

**TROPICAL HOMES, INC., PETITIONER, VS. WILLELMO C. FORTUN, AS
PRESIDING JUDGE OF BRANCH II, COURT OF FIRST INSTANCE OF
MANILA, ROSITA C. DE LA CRUZ, JULIO, JR., EMMANUEL, EVELYN,...**

G.R. No. 51554. January 13, 1989

Ponente: REGALADO, J.

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REGALADO, J.:

Petitioner seeks to annul and set aside the orders, dated August 10, 1979[1] and September 6, 1979[2] issued by respondent Willelmo C. Fortun of the former Court of First Instance of Manila, Branch II, respectively denying petitioner's Submission for Approval of its record on appeal[3] and Motion for Reconsideration.[4]

Petitioner Tropical Homes, Inc. is a co-defendant in the case entitled "Julio de la Cruz (later substituted by Rosita C. de la Cruz, Julio, Jr., Emmanuel, Evelyn, Elaine, Julio Jesus and Emily, all surnamed De la Cruz), plaintiffs, versus Earthwealth, Inc., Better Living, Inc., and Tropical Homes, Inc., defendants," docketed as Civil Case No. 48061 of the then Court of First Instance of Manila, Branch II. On January 18, 1966, the trial court rendered judgment therein in favor of the plaintiff and against the defendants, jointly and severally, for P401,000.00, with interest at the legal rate from the filing of the complaint, P10,000.00 for attorney's fees, and the costs of the suit.[5]

From this decision of the lower court, only the defendants Tropical Homes, Inc. and Better Living, Inc. appealed to this Court, said appeal being docketed as G.R. No. L-26936. However, during the pendency of said appeal, a compromise agreement was entered into between therein plaintiffs-appellees and defendant-appellant Tropical Homes, Inc. alone,[6] which compromise agreement is hereunder quoted in toto:

"Plaintiffs-appellees and defendant-appellant Tropical Homes, Inc. assisted by their respective counsel, desiring to settle amicably and terminate their controversies in this case, have agreed, as they do hereby agree, by way of a compromise, as follows:

"1. That for and in consideration of the sum of One Hundred Fifty Thousand (P150,000.00) Pesos, Philippine Currency, paid by defendant-appellant Tropical Homes, Inc. unto plaintiffs-appellees in the form of the following checks, namely:

Traders Royal Bank Check No. 33651

dated June 23, 1975..... P70,000.00

Traders Royal Bank Check No. 33652

dated July 23, 1975..... 10,000.00

Traders Royal Bank Check No. 33653

dated August 23, 1975..... 10,000.00

Traders Royal Bank Check No. 33654
 dated September 23, 1975..... 10,000.00

Traders Royal Bank Check No. 33655
 dated October 23, 1975..... 10,000.00

Traders Royal Bank Check No. 33656
 dated November 23, 1975..... 10,000.00

Traders Royal Bank Check No. 33657
 dated December 23, 1975..... 10,000.00

Traders Royal Bank Check No. 33658
 dated January 23, 1976..... 10,000.00

Traders Royal Bank Check No. 33659
 dated February 23, 1976..... 10,000.00

Total

.....

P150,000.00

all of which checks plaintiffs-appellees acknowledged having received, plaintiffs-appellees do hereby relinquish and waive, as they have relinquished and waived, in favor of defendant-appellant Tropical Homes, Inc., all of their rights, interests, and participation in and to their cause or causes of action embodied in their amended complaint dated August 16, 1963 in this case, as well as in and to the judgment on the merits based thereon of the Court a quo, subject of the present appeal;

"2. That defendant-appellant in consequence also relinquishes and waives whatever rights of action it has or may have, if any, against plaintiffs-appellees and/or the original plaintiff, on the matters involved in this case;

"3. That this compromise agreement will be submitted to the Hon. Supreme Court for approval and reduction into judgment, without special pronouncement as to costs."[7]

Prior to the rendition of the projected judgment on said compromise agreement, Tropical Homes, Inc. and Better Living, Inc. filed in this Court a "Joint Motion for Judgment and Termination of Case", dated August 27, 1975,[8] praying that judgment be rendered in accordance with the terms of the aforesaid compromise agreement and declaring said case terminated, with herein petitioner and Better Living, Inc. manifesting that, for all intents and purposes, the subject matter of said appeal had been fully adjudicated.

