

PROVINCIAL GOVERNMENT OF SORSOGON, PETITIONER, VS. ROSA E. VDA. DE VILLAROYA, ET AL., GODOFREDO VILLAROYA, ET. AL., AURORA VILLAROYA, ET. AL., AND NICOLAS GALING, PRESIDING JU...

G.R. No. 64037. August 27, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The main issue in this petition centers on the manner of execution of the final judgment of the then Court of First Instance of Sorsogon in Civil Case No. 50 for recovery of real property.

The subject matter of Civil Case No. 50 was a 16,500 square meter lot occupied by the Gubat High School and developed as its athletic ground.

On March 28, 1974, the lower court promulgated a decision in the recovery of real property case in favor of the plaintiffs and intervenors, the private respondents herein, and against the defendant, the petitioner herein. The dispositive portion of the decision reads:

"WHEREFORE, the Court hereby renders judgment: (a) declaring the plaintiffs and the two sets of intervenors, the owners of the land in litigation indicated in the sketch plan (Exhibits "A" and "A-I"); (b) ordering the Province of Sorsogon to pay to the plaintiffs and intervenors the sum of Forty-Nine Thousand Five Hundred (P49,500.00) Pesos representing the value of the land at P3.30 per square meter, within one (1) year from receipt of this Decision, or in alternative, if the said defendant fails to pay, the plaintiffs and intervenors within the period granted, then the defendant Province of Sorsogon is hereby ordered to vacate the land in litigation and deliver the same to the plaintiffs and intervenors; (c) ordering the plaintiffs and intervenors to execute a conveyance in favor of the defendant Province of Sorsogon over the land in litigation upon payment of the value of the land; (d) ordering a division of the amount of P49,500.00 representing the value of the land on a two-to-one (2 to 1) basis, or two shares each for the acknowledged natural children, or if the defendant shall fail to pay to the plaintiffs and intervenors the amount representing the value of the land on the same ratio of two-to-one (2 to 1), and each heir entitled to take possession of his/her share - should the heirs so desire, they may avail of the services of a surveyor for purposes of an accurate partition of the land on a proportionate sharing of the survey expenses; and (e) dismissing the complaint as to the defendant Municipality of Gubat. With costs against the defendant Province of Sorsogon." (Rollo, p. 2)

The decision became final and executory.

Shortly afterwards, the petitioner manifested its willingness to pay to the private respondents the value of the subject parcels of land as mandated in the court's decision. On September 13, 1974, the Provincial Board of Sorsogon enacted Resolution No. 340 appropriating the amount of P49,500.00 for the payment of the subject parcel of land. (p. 44, Rollo)

In turn, the writs of execution issued by the lower court ordered the petitioner to pay P49,500.00 to the private

respondents. However, the writ of execution issued on July 27, 1975 and the alias writ of execution issued on November 24, 1975 were returned unsatisfied.

The delay in the payment was caused by the requirements prescribed by the Provincial Auditor before payment could be effected. The private respondents questioned the requirements prompting the Provincial Auditor to refer the matter to the Acting Chairman of the Commission on Audit (COA).

In a 1st indorsement dated October 14, 1975, the Acting Chairman of COA through Raul C. Ferrer, Assistant Manager, Local Government Audit Office wrote the Provincial Auditor stating that the following requirements should be complied with:

- "1. Submission of competent documentation to show ownership of the properties including the covering tax declarations of the same issued in the name of the vendors;
- "2. Submission of evidence that taxes on the properties have been fully paid or that the properties are free from any lien or encumbrance;
- "3. Submission of the corresponding Deed of Sale Of subject properties in favor of the Province of Sorsogon executed by the claimants as basis for payment thereof;
- "4. Submission of the corresponding sketch plan of the portions, being sold, which should be attached to and made an integral part of the Deed of Sale;
- "5. Submission of a copy of the Provincial Board resolution appropriating the amount of P49,500.00 for payment of the land; and
- "6. Submission of the certificate as to the availability of funds to cover the total consideration." (Rollo, p. 137).

