347, 363 Phil. 495 (1999).

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