

**GRACIANO B. VALLES, DOMINADOR TINGZON, EUFEMIA
MARDOQUIO, NAZARIO ORTEGA, EPIFANIO BELLO, GERARDO
TINGZON AND TERESITA TINGZON, PETITIONERS, VS. THE
HONORABLE COURT OF FIRST INS...**

G.R. No. 61297. August 28, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The only issue raised by petitioners in this case is whether or not a case which was resolved on the merits in a decision which has become final and executory and which was duly executed can still be remanded by the trial court to the Department of Agrarian Relations (DAR) for a preliminary determination of the relationship of the parties and if the case is proper for trial in court.

Civil Case No. 5379 originated as a claim of ownership by petitioners and for the ejectment of private respondents and several others from a parcel of residential land of about 31,000 square meters. Private respondents appear to have been allowed to build their house thereon by petitioners but failed to continue the payment of rentals thereof.

After the issues were joined by an answer with counterclaim; a motion for judgment on the pleadings and a motion to dismiss, which were both denied: an ocular inspection and report by the Supervising Land Examiner of Catbalogan, Samar wherein it was found that the portion occupied by private respondents belong to the petitioners and is not part of the foreshore area as claimed by them: a motion for summary judgment; and a compromise agreement signed by the parties; the trial court promulgated its decision on December 21, 1979,[1] the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing premises, the Court hereby renders a summary judgment in favor of the plaintiffs and against the defendants Teodoro Jimenez, Victorio Bucatcat, Rodrigo Ariego, Eugenio Matarum who are ordered to pay the monthly rentals to the plaintiffs in accordance with paragraph 3 of the compromise agreement while Sixto Ilo, Daniel Capiz, Rufino Langgao, Zosimo Arraz and Marcelino Cabahug are ordered to pay the amount of P5.00 representing the monthly rentals from their occupancy of the land respectively to the plaintiffs and all the aforementioned defendants are ordered to vacate the land occupied by them, with costs against the defendants.

SO ORDERED."[2]

The decision became final and executory and a motion for execution of judgment was granted by the court.[3] There was a subsequent motion for an alias writ of execution which was likewise granted by the court.[4] Private respondents thus vacated the property.

On October 22, 1981, because of alleged contumacious defiance of private respondents by their re-entering the land, a motion to declare them in contempt of court was filed.[5] Private respondents, through their counsel from the office of the Ministry of Agrarian Reform (MAR), filed a motion in the contempt proceedings praying for the

referral of Civil Case No. 5379 to the District Office No. 27 of the MAR in Catbalogan, Samar, pursuant to Presidential Decree No. 316 and its implementing rules and regulations for preliminary determination of the relationship of the contending parties and for a certification as to whether or not the case is proper for trial by the court.

Notwithstanding an opposition to the motion for referral, the respondent trial court issued an order dated March 31, 1982 referring the case to the MAR. A motion for reconsideration of the said order filed by petitioner was denied in an order dated May 5, 1982.

Hence, this petition wherein petitioners allege --

"I

THAT THE RESPONDENT COURT HAS ORDERED THE REFERRAL OF THIS CASE TO THE MINISTRY OF AGRARIAN REFORM LONG AFTER THE DECISION HAS BECOME FINAL AND EXECUTORY, WHEN NO ISSUE OF TENANCY WAS RAISED BY THE DEFENDANTS DURING THE PROCEEDINGS IN THE COURT A QUO, A PROCEDURE CONTRARY TO ESTABLISHED JURISPRUDENCE.

II

THAT THE RESPONDENT COURT HAS GRANTED EX-PARTE THE MOTION FOR REFERRAL OF PRIVATE RESPONDENTS IN VIOLATION OF ESTABLISHED PROCEDURE IN THE REVISED RULES OF COURT."[6]

The petition is impressed with merit.

It is crystal clear that Civil Case No. 5379 on the question of ownership and possession was terminated by a decision that became final and executory and which was duly executed. It is after the execution of that decision when private respondents allegedly committed contempt of court by re-entering the land already vacated by them. At that stage of the proceedings, the public respondent had no more jurisdiction to reopen the question of ownership and possession of the contested land.

Moreover, private respondents never claimed they were the agricultural tenants of petitioners in the main case. In a compromise agreement, private respondents Jimenez, Ariego and Matarum acknowledged ownership of petitioners of the portions occupied by them, while private respondents Ilo, Cabahug, Langgao and Bucatcat were also found by the court a quo to have occupied part of the property of petitioners.[7]

Civil Case No. 5379 cannot be reviewed or reopened on the merits because *res judicata* had already set in. The trial court may have jurisdiction over the contempt proceedings because the incident arose out of the execution of a final and executory judgment, but certainly the trial court cannot reopen a case already decided by final judgment, otherwise there will be no end to litigations.

The purpose of private respondents to delay the execution became very obvious by their move to refer the decided case to the MAR for further determination. The attorney who counseled them to do so and the trial judge should have known that the referral of a case for preliminary determination to the MAR refers to pending agrarian or civil cases or those pending decision or execution where the issue of actual tenancy is raised.[8] And even if the said issue was properly raised a case that was terminated and duly executed cannot be reopened much less referred to such administrative body as the MAR (now DAR) for a preliminary determination of the relationship of the parties and a certification if the case is proper for trial in court.

In this case, as above observed, the issue of tenancy was never put forward by private respondents. Indeed, the final judgment had already been executed.

WHEREFORE and by reason of the foregoing, the Petition is GRANTED. The questioned orders of the trial court dated March 31, 1982 and May 5, 1982 are set aside. The trial court is directed to continue with the contempt proceedings against private respondents.

This Decision is immediately executory.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 59 to 66, Rollo.

[2] Page 66, Rollo.

[3] Pages 67 to 75, Rollo.

[4] Pages 76 to 83, Rollo.

[5] Pages 84 to 85, Rollo.

[6] Page 19, Rollo.

[7] See decision of the trial court at pages 59 to 66, Rollo.

[8] Memorandum Circular No. 29 of the Department of Agrarian Reform implementing P.D. Nos. 316 and 27.

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