Acting on said compromise agreement, this Court approved the same and rendered a decision in said G.R. No. L-26936 only as against the other defendant-appellant Better Living, Inc. and absolving herein petitioner Tropical Homes, Inc. from liability. The dispositive portion of said decision reads:

"WHEREFORE, and in view of the aforequoted compromise agreement executed by the appellees on one hand and appellant Tropical Homes, Inc., and the 'Joint Motion for Judgment and Termination of Case' submitted by appellants Tropical Homes, Inc. and Better Living, Inc., the judgment appealed from is hereby modified,

thus:

1. Appellant Tropical Homes, Inc. is hereby relieved from further liability to the appellees;
2. Appellant Better Living, Inc. is sentenced to pay the appellees the sum of P251,000.00 with legal interest thereon from the filing of the complaint, and attorney's fees in the amount of P10,000.00. The appealed judgment is affirmed in all other respects, with costs against appellant Better Living, Inc. "[9]

Said decision having become final and executory on December 1, 1977, the case was remanded to the court of origin for execution of judgment.

In the lower court, Tropical Homes, Inc. thereafter filed a "Motion to Declare Judgment Satisfied and to Cancel the Notice of Lis Pendens"[10] on its certificate of title, alleging therein that since under the aforestated compromise agreement between the Heirs of Julio de la Cruz and Tropical Homes, Inc., all rights to the causes of action and to the decision appealed from were waived and relinquished by the former in favor of the latter, herein petitioner, in its capacity as assignee or successor of said plaintiffs, was the proper party to execute the judgment against its co-defendants Better Living, Inc. and Earthwealth, Inc. It then contended that it was relinquishing and waiving its supposed rights to enforce and execute the final judgment in the case against all its co--defendants therein, hence the trial court should declare said judgment as having been fully satisfied.

Said motion was denied by the court a quo in an order dated May 30, 1978,[11] and the motions for the reconsideration of said order filed by the defendants therein were likewise denied in an order dated October 30, 1978.[12] The later order also directed, pursuant to the prior motion of the plaintiffs therein, the issuance of a writ of execution.

On November 14, 1978, defendant Tropical Homes, Inc. filed a notice of appeal to this Court, on questions of law, against the aforestated orders of the lower court of May 30, 1978 and October 30, 1978.[13]

Pending the action of the trial court on said notice of appeal of Tropical Homes, Inc., its co-defendant, Better Living, Inc. filed with the Court of Appeals an original action for certiorari and prohibition, docketed as CA-G.R. No. 08651-R, questioning the very same two orders of the lower court. On therein petitioner's prayer for the issuance of a writ of preliminary injunction, a temporary restraining order was issued by the Court of Appeals. In a decision promulgated on March 19, 1979, said petition for certiorari and prohibition was denied by the Court of Appeals,[14] with the corresponding lifting of the temporary restraining order, and entry of final judgment was made on April 11, 1979.[15]

Thereafter, the appeal filed by Tropical Homes, Inc. in the lower court was denied due course, by the denial of its motion for the approval of its record on appeal therefor, in the questioned order of August 10, 1979. Its motion for reconsideration having likewise been denied in the other questioned order of September 6, 1979, it now comes before Us through the present petition.

Petitioner raises the following assignment of errors:

"I

THE RESPONDENT JUDGE ERRED IN HOLDING, AS AGAINST THE HEREIN PETITIONER, THAT ITS ORDER OF MAY 30, 1978 BEING APPEALED FROM BY PETITIONER, HAD ALREADY BEEN PASSED UPON BY THE COURT OF APPEALS IN A CASE OF CERTIORARI QUESTIONING SAID ORDER.

II

THE RESPONDENT JUDGE ERRED IN HOLDING THAT ITS ORDER FOR THE ISSUANCE OF A WRIT OF EXECUTION IN FAVOR OF PRIVATE RESPONDENTS WAS UNAPPEALABLE.

III

THE RESPONDENT JUDGE ERRED IN NOT FINDING THAT THE PETITIONER, RATHER THAN THE PRIVATE RESPONDENTS, WAS ENTITLED TO THE EXECUTION OF THE JUDGMENT OF THIS HONORABLE COURT IN G.R. NO. L-26936.

IV

THE RESPONDENT JUDGE ERRED IN DISAPPROVING PETITIONER'S RECORD ON APPEAL AND THUS DENYING HIM HIS (sic) DAY IN COURT BEFORE THIS HONORABLE COURT."[16]

Petitioner avers that the principal issue in this appeal is whether respondent Judge Fortun acted in a manner contrary to law and jurisprudence and in grave abuse of discretion in denying approval of petitioner's record on appeal in Civil Case No. 48061 by his order of August 10, 1979, in relation to his antecedent order of May 30, 1978.

