WARLITO C. VICENTE, PETITIONER, VS. ACIL CORPORATION, RESPONDENT.

G.R. No. 196461. July 15, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated September 30, 2010 and the Resolution[3] dated March 18, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 03508-MIN which found no grave abuse of discretion on the part of the Regional Trial Court of Davao City, Branch 8 (RTC) in ordering the execution of judgment in Civil Case No. 22,866-94.

The Facts

On December 10, 1985, respondent Acil Corporation (Acil) acquired Lot 297, a 9,173-square meter parcel of land situated in Barrio Talomo, Davao City, from the heirs of a certain Ladislawa I. Alcantara, and was eventually issued Transfer Certificate of Title (TCT) No. T-120730 in its name.[4]

Adjacent to Lot 297 along Talomo River is Lot 10375, measuring 8,619 square meters in area. Petitioner Warlito C. Vicente (Vicente) acquired Free Patent No. 112402-91-1(W) for Lot 10375, and consequently, Original Certificate of Title No. P-13257 was issued on March 27, 1991 in his name.[5]

On May 2, 1994, Acil filed a complaint[6] for cancellation of title and recovery of possession with prayer for the issuance of a writ of preliminary injunction and temporary restraining order before the RTC, against Vicente, Israel C. Gaddi, Regional Executive Director, Department of Environment and Natural Resources (DENR), and Atty. Aludia P. Gadia, Register of Deeds for Davao City, docketed as Civil Case No. 22,866-94. In the said complaint, Acil alleged that it owned Lot 10375 as it was formed by accretion along the northeastern boundary of Lot 297. Thus, with Lot 10375 assuming the character of private property, the DENR had no authority to issue Free Patent No. 112402-91-1(W) therefor, hence, null and void.[7] On a second point, Acil further claimed that Vicente clandestinely encroached upon a portion of Lot 297 by constructing a fence thereon. In this relation, it pointed out that on June 15, 1993, geodetic Engineer Agustin M. Vedua (Engr. Vedua) conducted a survey of Lot 297 and prepared a sketch plan therefor which identified by parallel diagonal lines the extent of Vicente's encroachment on the same.[8]

In his answer,[9] Vicente maintained the validity of his title over Lot 10375. He pointed out that Lot 297, having been covered by the natural action of the sea and, of late, left dry, assumed the character of foreshore land, and hence, no longer existent as private property of Acil as it instead, forms part of the public domain.[10]

In a Decision[11] dated July 5, 1999, the RTC dismissed Acil's complaint on the ground that it failed to prove that Lot 10375 was an accretion to Lot 297.[12] Aggrieved, Acil filed an appeal before the CA, docketed as CA-G.R. CV No. 70355.[13]

In a Decision[14] dated September 12, 2003, the CA upheld Vicente's ownership over Lot 10375, but nonetheless

ruled that he was liable for encroaching upon a portion of Lot 297 as shown in the sketch plan stemming from the survey conducted by Engr. Vedua.[15] Accordingly, it set aside the ruling of the RTC and ordered Vicente to vacate the encroached portion. The dispositive of theCA's September 12, 2003 Decision reads:

> WHEREFORE, premises considered, the assailed Decision dated July 5, 1999 of the Regional Trial Court of Davao City, Branch 8, in Civil Case No. 22,866-94 is SET ASIDE and a new one is entered declaring appellee Warlito Vicente as the lawful owner of the land formed by accretion, known as Lot 10375. Appellee Vicente, however, is hereby ordered to vacate and deliver possession of the portion of land consisting of, more or less, 4,237 square meters to appellant Acil Corporation, in so far as it encroaches on Lot 297 registered under the name of the latter. No pronouncement as to costs.
>
> SO ORDERED.[16] (Emphasis and underscoring supplied)

Dissatisfied, both parties filed their respective petitions for review before the Court, docketed as G.R. Nos. 164750 and 164894,[17] which were, however, denied in a Resolution[18] dated November 14, 2005. Said judgment became final and executory on October 6, 2006.[19]

Upon Aci1's motion,[20] the RTC issued a Writ of Execution[21] on May 23, 2008, the dispositive portion of which reads:

> NOW THEREFORE, you are hereby commanded to execute the aforequoted Decision and Order to levy the goods, chattels and real properties of defendants, except those which are exempt from execution; together with your lawful fees, all in Philippine Currency, and render said sums of money to herein Plaintiff [Acil] aside from your lawful fees in this writ which shall be properly receipted and turned over to this Court within the same day.
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> x x x x[22] (Emphasis and underscoring supplied)

