

CITY OF DAVAO, PETITIONER, VS. COURT OF APPEALS AND BENJAMIN C. DE GUZMAN, RESPONDENTS.

G.R. No. 200538. August 13, 2014

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to nullify and set aside the August 5, 2011 Resolution[1] and December 6, 2011 Resolution[2] of the Court of Appeals (CA). in CA-G.R. SP No. 03951-MIN. The first resolution granted the motion for partial reconsideration of private respondent Benjamin C. De Guzman (De Guzman), praying for the imposition of treble costs against petitioner City of Davao (Davao City). The second resolution denied the motion for reconsideration of Davao City.

The Factual and Procedural Antecedents

Davao City was the registered owner of a parcel of land located in Daliao, Toril, Davao City, covered by TCT No. T-29856. Claiming that this same parcel of land was earlier donated by the late Engracia Tagalplace (Tagalplace) and Juan dela Cruz (dela Cruz), to be used as a public market but was not used as such, their heirs wrote De Guzman, then Davao City Mayor, seeking reconveyance of the said land.[3]

Subsequently, the Sangguniang Panlungsod issued Resolution No. 2398-01 granting De Guzman the authority to sign for, and on behalf of, Davao City a deed of reconveyance in favor of the said heirs.[4]

A few months later, under its new mayor, Mayor Rodrigo R. Duterte (Mayor Duterte), it was discovered that the subject property was sold, not donated, to Davao City, based on the annotation found at the back of TCT No. 1417.

From the documents discovered, it appeared that TCT No. T-9856 was a portion of a bigger parcel of land covered by TCT No. 1417; that on December 29, 1936, TCT No. 1417 was cancelled, caused by the execution of a deed of sale transferring the rights over Lot 134-A-2-B in favor of then Municipality of Davao (now Davao City); that in lieu of TCT No. 1417, two (2) titles were issued by the Register of Deeds; TCT No. 1588, issued in the name of the Municipality of Davao, covering Lot 134-A-2-B-1, with an area of 10,009 square meters, and TCT 1589, issued in the name of Tagalplace and dela Cruz, covering Lot 134-A-2-B-2, comprising 93,126 square meters; and that on February 1971, TCT No. 1588 was further cancelled when the Municipality of Davao purchased it from Tagalplace and dela Cruz, resulting in the issuance of TCT No. 29856.

Based on this documented discovery, Davao City, through Mayor Duterte, filed a complaint to annul the reconveyance, impleading not only the heirs of Tagalplace and dela Cruz (the Heirs) but also De Guzman.[5] The case was docketed as Civil Case No. 28,908-2002 and was raffled to Regional Trial Court, Branch 17 Davao City (RTC-Br. 17), presided by Judge Renato A. Fuentes (Judge Fuentes,).

Claiming that he was not a real party-in-interest, De Guzman filed a motion to dismiss. Judge Fuentes denied the motion. Upon denial of his motion for reconsideration, De Guzman filed a petition for certiorari before the CA,

docketed as G.R. No. 75168 (De Guzman's Motion to Dismiss).

Meanwhile, there being no injunction issued by the CA, Judge Fuentes proceeded with Civil Case No. 28,908-02 and eventually rendered a summary judgment voiding the reconveyance and ordering the said parcel of land restored to Davao City.[6] As can be gleaned from the decretal portion of the RTC-Br. 17 Decision, De Guzman was included in the judgment. Said portion reads:

WHEREFORE, on the basis of the evidence of parties through counsels, as a result of their admissions and stipulations submitted through the filing of their respective memorandum (sic), except the heirs of the late Juan dela Cruz and Engracia Tagalplace, whose submission of their memorandum was delayed but nonetheless admitted, finding the evidence of plaintiff through counsel, sufficient by preponderance, to support and uphold the cause of action of plaintiff against defendant, Decision is rendered in favor of plaintiff City of Davao, represented by its City Mayor Hon. Rodrigo R. Duterte, and against defendants Benjamin C. de Guzman, and Heirs of the late Juan dela Cruz and Engracia Tagalplace, declaring the Deed of Reconveyance dated May 11, 2001, covered by TCT No. T-29856, containing an area of Ten Thousand (10,000) square meters more or less, in favor of the Heirs of Juan dela Cruz and Engracia Tagalplace executed by then City Mayor Davao City Benjamin C. de Guzman, null and void and without legal effect, restoring and reconveying full and complete ownership over said above mentioned property, back to the City of Davao, with cost de oficio.

SO ORDERED.