A subsidiary issue is whether it is the petitioner or the private respondents who should be entitled to cause and receive the proceeds from the execution of the decision of this Court in G.R. No. L-26936.

We find that this appeal is not impressed with merit.

1. Petitioner theorizes that the decision of the Court of Appeals in CA-G.R. No. 08651-R is not binding on it since it was not a party thereto.

While it is true that only Better Living, Inc. questioned the orders of May 30 and October 30, 1978 before the Court of Appeals as sole petitioner therein, a cursory perusal of the pertinent allegations in its petition for certiorari[17] readily reveals that the interests of Better Living, Inc. and Tropical Homes, Inc., even from the bare asseverations therein, are so intimately interwoven and dependent on each other that whatever may be the outcome of said petition would necessarily affect herein petitioner. It is also apparent, even on the basis of the allegations themselves, that there is a striking similarity between the aforestated petition for certiorari filed in the Court of Appeals and this instant petition subject of Our review.

As aptly observed by private respondents, the Court of Appeals, in its opening statement in the case therein, made specific reference to the role of Tropical Homes, Inc. and the motions it filed with the lower court, to wit:

"Submitted for consideration of this Court is the present special civil action for certiorari and prohibition which disputes the validity of the order dated May 30, 1978 (Annex B, Petition), issued by respondent Judge, x x x, therein denying the motion of Tropical Homes Inc., a defendant in that suit, to declare the judgment in said case satisfied and to cancel the notice of lis pendens over TCT No. 106360 of the Registry of Deeds of Rizal, and a subsequent order dated October 30, 1978, denying the motion for reconsideration of the first stated order and directing also the issuance of the writ of execution of the decision rendered, the implementation of which petitioner here seek (sic) to prohibit."[18]

The said appellate court further adverted fittingly to herein petitioner's joint relations and necessary involvement with Better Living, Inc. in discussing the merits of the "Compromise Agreement" and the "Joint Motion for Judgment and Termination of the Case" which herein petitioner filed in G.R. No. L-26936, thus:

"Petitioner (sic) Tropical Homes, Inc. contends that pursuant to said compromise agreement it had been subrogated as the judgment creditor, in place of private respondent herein. Thus, on March 21, 1978, in the court below, Tropical Homes, Inc. filed a motion to declare judgment satisfied x x x.

xxx xxx xxx

"The court a quo ruled that the compromise agreement which is the only basis invoked by petitioners in claiming that there is no more judgment in Civil Case No. 48061 and/or L-26936 to which the private

respondents herein are entitled to be satisfied, 'is merely part of the premises upon which the conclusion set out in the dispositive portion of the decision was based'. x x x

xxx xxx xxx

"Of much weight and significance is the fact pointed out by private respondents in their comments to the petition in this case, that petitioner (sic) Tropical Homes, Inc. and Better Living, Inc. had previously filed in the Supreme Court during the pendency of G.R. L -26936 a Joint Motion for Judgment and Termination of Case, dated August 27, 1975. x x x

"In this mentioned pleading, Tropical Homes, Inc. and Better Living, Inc. both averred the following:

'5) That in a 'Motion for Approval of Compromise Agreement' docketed on July 8, 1975, the herein plaintiffs-appellees and the defendant-appellant Tropical Homes, Inc. submitted a compromise agreement under the terms of which said plaintiffs-appellees, for value, waived and relinquished in favor of the herein defendant-appellant Tropical Homes, Inc. all their rights, interest and participation in the causes of action covered by the complaint and in the Decision of the trial court subject of the instant appeal and defendant-appellant Tropical Homes, Inc. waived and relinquished its counterclaim against plaintiffs-appellees.

xxx xxx xxx

'7) That herein defendants-appellants Tropical Homes, Inc. and Better Living, Inc. hereby manifest that for all intents and purposes, the subject matter of the instant appeal has been fully adjudicated by the aforementioned Compromise Agreement."[19]

