

ALPA-PCM, INC., PETITIONER, VS. VINCENT BULASAO, JULIET BULASAO AND SUSANA BULASAO, HONORABLE JUDGE DANILO F. CAMACHO, AND THE DEPUTY SHERIFF OF THE REGIONAL TRIAL COURT, LA TRI...*G.R. No. 197124. March 19, 2012*

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-197124/>**BRION, J.:**

The petitioner, ALPA-PCM, Inc. (ALPA-PCM), filed with the Court a petition for review on certiorari under Rule 45 of the Rules of Court, praying for the reversal of the decision[1] dated January 6, 2011 and the resolution[2] dated May 19, 2011 of the Court of Appeals (CA) in CA G.R. SP No. 102417. On July 6, 2011, the Court denied the petition for failure to find any reversible error in the assailed CA rulings.[3] ALPA-PCM filed the present motion seeking a reconsideration of the Court's Resolution.

BACKGROUND FACTS

In 2004, the private respondents, Vincent, Juliet and Susana, all surnamed Bulasao (the Bulasaos) filed an action for unlawful detainer against ALPA-PCM before the Municipal Trial Court (MTC) of La Trinidad, Benguet.[4] The MTC ruled in favor of the Bulasaos and ordered ALPA-PCM to vacate the subject property in a decision dated May 31, 2006.[5] On appeal, the Regional Trial Court (RTC) of La Trinidad, Benguet, Branch 62, affirmed the MTC's ruling in a decision dated July 31, 2007.[6]

On August 13, 2007, the Bulasaos filed a motion for the issuance of a writ of execution. Three days after or on August 16, 2007, ALPA-PCM filed its motion for reconsideration of the RTC decision dismissing its appeal, which the RTC denied on October 25, 2007. Intending to seek recourse against the RTC rulings via an appeal, ALPA-PCM initially filed a Motion for Extension of Time to File Petition/Appeal on November 13, 2007.[7]

In the meantime, the RTC granted the Bulasaos' motion for execution through an order dated November 21, 2007. ALPA-PCM sought reconsideration of the November 21, 2007 order, but the RTC denied the motion in an order dated February 5, 2008. The RTC subsequently issued a writ of execution on February 12, 2008. ALPA-PCM questioned the RTC orders granting execution of the decision, as well as the writ of execution itself, before the CA by filing a separate certiorari petition. ALPA-PCM alleged that the RTC's orders authorizing the execution of the decision in favor of the Bulasaos are null and void, since the filing of its appeal with the CA deprived the RTC of jurisdiction to issue the orders.

In a decision dated January 6, 2011, the CA dismissed ALPA-PCM's petition,[8] finding no grave abuse of discretion on the part of the RTC in granting the Bulasaos' motion for execution. The CA declared that the RTC had power to grant execution pending appeal as part of its residual jurisdiction under Section 8, Rule 42 of the Rules of Court.

As stated earlier, ALPA-PCM took exception from the CA's ruling by filing a petition for review on certiorari with this Court. It argued that there must be good reasons to justify execution pending appeal and cited as basis Section 2, Rule 39 of the Rules of Court. It pointed out that the RTC failed to state good reasons that justified the writ of execution. We denied ALPA-PCM's petition in our Resolution of July 6, 2011.

In support of its motion for reconsideration of the Court's Resolution, ALPA-PCM reiterated the above arguments and added that the RTC acted with undue haste in granting the Bulasaos' motion for writ of execution. It alleged that the filing of a motion for execution by the Bulasaos (August 13, 2007) preceded its filing of a motion for reconsideration of the RTC decision (August 16, 2007); hence, the motion for execution was premature since the decision sought to be executed was still for further review by the RTC. It cited the Court's ruling in *JP Latex Technology, Inc. v. Ballons Granger Balloons, Inc.*,^[9] which said that "[w]here there is a pending motion for reconsideration of the RTC decision, an order execution (sic) pending appeal is improper and premature."

THE COURT'S RULING

The Court fails to find any substantial argument raised by ALPA-PCM that merits a reconsideration of our earlier Resolution.

Execution pending appeal of
decisions in ejectment cases

Rule 42 of the Rules of Court governs the appeal of a decision of the RTC rendered in the exercise of its appellate jurisdiction; the appeal is made by filing a petition for review with the CA.^[10] Despite the filing of a petition with the CA, however, Rule 42 grants the RTC residual jurisdiction to order execution pending appeal, so long as (1) the CA has not yet given due course to the petition, and (2) the requirements of Section 2, Rule 39 are observed. The relevant portion of Section 8, Rule 42 of the Rules of Court states:

Section 8. Perfection of appeal; effect thereof — (a) x x x

However, before the Court of Appeals gives due course to the petition, the Regional Trial 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.

x x x x

Under Section 6, Rule 42 of the Rules of Court, the CA can give due course to a petition for review when it finds *prima facie* that the lower court has committed an error of fact or law that will warrant a reversal or modification of the appealed decision.^[11] This initial determination by the CA can take place only when the proper pleadings have actually been filed before the CA, enabling it to study the facts of the case and the alleged errors of the assailed ruling. In other words, the CA can give due course to an appeal of the RTC decision only (1) after the filing of a petition for review, and (2) upon the filing of the comment or other pleading required by the CA, or the expiration of the period for the filing thereof without such comment or pleading having been submitted.