[Emphasis supplied]

The Heirs and De Guzman filed an appeal to the CA, docketed as CA G.R. CV No. 00108 (Appeal on the Merits Case). The CA (22nd Division), in its Decision, elated June 5, 2008, expressed the view that the application of the rules on summary procedure was not proper because there were genuine issues which necessitated the presentation of evidence. For said reason, it set aside the RTC-Br. 17 decision and ordered the remand of the case to the said court for further proceedings.

On January 31, 2008, the CA (Special 21st Division), in G.R. No. 75168 (De Guzman's Motion to Dismiss), dismissed De Guzman's petition for being (i) an improper remedy in questioning an interlocutory order: and (ii) moot because of the RTC-Br. 17 decision on the merits of the main case.[7]

When the case was returned to RTC-Br. 17, the Heirs and De Guzman moved for the inhibition of Judge Fuentes, who granted the motion. The case was thereafter re-raffled to RTC-Branch 11 presided by Judge Virginia Hofilenia-Europa (Judge Hofilenia-Europa). As the records would show, Davao City asked for the inhibition of Judge Hotilenia-Europa, as her son was the lawyer of De Guzman. Eventually, the case was finally re-raffled to RTC-Br. 14 presided by Judge George Omelio[8] (Judge Omelio).

During the proceedings, De Guzman reiterated his position that he should not be impleaded because he merely signed the reconveyance in his official capacity as then mayor of Davao City. This led to an exchange or oral arguments between the opposing parties. Thereafter, Judge Omelio ordered in open court that De Guzman be dropped as co-defendant.[9] The RTC-Br. 14 Order,[10] dated October 11, 2010, reads:

ORDER

The Court is allowed to drop a party on its own initiative and this is granted under Section 11, Rule 3 of the 1997 Rules of Civil Procedure.

Accordingly, the Motion for Reconsideration is hereby Denied.

Set the next hearing of this case on November 10, 2010 at 8:30 in the morning.

SO ORDERED.

[Emphasis supplied]

This prompted Davao City to move for the inhibition of Judge Omelio, alleging bias and partiality as there was no motion filed by De Guzman. Judge Omelio, however, denied the motion.

The matter of exclusion of De Guzman as a party was elevated to the CA by Davao City, through a petition for certiorari, ascribing grave abuse of discretion on the part of Judge Omelio for dropping him as co-defendant despite the absence of a motion to that effect. The case was docketed as CA G.R. SP No. 03951-MIN. This time, the CA (Special 23[rd] Division) upheld Judge Omelio by dismissing Davao City's petition.[11] The CA found no abuse of discretion on the part of Judge Omelia because the assailed order was well within the authority of the Court pursuant to Section 11, Rule 3[12] of the Rules of Court. The CA stated that De Guzman could neither benefit nor be injured by the affirmation or annulment of the deed or reconveyance. Thus, the CA dismissed Davao City's petition for being "patently without merit." [13]

While the petition was dismissed in his favor, De Guzman still filed a motion for partial reconsideration asking for the imposition of treble costs and, award of attorney's fees.[14]

On August 5, 2011, the CA (Special 23[rd] Division) issued the first assailed Resolution.

WHEREFORE, finding merit to the motion for partial reconsideration, the same is hereby GRANTED. Consequently, our April 15, 2011 Resolution is MAINTAINED with modification such that petitioner and its counsel are hereby DIRECTED within ten (10) days from notice to pay solidarily private respondent the amount of Five Thousand Pesos (P5,000.00) as treble costs. conformably with Section 8, Rule 65 of the Rules of Court.[15]

[Emphasis supplied]

Davao City moved for reconsideration, but the CA denied the motion in its second assailed Resolution, elated December 6, 2011.

Hence, this petition for certiorari under Rule 65.

ISSUE:

WHETHER OR NOT PUBLIC RESPONDENT COURT OF APPEALS HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING RESOLUTIONS DATED 05 AUGUST 2011 AND 06 DECEMBER 2011, DIRECTING PETITIONER AND ITS COUNSEL TO PAY SOLIDARILY PRIVATE RESPONDENT BENJAMIN C. DE GUZMAN TREBLE COSTS IN THE AMOUNT OF FIVE THOUSAND PESOS (P5,000.00)[16]

Davao City charges that the CA committed grave abuse of discretion in issuing the August 5, 2011 Resolution directing it and its counsel to pay solidarily De Guzman the amount of P5,000.00 as treble costs. It argues that it was entirely improper and had no factual and legal basis. Davao City claims that it filed the said petition based on "a firm and honest belief, primarily anchored on no less than the honorable respondent Court's dismissal of De Guzman's petition for certiorari seeking for the dropping of his name as party defendant, that de Guzman was a real party in-interest in the case below and that Judge Omelio's act of dropping him as such, contrary to the honorable respondent Court's decision of not dropping him as party defendant in its Decision dated 27 August 2008. Without the slightest iota of doubt, it constitutes grave abuse of discretion amounting to lack or excess of jurisdiction." [17] It stresses that it submitted pieces of evidence to prove their position. In praying for the deletion of the award of treble costs, Davao City explains the following reasons:[18]

1] There is no showing that Davao City was guilty of bad faith in filing the petition. No amount of evidence is

in sight to that effect. It did not even opt to file a motion for reconsideration of the resolution dismissing its petition.