We have always recognized the general rule that in appellate proceedings, the reversal of the judgment on appeal is binding only on the parties in the appealed case and does not affect or inure to the benefit of those who did not join or were not made parties to the appeal.[20] An exception to the rule exists, however, where a judgment cannot be reversed as to the party appealing without affecting the rights of his co-debtor,[21] or where the rights and liabilities of the parties who did not join in the appeal and those of the parties appealing are so interwoven and dependent on each other as to be inseparable, in which case a reversal as to one operates as a reversal as to all.[22] This exception, which is based on the communality of interest of said parties, is recognized in this jurisdiction.[23]

In the aforesaid special civil action, had the Court of Appeals invalidated the two questioned orders before it and ordered the quashal of the writ of execution issued against the property allegedly owned by Tropical Homes, Inc., the latter would inevitably benefit therefrom as a necessary consequence. It irresistibly follows, therefore, that herein petitioner should be bound by the effects of the appellate court's decision in said case although it was initiated and prosecuted by Better Living, Inc. Furthermore, since petitioner passively allowed its co-defendant to challenge the orders of May 30 and October 30, 1978 in said action, evidently cognizant that the results thereof would ineluctably and materially affect its substantial rights and without objecting thereto or intervening therein from its inception until the rendition of judgment, petitioner has waived its right to claim a preclusion from the effects of the adverse decision in said case.

2. Petitioner postulates that the order of October 30, 1978 for the issuance of a writ of execution constitutes a final order deciding the conflicting claims of the parties as to who has the right to execute judgment, and hence may be appealed from. It further claims that the trial court did not merely implement the dispositive portion of the decision in G.R. No. L-26936 but that, in declaring private respondents as vested with a better right to the issuance of a writ of execution, such order assumed the character of finality as to properly be the subject of an appeal. This contention is untenable.

It is too well-known and settled a doctrine that when a final and executory judgment of a higher court is returned

to the lower court, the only function of the latter is the ministerial act of issuing the order for the executory process specified therein. The lower court cannot vary the mandate of the superior court or reexamine it for any other purpose other than execution; much less may it review the same upon any matter decided on appeal or error apparent; nor intermeddle with it further than to settle so much as has been demanded.[24]

What the trial court actually did in issuing the writ of execution was merely to implement the dispositive portion of the decision in G.R. No. L-26936. Obviously, it could not act otherwise; it merely had the ministerial duty of issuing the corresponding writ of execution.

There is, therefore, no cogency to the claim of petitioner that in granting the writ of execution the trial court also ruled on the alleged conflicting claims of petitioner and private respondents as to who was entitled to the avails of the writ. The dispositive portion of the decision in G.R. No. L-26936 is so clearly worded as to leave no room for interpretation. Ingenious but specious arguments cannot be allowed to create an amphibology where there is none.

Consequently, petitioner cannot expect the trial court to amend said dispositive portion in accordance with the former's interpretation of the compromise agreement. If, as petitioner argues, the dispositive portion of said decision is indeed ambiguous, it should have seasonably filed the corresponding motion for reconsideration or an appropriate pleading with this Court after service on it of the decision. To repeat, petitioner cannot now correct the alleged ambiguity, assuming it exists, by imposing upon the lower court the impossible task of amending this Court's decision to conform with petitioner's submitted interpretation thereof.

It is basic that the only portion of the decision that becomes the subject of execution is that ordained in the dispositive portion. Whatever may be found in the body of the decision can only be considered as part of the reasons or conclusions of the court and while they may serve as guide or enlightenment to determine the ratio decidendi, what is controlling is what appears in the dispositive part of the decision.[25]

In *De Guzman, et al. vs. Court of Appeals, et al.*, [26] We held that:

"It is a settled rule that an order of execution of judgment is not appealable. However, where such order of execution in the opinion of the defeated party varies the terms of the judgment and does not conform to the essence thereof, or when the terms of the judgment are not clear and there is room for interpretation and the interpretation given by the trial court as contained in its order of execution is wrong in the opinion of the defeated party, the latter should be allowed to appeal from said order so that the Appellate Tribunal may pass upon the legality and correctness of said order."

Petitioner's case, however, decidedly does not fall within the ambit of the exclusionary clause, hence, the general rule applies.

3. Petitioner's third assignment of error persists in its claim that the lower court erred in not following the terms of the compromise agreement.

As earlier stated, any supposed ambiguity in the decision of this Court in G.R. No. L-26936 should have properly been the subject of a timely motion for reconsideration or clarification. As it is, judgment therein having become final and executory, petitioner cannot collaterally assail the enforceability of such decision by questioning the validity of the writ of execution issued pursuant thereto.