When the RTC granted the Bulasaos' motion for execution pending appeal on November 21, 2007, ALPA-PCM has not yet filed its petition for review with the CA; what ALPA-PCM filed on November 13, 2007 was only a motion for extension of time to file its petition. In the absence of any petition for review actually filed with the CA, the CA could clearly not have given due course to ALPA-PCM's appeal. The RTC, thus, retained its residual jurisdiction over the case to authorize execution of the decision.

The Court also fails to find anything irregular in the filing by the Bulasaos of a motion for execution ahead of the

filing by ALPA-PCM of its motion for reconsideration of the RTC decision. ALPA-PCM misconstrues our ruling in *JP Latex Technology, Inc. v. Ballons Granger Balloons, Inc.*[12] The ruling does not prevent the prevailing party from filing a motion for execution until after the adverse party has filed a motion for reconsideration of the judgment. The RTC, however, is precluded from acting on the motion for execution until it has resolved the motion for reconsideration. In the present case, the RTC heeded this rule, as it granted the Bulasaos' motion for execution only after it has resolved to deny ALPA-PCM's motion for reconsideration of its decision.

Immediate execution of the RTC
decision on appeal to CA or SC

After affirming the RTC's power to allow execution, we now consider ALPA-PCM's claim that the RTC must nonetheless cite good reasons justifying execution, citing as basis Section 2, Rule 39 of the Rules of Court.

The Court reminds ALPA-PCM, particularly its counsel, Atty. Guillermo R. Bandonil, Jr., that this case originated from the complaint for unlawful detainer filed by the Bulasaos against it. Actions for unlawful detainer are governed primarily by the Revised Rules on Summary Procedure[13] and suppletorily by the Rules of Court.[14] Section 21 of the Revised Rules on Summary Procedure states that:

Sec. 21. Appeal. — The judgment or final order shall be appealable to the appropriate regional trial court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the regional trial court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed. [emphasis and underscoring ours]

The above rule, without any qualification whatsoever, has decreed the immediately executory nature of decisions of the RTC rendered in the exercise of its appellate jurisdiction, involving cases falling under the Revised Rules on Summary Procedure. It requires no further justification or even "good reasons" for the RTC to authorize execution, even if an appeal has already been filed before the CA. Indeed, the provision does not even require a bond to be filed by the prevailing party to allow execution to proceed.[15] The rationale for this is the objective of the Revised Rules on Summary Procedure to achieve an expeditious and inexpensive determination of cases governed by it. This objective provides the "good reason" that justifies immediate execution of the decision, if the standards of Section 2, Rule 39 of the Rules of Court on execution pending appeal, as what ALPA-PCM insists, are considered.

Notwithstanding the rule's objective and clear mandate, losing litigants and their lawyers are determined to stall execution by misusing judicial remedies, putting forth arguments that, by simple logic, can easily be resolved by a basic reading of the applicable laws and rules. When judicial remedies are misused to delay the resolution of cases, the Rules of Court authorizes the imposition of sanctions. Section 3, Rule 142 of the Rules of Court states:

Sec. 3. Costs when appeal frivolous.—Where an action or an appeal is found to be frivolous, double or treble costs may be imposed on the plaintiff or appellant, which shall be paid by his attorney, if so ordered by the court.

WHEREFORE, the Court resolves to DENY the ALPA-PCM, Inc.'s motion for reconsideration of our Resolution dated July 6, 2011. For instituting a frivolous appeal manifestly intended for delay, the Court imposes treble costs against ALPA-PCM, Inc., to be paid by its counsel, Atty. Guillermo R. Bandonil, Jr.

SO ORDERED.

Carpio, (Chairperson), Perez, Sereno, and Reyes, JJ., concur.

[1] Penned by Associate Justice Priscilla J. Baltazar-Padilla, and concurred in by Associate Justices Fernanda Lampas Peralta and Samuel H. Gaerlan; rollo, pp. 45-55.

[2] Id. at 85-86.

[3] Id. at 88-89.

[4] Docketed as Civil Case No. R-937; id. at 6.

[5] Id. at 7. The dispositive portion of the MTC decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against defendant, ordering the latter, its agents and/or persons acting for and in its behalf, to vacate the subject leased premises and peacefully turn over the same to the plaintiffs.

No pronouncement as to damages and costs.

SO ORDERED.

[6] Ibid. The dispositive portion of the RTC ruling reads:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered dismissing the appeal for lack of merit.

[7] Id. at 47.

[8] Id. at 45-55.

[9] G.R. No. 177121, March 16, 2009, 581 SCRA 553, 563.

[10] RULES OF COURT, Rule 42, Section 1.

[11] Section 6. Due course.—If upon the filing of the comment or such other pleadings as the court may allow or require, or after the expiration of the period for the filing thereof without such comment or pleading having been submitted, the Court of Appeals finds prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may accordingly give due course to the petition. (n)

[12] Supra note 9.

[13] REVISED RULES ON SUMMARY PROCEDURE, Section 1.

[14] Id., Section 22.

[15] See in contrast Section 19, Rule 70 of the Rules of Court which, despite authorizing the immediate execution of the judgment of the MTC in unlawful detainer cases, may be stayed by the filing of a supersedeas bond.

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