2] The petition cannot even be said to be dilatory considering that it was Davao City who was the plaintiff in the case below, and it would be absurd for it to cause the delay of the prosecution of its own case.

3] Had it filed the said petition maliciously and in bad faith, the CA would have seen that and would have included in its judgment the award of treble cost in its earlier decision.

4] Davao City also believed and was of the strong conviction that De Guzman was a real party-in-interest. This is so because without his signature, the deed of reconveyance, dated May 11, 2011, could not have been made as basis of the transfer of the title over TCT No. 1417 in the name of the Heirs.

5] Judge Omelia could not just conveniently give a flimsy reason that De Guzman was just acting in his official capacity as City Mayor and under the color of authority by the Sangguniang Panlungsod of Davao City (Sanggunian) when he signed the Deed of Reconveyance. The annotation at the back of the title bearing number TCT No. 1417 stated that the City of Davao acquired the same by way of a deed of sale, and not by way of donation. For said reason, De Guzman could have aptly refused to sign the deed of reconveyance notwithstanding his authority to reconvey the subject parcel of land to the Heirs.

6] De Guzman could have exercised his veto powers under the Local Government Code in striking down the ordinance authorizing him to sign the reconveyance to forestall the suffering by Davao City of a great proprietary loss. Yet, De Guzman utterly and deliberately failed to veto such an ultra vires act. Or, in the alternative, he could just have refused to use the authority conferred upon him by the Sanggunian because mere authority, as opposed to a command, does not necessarily mean that its execution is compulsory. Such deliberate failure on the part of De Guzman makes him liable for civil damages. That is why Davao City, in good faith and in honest belief strongly argued that De Guzman was a proper party-defendant and should not have been dropped as such from the case.

7] This firm and honest belief of Davao City, entertained in good faith, is bolstered by the fact that the motion to dismiss of De Guzman was earlier denied by Judge Fuentes and his motion for reconsideration of the order denying his motion to dismiss was likewise denied.

8] That on January 31, 2008, the CA, in G.R. No. 75168, dismissed the petition for certiorari tiled by De Guzman questioning the denial of his motion to dismiss. It likewise denied his motion for reconsideration for being bereft of merit.

Davao City then goes on to cite examples of cases, wherein treble costs were awarded, to show why it should not be sanctioned. It also reiterated the reasons why it impleaded De Guzman as a co-defendant in the case for annulment of reconveyance and the reasons why Judge Omelio erred in dropping him from the case even as there was no motion filed praying therefor.[19]

De Guzman counters that the assailed resolutions of April 15, 2011 and August 5, 2011 had become final and, therefore, immutable, when it failed to appeal therefrom within the reglementary period. He further asserts that the CA was well within its sound discretion and jurisdiction because the assailed resolutions were sanctioned by Section 8 of Rule 65 of the Rules of Court and the application of the said rule and the basis therefor had been properly explained in the said resolution, from which no appeal was taken.[20]

Davao City replies that it could not have properly filed a petition for review on certiorari via Rule 45 of the Rules of Court because it was not appealing from the decision on the merits of the case but questioning the validity of the grant of treble costs in both the April 15, 2011 and August 5, 2011 Resolutions. Thus, it claims that it correctly resorted to a petition for certiorari under Rule 65 of the Rules of Court as the proper remedy.

Arguing that, by their nature, the questioned resolutions were mere interlocutory orders in that they were dwelt mainly on the validity of the award of treble costs and not on the merits of the main case, Davao City could not have properly assailed the questioned resolution through a petition for review on certiorari under Rule 45. Davao City avers that the tenor of the said orders were issued with grave abuse of discretion amounting to lack or excess of jurisdiction and the only legal way to question them was by way of petition for certiorari under Rule 65.

Davao City also points out that De Guzman in his comment did not specifically deny the allegations contained in the petition and so he is deemed to have admitted all its material averments and is estopped from further offering any counterarguments.

The Court's Ruling

The Court resolves to grant the petition.