Thereafter, Vicente filed on June 18, 2008 an Urgent Motion to Quash and Enjoin Implementation of Void Writ of Execution,[23] asserting that the said writ did not conform to the decision to be executed, i.e., the CA's September 12, 2003 Decision in CA-G.R. CV No. 70355. Particularly, while the said decision ordered him "to vacate and deliver possession of the portion of land consisting of, more or less, 4,237 square meters x x x, in so far as it encroaches on Lot 297,"[24] the writ of execution directed the sheriff "to levy the goods, chattels[,] and real properties of defendants."[25] Further, Vicente posited that the CA's September 12, 2003 Decision could not yet be executed since no prior survey has been conducted to determine the encroached portion of Lot 297. As such, he prayed that execution be held in abeyance.[26]

In its comment to the motion to quash,[27] Acil agreed with Vicente that the writ of execution was in variance with the dispositive portion of the September 12, 2003 Decision, praying that the said writ of execution be amended to conform thereto. Meanwhile, Vicente opposed Acil's prayer for an amended writ of execution, insisting that the area of encroachment must be determined first.[28]

On July 14, 2008, Acil filed a motion for the appointment of a geodetic engineer, in the person of Engr. Vedua, to conduct a survey in order to determine the encroached portion of Lot 297.[29] Before the motion was acted upon by the RTC, Acil submitted a supplemental motion, this time seeking that a geodetic engineer from the Land Management Services of the DENR lead a surveying team with two (2) engineers separately chosen by Acil and Vicente.[30] Vicente opposed the appointment of a surveyor, stating that the DENR, in connection with a separate administrative case for cancellation of Acil's title to Lot 297 filed by him, was poised to survey the area.[31] Without waiting for the RTC's action on its motion, Acil conducted the verification survey of Lot 297 through Engr. Vedua, and submitted to the DENR the sketch plan resulting from the survey, which showed that Vicente had encroached upon a portion of Lot 297, consisting of 6,269 square meters, and not merely 4,237 square

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meters.[32]

The RTC Ruling

In an Order[33] dated January 14, 2010, the RTC denied Acil 's motion, ruling that there was no need for the appointment of a surveyor for the sheriff to execute the judgment. It observed that in the September 12, 2003 Decision, the CA had already determined that Vicente encroached an area of approximately 4,237 square meters on Acil's property. The CA had also identified such illegally occupied area to be that shaded portion in Acil 's Exhibit "G-4" - a sketch plan prepared by Engr. Vedua who had first conducted the survey on the encroachment.[34] Accordingly, the RTC ordered the issuance of a Writ of Execution to implement the dispositive portion of the CA's September 12, 2003 Decision.[35]

Vicente filed a motion for reconsideration[36] on January 22, 2010, alleging that since the second verification survey conducted by the same surveyor (i.e., Engr. Vedua) showed that the encroached area had increased to 6,269 square meters, and not merely 4,237 square meters as stated in the CA's September 12, 2003 Decision, the order of execution must be reconsidered and set aside to "await the proper determination by the DENR of the exact location and area of the encroached premises."[37] In an Order[38] dated March 8, 2010, the RTC denied the aforesaid motion for being a mere rehash of previous arguments.

Vicente elevated the matter to the CA by way of a petition for certiorari,[39] docketed as CA-G.R. SP No. 03508-MIN, raising the sole issue of whether or not the RTC gravely abused its discretion in ruling that there was no need to appoint a surveyor to execute the September 12, 2003 Decision.[40]

The CA Ruling

In a Decision[41] dated September 30, 2010, the CA affirmed the RTC's January 14, 2010 Order, finding no need to appoint a surveyor, and upholding its directive to issue a new writ of execution to implement the dispositive portion of the September 12, 2003 Decision.

Unperturbed, Vicente filed a motion for reconsideration,[42] arguing that the CA erred in upholding the RTC's ruling on the ground that the May 23, 2008 Writ of Execution, which was clearly at variance with the decision to be executed, i.e., September 12, 2003 Decision, has not been recalled nor quashed.[43] Said motion was, however, denied in a Resolution[44] dated March 18, 2011; hence, this petition.

The Issue Before The Court

The issue before the Court is whether or not the CA erred in dismissing Vicente's petition for certiorari.

The Court's Ruling

The petition lacks merit.