In an order dated August 24, 1977, the lower court through then Presiding Judge Aquilino Bonto ordered the private respondents to comply with the requirements set up by the COA. The lower court stated that the requirements were made purely in consonance with auditing rules and regulations and were not a whim or caprice designed to cause a protracted delay in the actual payment. Moreover, the lower court stated that the requirements were not beyond compliance considering that some of the required documents were available in the records of the case.

Notwithstanding the private respondents' compliance with the stated requirements, no payment was effected by the petitioner.

Instead, in a 2nd Indorsement dated January 15, 1980 the COA imposed additional requirements to wit:

"RE: Three (3) Deeds of Quitclaim and Conveyance of Real Property executed by Rosita, Rosa and Clemente, all surnamed Villaroya, respectively, in favor of the Province of Sorsogon.

2nd Indorsement

January 15, 1980

Respectfully returned to the Regional Director, COA Regional Office No. V, Legaspi City, requesting that the following requirement be caused to be complied with:

1. Consolidation of the herein three (3) Deeds of Quitclaim and Conveyance by all the claimants into one (1) agreement in order to facilitate processing thereof and for reasons of economy; and
2. Submission of a certificate of availability of funds, duly verified by the Auditor concerned, indicating the particular source and nature of the funds to be used in the within transaction." (Rollo, p. 119)

Upon representations of the Provincial Auditor and the COA Regional Director, the requirement regarding the consolidation of quitclaim was abandoned by the COA. The COA Regional Director, in a 3rd Indorsement dated October 28, 1980 forwarded the required certificate of availability of funds duly verified by the Provincial Auditor.

Despite all these efforts, the private respondents waited in vain for the payment of the subject parcels of land.

In a 5th Indorsement dated November 5, 1980, the COA Director informed the Provincial Auditor, of a 4[th] Indorsement dated October 30, 1980 from the COA General Counsel "Allowing payment thereof, subject to the availability of funds and the usual audit, provided that the Deed of Conveyance and the affidavit of quitclaim are registered with the Register of Deeds and that steps are taken to have the corresponding title issued in the name of the Municipality free from all liens and encumbrances." (p. 122, Rollo, Emphasis supplied)

The last requirement was an additional and a new requirement imposed on the private respondents.

This was the last straw. The private respondents (plaintiffs) in the belief that the petitioner was not serious in paying for the parcel of land it had acquired, took possession of some portions of the land, using the decision as basis for their action.

When the petitioner tried to disturb the respondents' possession of the land they had re-entered, the latter, on July 15, 1982, filed a "MOTION TO RESTRAIN INTERFERENCE BY DEFENDANTS WITH POSSESSION OF PLAINTIFFS" before the lower court.

In their Comment to the Motion, the private respondents-intervenors manifested that the status quo in this case should be observed, namely, that the parcel of land remains in the possession of the petitioner but conditioned on the payment by the petitioner of the value of the land; provided however, that in the event that the petitioner fails to pay, the definite shares in the property of each heir should first be determined before the possession is delivered to the plaintiffs and intervenors.

The petitioner filed an Opposition to the Motion and at the same time filed a "Motion to Order the plaintiffs to file their claim with the office of the Provincial Auditor."

In an Order dated October 7, 1982, the lower court through Presiding Judge Nicolas Galing granted the private respondents' Motion. The dispositive portion of the Order reads:

"WHEREFORE, the defendants are hereby restrained from interfering with the possession of the property in question by the plaintiffs and the intervenors who are hereby required to cause a partition thereof on a two-to-one basis as stated in the decision." (Rollo, p. 69).