In this disposition, the Court will not delve on the merits of Davao City's petition for certiorari before the CA questioning the directive of Judge Omelio dropping De Guzman as co-defendant. It is not the issue here. The issue here is the imposition by the CA of P5,000.00 as treble costs against Davao City in its resolution of the motion for reconsideration filed by De Guzman. While the decision on the merits became final, the Court has residual powers to resolve the issue on such an interlocutory matter. Moreover, if the strict application of the rules will tend to frustrate rather than promote justice, it is always within the Court's power to suspend the rules, or except a particular case from its operation.[21]

The pertinent rule in this regard is Section 8 of Rule 65, as amended by A.M. No. 07-7-12-SC, which reads:

SEC. 8. Proceedings after comment is filed. After the comment or other pleadings required by the court are filed, or the time for the filing thereof has expired, the court may hear the case or require the parties to submit memoranda. If, after such hearing or filing of memoranda or upon the expiration of the period for filing, the court finds that the allegations of the petition are true, it shall render judgment for such relief to which the petitioner is entitled.

However, the court may dismiss the petition if it finds the same patently without merit or prosecuted manifestly for delay, or if the questions raised therein are too unsubstantial to require consideration. In such event, the court may award in favor of the respondent treble costs solidarily against the petitioner and counsel, in addition to subjecting counsel to administrative sanctions under Rule 139 and 139-B of the Rules of Court.

The Court may impose *motu proprio*, based on *res ipsa loquitur*, other disciplinary sanctions or measures on erring lawyers for patently dilatory and unmeritorious petitions for certiorari.

[Emphases and underscoring supplied]

The use of the word "may" in the last sentence of the second paragraph of Section 8, Rule 65, indicates that the assessment of treble costs is not automatic or mandatory. It merely gives the court the discretion and latitude to impose further sanctions where a petition is dismissed for being "patently without merit," "prosecuted manifestly for delay," or upon finding that the questions raised in the petition for certiorari were "too unsubstantial to require consideration."

Although the court is afforded judicial discretion in imposing treble costs, there remains a need to show that it is sound and with basis - that is "taking all the pertinent circumstances into due consideration." [22] In the assailed CA Resolution, dated August 5, 2011, granting De Guzman's motion for partial reconsideration, the CA merely wrote:

Indeed, we have ruled that the petition was filed patently without merit. While petitioner claims that it was not

filed "maliciously" and "in bad faith," we however ruled that 'it is mind boggling why petitioner would exert every effort to implead him as co-defendant when records clearly show that he was merely acting in his official capacity.' Records further show that private respondent has indeed participated in the case since 2002 and ever since had been insisting that he was not the real party-in-interest.[23]

The foundation for considering the case against De Guzman to be "patently without merit" was never clearly laid out in the assailed August 5, 2011 Resolution. The CA considered it mind boggling for Davao City to continue to persecute its former mayor since 2002. It has not been Davao City's fault that the case dragged on. The CA had once dismissed De Guzman's petition questioning his implication in the case.[24] Although, RTC-Br. 17 had rendered a summary judgment earlier, the CA vacated the same and remanded the case to the court of origin for further proceedings.[25] To date, this Court has not received information that the main case has been resolved.

The Court cannot see why the petition questioning the dropping of De Guzman as co-defendant was patently without merit. Davao City was of the firm and sincere belief that he had a hand in the reconveyance of the subject property to the Heirs. Although this matter is still to be decided by RTC-Br. 14, Davao City believed that he should be impleaded in the case precisely because from the annotations on TCT No. 1417 covering the subject property, it clearly appears that the said parcel of land was not donated to the local government unit, but sold to it. Despite the annotations, De Guzman still executed the deed of reconveyance.

To be considered in favor of Davao City was the fact that initially the motion to dismiss of De Guzman was denied by Judge Fuentes and upheld by the CA in its January 31, 2008 Decision. His submission that he was wrongfully impleaded as a party-defendant was not even passed upon by the CA, which merely ruled that his remedy was not certiorari, among others. Had there been merit in De Guzman's claim that he was wrongfully impleaded, the CA could have ordered that he be dropped as co-defendant as early as 2008, as it ordered the remand of the case to RTC-Br. 17 for a full blown trial. The CA, however, did not make such an order.

Despite the undisputed fact that there was no motion to that effect, however, Judge Omelio ordered that he be dropped as a party defendant. Clearly, the order was made not after a full blown hearing on the merits. For said reason, Davao City has a valid cause to elevate the matter to the CA. The case was definitely not "patently without merit."