Vicente asserts that the CA erred in dismissing his certiorari petition and in ruling that the execution of the September 12, 2003 Decision was not impossible or unjust.[45] He proceeds to argue that the RTC's January 14, 2010 Order denying the appointment of a surveyor and directing the execution of the September 12, 2003 Decision should have been set aside by the CA because it failed to order the quashal of the previously-issued May 23, 2008 writ of execution[46] which erroneously directed the sheriff "to levy the goods, chattels and real properties of defendants x x x"[47] instead of ordering him to take custody and deliver possession of the encroached portion of land in accordance with the terms of the judgment sought to be implemented therein.[48]

The argument is untenable.

The wayward manner by which Vicente has been preventing the execution of a final and executory judgment - in

this case, the CA's September 12, 2003 Decision has not escaped the Court's attention. In his certiorari petition before the CA, Vicente raised only the issue regarding the RTC's non-appointment of a surveyor, mentioning nothing about the erroneously-worded May 23, 2008 Writ of Execution. When the CA upheld the RTC's January 14, 2010 Order denying the appointment of a surveyor, Vicente moved for reconsideration thereof, but took swipe, instead, at the issue concerning the erroneously-worded writ. And now, in this present petition, he seeks to impress upon the Court that what the CA had affirmed as being "not impossible or unjust" to execute was the May 23, 2008 Writ of Execution that erroneously directed the levy of goods, chattels, and real properties, contrary to the dispositive portion of the CA's September 12, 2003 Decision.

Clearly, it is misleading for Vicente to claim that the CA had affirmed the defective May 23, 2008 Writ of Execution because, in the January 14, 2010 Order being assailed by Vicente, the RTC did not merely deny the motion for appointment of a surveyor, but it corrected as well its previous issuance by ordering that a new writ of execution be issued, implementing the dispositive portion of the CA's September 12, 2003 Decision in accordance with its very terms. In the said order, the RTC ruled squarely on the proper subject of the execution, to wit:

> That said, the question before this court, then, is to determine whether the Sheriff could execute the Decision of the Court of Appeals. Vicente argued that the [S]heriff could not, stating that his encroachment on Acil's land has to be determined first. Acil, upon the other hand, sought the appointment of a surveyor.
>
> The Court of Appeals has determined that Vicente [had] encroached on the land of Acil or Lot 297 and, specifically, pointed to that area shown in the sketch plan conducted by Geodetic Engineer Agustin Vedua or Exhibit 'G-4' of plaintiff. x x x.
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> x x x x
>
> The Court of Appeals in its footnote or footnote no. 34 identified the encroachment as the shaded portion in Exhibit "G-4" of plaintiff. On this basis, this court finds no need for the appointment of a surveyor for the sheriff to execute the judgment.[49]

Thereupon, the RTC directed the execution of the judgment as follows:

> FOR THE FOREGOING, let Writ of Execution be issued implementing the dispositive portion of the Decision of the Court of Appeals that reads:
> "WHEREFORE, premises considered, the assailed Decision dated July 5, 1999 of the Regional Trial Court of Davao City, Branch 8, in Civil Case No. 22,866-94 is SET ASIDE and a new one is entered declaring appellee Warlito Vicente as the lawful owner of the land formed by accretion, known as Lot 10375. Appellee Vicente, however, is hereby ordered to vacate and deliver possession of the portion of land consisting of, more or less, 4,237 square meters to appellant Acil Corporation, in so far as it encroaches on Lot 297 registered under the name of the latter. No pronouncement as to costs.

upon payment of the proper fees.

SO ORDERED.[50] (Emphasis and underscoring supplied)

Indubitably, what was affirmed by the CA in its September 30, 2010 Decision was the foregoing RTC ruling, viz.:

> And once a decision becomes final and executory, it is the ministerial duty of the court to issue a writ of execution to enforce the judgment or order. Execution is the final stage of litigation, the end of the suit. It cannot be frustrated except for serious reasons demanded by justice and equity.
>
> No such reasons exist in the instant petition. No circumstances also obtain that would make the execution impossible or unjust, justifying the modification or alteration thereof. In fact, the increase in the land area encroached upon by Vicente warrants the immediacy of the execution of the Court of Appeals' decision.