Additionally, whatever rights private respondents may have assigned to herein petitioner under the compromise agreement have finally been passed upon by this Court when judgment was rendered ordering Better Living, Inc. to pay the adjudged amount specifically to herein private respondents, without giving due course to all the proposals in the aforesaid "Joint Motion for Judgment and Termination of the Case" filed by petitioner and Better Living, Inc. The fact that this Court did not grant petitioner's prayer for the particular relief it now claims is

equivalent to a finding that petitioner's stance is not meritorious. Inexorably, the lower court cannot rule otherwise on petitioner's claim.

As correctly held by the trial court, and quoted with approval by the Court of Appeals:

"What is before this Court for implementation and execution is the decision of the Supreme Court and not the Compromise Agreement averted to by the defendants for the compromise agreement is merely part of the premises upon which the conclusion of the Supreme Court set out in the dispositive portion of the decision was based. x x x

xxx xxx xxx

"From the specific wordings of the above-quoted dispositive portion of the decision, it is clear and does not leave any room for doubt that Tropical Homes, Inc. is the only one, by reason of the compromise agreement entered into between it and the plaintiffs, which 'is relieved from further liability to the plaintiffs' but 'sentences Better Living Inc. to pay plaintiffs the sum of P251,000.00 with legal interest from the filing of the complaint and attorney's fees in the amount of P10,000.00'. This decision was rendered despite, according to plaintiffs, and which is confirmed by the defendants, their 'Joint Motion for Judgment and Termination of the Case' dated August 27, 1975 filed with the Supreme Court, *supra*. Since it is clear from the wordings of the dispositive portion of the decision that it does not give formal sanction to their foregoing motion, they could have filed a motion for reconsideration of the decision at the outset by specifically calling attention to the terms and conditions of the compromise agreement but which they did not do. So that for them to remain silent and then come to this court now to ask to implement the decision in accordance with their own interpretation is rather a late maneuver on the part of the defendant for the function of this court in this regard is merely ministerial." x x x[27]

On the foregoing considerations, We find it unnecessary to pass upon the other contentions and submissions of petitioner.

WHEREFORE, finding no reversible error in the questioned orders of the lower court, the instant petition is hereby DENIED. The temporary restraining order issued pursuant to the Court's Resolution of February 27, 1980 is hereby LIFTED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Annex D, Petition; Rollo, 112.

[2] Annex G, *ibid.*; *ibid.*, 125.

[3] Rollo, 108.

[4] *Ibid.*, 114.

[5] Petition, 2; Rollo, 9.

[6] Petition, 2-3; Rollo, 9-10; 172-174.

[7] Petition, 3-4; Rollo, 10-11, 42-44.

[8] Rollo, 71-72.

[9] *Ibid.*, 53-54.

[10] Ibid., 56-58.

[11] Rollo, 74-75.

[12] Ibid., 104.

[13] Ibid., 106.

[14] Ibid., 191-198; Justice Nestor B. Alampay, ponente, with Justices Luis B. Reyes and Jorge R. Coquia, concurring.

[15] Ibid., 199.

[16] Brief for Petitioner, 9-10; Rollo, 235.

[17] Brief for Respondent, 20-29; Rollo, 261-270.

[18] Decision, 1; Rollo, 191.

[19] Rollo, 193-197.

[20] Facundo, et al. vs. Pabalan, et al., 4 SRCA 375 (1962).

[21] Municipality of Orion vs. Concha, et al., 50 Phil. 679 (1927); 4 C.J. 1184.

[22] Alling vs. Wenzel, 133 Ill. 264-278; 4 C.J. 1206.

[23] Director of Lands, et al. vs. Reyes, et al., jointly decided with Alinsunurin, etc. vs. Director of Lands, et al., 69 SCRA 415 (1976).

[24] Luna, et al. vs. Intermediate Appellate Court, et al., 137 SCRA 7, 15 (1985); Buenaventura vs. Garcia, et al., 78 Phil. 759 (1947); Philippine Trust Co. vs. Santamaria, et al., 53 Phil. 463 (1929).

[25] Francisco, The Revised Rules of Court in the Philippines, Vol. II 1966 Ed., 594, citing Edwards, et al. vs. Arce, et al., 52 O.G. 2537; Jabon, et al. vs. Alo, et al., 91 Phil. 750 (1952).

[26] 137 SCRA 730, 736 (1985), citing Manaois-Salanga vs. Natividad, 107 Phil. 268 (1960).

[27] Rollo, 75, 196.

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