In most recent cases where the Court awarded treble costs, the reasons therefor were clearly explained. Treble costs were imposed in cases where the parties and their counsels resort to deplorable dilatory tactics to frustrate the fruition of justice. In *Central Surety And Insurance Compony v. Planters Products, Inc.*, [26] the Court awarded treble costs when the losing litigant repeatedly frustrated the execution of a final and executory decision. In the said case, the execution was delayed for more than five years because of his dilatory tactics. When the winning party sought the execution by motion beyond the period, he still opposed it despite the fact that the period was suspended because of reasons attributable to him. In *Spouses Manuel A. Aguilar and Yolanda C. Aguilar v. The Manila Banking Corporation*, [27] treble costs were again awarded because of the deplorable course resorted to by the losing litigants in the hope of evading manifest obligations. The Court stated that it viewed with disfavor the unjustified delay in the enforcement of the final decision and orders in the said case. Once a judgment becomes final and executory, 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 of courts in disposing justiciable controversies with finality.

In some cases, treble costs were imposed because the parties took the law into their own hands or resorted to a wrong remedy. In *Ernesto Ramos Uypitching And Ramas Uypitching Sons, Inc., v. Ernesto Quiamco*, [28] instead of bringing the proper civil action necessary to acquire legal possession of a motorcycle, the petitioner took the law into his own hands and seized it without a search warrant or court order. Worse, in the course of the illegal

seizure or the motorcycle, the petitioner even mouthed a slanderous statement. By doing so, he transgressed the proper norms of human relations. Treble costs were imposed by the Court. In *Saturnino Salera, Jr., Sarah Salera, Samuel Salera, and Susan Salera v. A-1 Investors, Inc.*,^[29] a party claimed that he was denied due process when the court adjudged a case against him even if he was not served the summons. He then resorted to filing a complaint for injunction to stop the execution of the final judgment. The Court said that he should have resorted to an action for annulment under Rule 47 and so awarded treble costs against him.

In the case at bench, the imposition of treble costs was not explained at all. The CA imposed the amount of P5,000.00 but it did not give any reason for such imposition. As the CA never justified it, the imposition should be stricken off.

WHEREFORE, the petition is GRANTED. The August 5, 2011 and December 6, 2011 Resolutions of the Court of Appeals in CA-G.R. SP No. 03951-MIN are REVERSED and SET ASIDE. Accordingly, the imposition of P5,000.00 as treble costs is DELETED.

SO ORDERED.

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

August 28, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____August 13, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 28, 2014 at 3:30 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Acting Member in view of the vacancy in the Third Division, per Special Order No. 1691 dated May 22, 2014.

[1] Rollo, pp. 49: penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Edgardo T. Lloren and Zenaida T. Galapate-Laguilles. concurring.

[2] Id. at 52-53; penned by Associate Justice Edgardo T. Lloren, with Associate Justices Melchor Quirino C. Sadang and Zenaida T. Galapate-Laguilles, concurring.

[3] Id. at 30.

[4] Id.

[5] Id. at 131.

[6] Id. at 86-98.

[7] Id. at 100-102

[8] Judge George Omelio has been DISMISSED from the service for ignorance of the law and gross misconduct in A.M. No. RTJ-11-2259. October 22, 2013 (Peralta v. Judge George E. Omelio). Earlier in A.M. No. RTJ-12-2321. October 3, 2012 (Spouses Jesus G. Crisologo And Nannette B. Crisologo v. Judge George E. Omelio), he was FINED P40,000.00 for gross ignorance of the law; and in A.M. No. MTJ-08-1701 (A.M No. RTJ-11-2273), July 28, 2008 (Milagros Villa Abrille v. Judge George Omelio), he was found administratively liable for violation of a Supreme Court Circular for which he was FINED in the amount or P10,000.00.

[9] Rollo, pp. 19 and 132.

[10] Id. at 85.

[11] CA Resolution dated 15 April 2011; id. at 129.

[12] "SEC. 11. Misjoinder and non-joinder of parties. — Neither misjoinder nor non-joinder of parties is ground for dismissal or an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage or the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded with separately." (underscoring ours).

[13] Rollo, pp. 135-136.

[14] Id. at 140 and 144.

[15] Id. at 49.

[16] Id. at 52.

[17] Id. at 30.

[18] Id. at 25-42.

[19] Id.

[20] Id. at 184-185.

[21] Valerosos v. Court of Appeals, 614 Phil. 236 (2009).

[22] Diaz v. People, G.R. No. 180677, February 18, 2013, 691 SCRA 139.

[23] Rollo, p. 50.

[24] Id. at 131.

[25] Id. at 132.

[26] 56 Phil. 479 (2007).

[27] 56 Phil. 645 (2006).

[28] 539 Phil. 227 (2006).

[29] 427 Phil. 440 (2002).

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