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> Vicente chose to be deliberately obtuse in the arguments he put forward to this Court. A reading of the assailed Order readily reveals that it did not vary the judgment rendered by the Court of Appeals. The RTC even quoted said decision.
>
> x x x x
>
> In the instant case, no grave abuse of discretion could be attributed to the trial court. The writ of execution it issued conformed to the judgment to be executed and adhered strictly to the very essential particulars.[51] (Emphasis and underscoring supplied; citations omitted)

Further, the RTC correctly held that there is no need for the appointment of a surveyor for the sheriff to execute the judgment, considering that the CA, in its September 12, 2003 Decision, had already determined Vicente's encroachment on Acil's property as consisting of approximately 4,237 square meters, and had equally identified such illegally occupied area to be that shaded portion in Acil's Exhibit "G-4", i.e., the sketch plan prepared by Engr. Vedua who had first conducted the survey on the encroachment. Thus, there appears to be no more reasonable basis to thwart the judgment's execution.

Indeed, Vicente's protraction of this case should not be countenanced. It is fundamental that every litigation must come to an end. While a litigant's right to initiate an action in court is fully respected, once his case has been adjudicated by a competent court in a valid final judgment, he should not be permitted to initiate similar suits hoping to secure a favorable ruling, for this will result to endless litigations detrimental to the administration of justice.[52] After all, the winning party also has the correlative right to enjoy the finality of the resolution of his case by the execution and satisfaction of the judgment, which is the "life of the law,"[53] as Acil in this case.

All told, with the RTC complying with the settled rule that "[a] writ of execution must conform to the judgment to be executed,"[54] and with discernible basis to show that theCA's September 12, 2003 Decision may be executed, it cannot be said that the RTC committed any grave abuse of discretion under legal contemplation.[55] Perforce, the affirmance of the assailed CA ruling is in order.

WHEREFORE, the petition is DENIED. The Decision dated September 30, 2010 and the Resolution dated March 18, 2011 of the Court of Appeals in CA-G.R. SP No. 03508-MIN are hereby AFFIRMED.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

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[1] Rollo, pp. 4-19.

[2] Id. at 20-32. Penned by Associate Justice Angelita A. Gacutan with Associate Justices Rodrigo F. Lim, Jr. and Leoncia R. Dimagiba concurring.

[3] Id. at 33-34.

[4] Id. at 21-22.

[5] Id. at 22.

[6] Dated April 22, 1994. Id. at 35-42.

[7] Id. at 38-39.

[8] Id. at 39.

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[9] See Answer to Complaint with Compulsory Counterclaim and Opposition to the Injunction filed on May 20, 1994; id. at 44-51.

[10] Id. at 45-46.

[11] Id. at 52-57. Penned by Judge Salvador M. Ibarreta, Jr.

[12] Id. at 56.

[13] Id. at 7.

[14] Id. at 58-72. Penned by Associate Justice Mercedes Gozo-Dadole with Associate Justices Mariano C. Del Castillo (now a member of the Court) and Jose C. Reyes, Jr. concurring.

[15] Id. at 70-71.

[16] Id. at 71.

[17] See id. at 8 and 75.

[18] Id. at 73.

[19] Id. at 74.

[20] See Motion for Execution dated July 28, 2007. Id. at 75-76.

[21] Id. at 78-79.

[22] Id. at 79.

[23] Dated June 17, 2008. Id. at 80-83.

[24] Id. at 71.

[25] See id. at 79 and 81.

[26] Id. at 81-82.

[27] See Comment on the Motion to Quash and Enjoin Implementation of Void Writ of Execution dated June 19, 2008; id. at 84-85.

[28] See id. at 25.

[29] See Motion to Appoint Surveyor filed by Acil dated July 14, 2008; id. at 86-87.

[30] Id. at 25.

[31] Id. at 26.

[32] Id.

[33] Id. at 91-98.

[34] Id. at 96-97.

[35] Id. at 97-98.

[36] Id. at 99-101.

[37] Id. at 100.

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[38] Id. at 102-103.

[39] Id. at 104-115.

[40] Id. at 109.

[41] Id. at 20-32

[42] Dated October 21, 2010. Id. at 116-119.

[43] Id. at 117.

[44] Id. at 33-34.

[45] See id. at 30.

[46] See id. at 11-12.

[47] Id. at 79.

[48] Id. at 11.

[49] Id. at 96-97.

[50] Id. at 97-98.

[51] Id. at 29-31.

[52] Yau v. Silverio, Sr., 567 Phil. 493, 503 (2008).

[53] Seven Brothers Shipping Corporation v. Oriental Assurance Corporation, 439 Phil. 663, 672 (2002).

[54] Nazareno v. CA, 383 Phil. 229, 231 (2000).

[55] "The term 'grave abuse of discretion' has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a 'capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.' The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." (Yu v. Reyes-Carpio, G.R. No. 189207, June 15, 2011, 652 SCRA 341, 348.)

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