The petitioner questions the jurisdiction of the lower court to act on the motion to restrain filed by the private respondents. It cites two grounds: (1) by virtue of the finality of judgment, the lower court no longer had jurisdiction to rule on said motion; and (2) the decision having become final in 1974 and not having been enforced for almost eight (8) years due to the fault of the private respondents, it had already become dormant; hence it can no longer be enforced by a mere motion but requires an independent action pursuant to section 6, Rule 39 of the Revised Rules of Court.

These arguments are not well-taken.

At the time the private respondents filed the questioned motion, the judgment in Civil Case No. 50 was yet to be executed. In fact, the motion entitled "A MOTION TO RESTRAIN INTERFERENCE BY DEFENDANTS WITH POSSESSION OF PLAINTIFFS" was precisely intended to enforce the judgment. Hence, the lower court at this stage of the proceedings was not yet divested of its jurisdiction over the case. In the case of *Cabrias v. Adil*

(135 SCRA 354) we ruled:

"x x x every court having jurisdiction to render a particular judgement has inherent power and authority to enforce it, and to exercise equitable control over such enforcement. The Court has authority to inquire whether its judgment has been executed, and will remove obstructions to the enforcement thereof. Such authority extends not only to such orders and such writs as may be necessary to carry out the judgment into effect and render it binding and operative, but also to such orders as may be necessary to prevent an improper enforcement of the judgment. If a judgment is sought to be perverted and made the medium of consummating a wrong the court on proper application can prevent it. (31 Am. Jur., Judgments, Sec. 882, pp. 363-364)"

In the eight (8) years that elapsed from the time the judgment became final until the filing of the restraining motion by the private respondents, the judgment never became dormant. Section 6, Rule 39 of the Revised Rules of Court does not apply.

We have outlined in detail the incidents which transpired from the issuance of the writ of execution to the filing by the private respondents of the restraining motion with the lower court. The records indicate that the delay in the execution of the judgment, more specifically, in the payments of the land by the petitioner to the private respondents was due to the piecemeal requirements imposed by the COA as condition for effecting payment.

When the alias writ of execution was returned, the accompanying report stated that the parties had chosen to await the opinion of the COA in connection with the additional requirements questioned by the private respondents. In fact, in the return of service of the writ of execution, the Deputy Sheriff reported that on two occasions in the Office of the Provincial Auditor, the latter in the presence of a board member and the board secretary verbally told him to await the opinion of the COA. This controversy reached the court. Upon order of the court, the private respondents complied with the requirements imposed by the COA. However, after complying with these requirements, more requirements were imposed anew by the COA. This necessarily prolonged the already delayed payment by the petitioner. All these delays transpired between November 24, 1975, when the alias writ of execution was issued, until 1980 when the COA through the Provincial Auditor imposed another requirement upon the private respondents before payments could be released to them.

It was the new condition requiring the private respondents "to take steps to have the corresponding title issued in the municipality, free from all liens and encumbrances" which impelled them to conclude that the petitioner was not serious in paying and which led them to take possession of some portions of the subject parcel of land pursuant, according to them, to the terms of the judgment.

Was the petitioners' restraining motion filed within the 5-year period to execute judgment by motion pursuant to Section 6, Rule 39 of the Revised Rules of Court?

We rule that under the circumstances of this case, the delays occasioned by the controversy over the auditor's requirements before payment could be effected should not be included in computing the 5-year period to execute a judgment by motion. The delays were through no fault of the private respondents.

Excluding, therefore the period between 1975 and 1980, the restraining motion filed by the petitioner on July 15, 1982 was well within the 5-year period to execute a judgment by motion. This conclusion is in consonance with our ruling in *Republic v. Court of Appeals*, (137 SCRA 220) citing the earlier cases of *Bien v. Sunga*, 117 SCRA 249; *Potenciano v. Hon. Mariano*, [96 SCRA 463] and *Lanchita v. Magbanua* (117 SCRA 39). We ruled that:

"In computing the time limited for suing out an execution, although there is authority to the contrary, the general rule is that there should not be included the time when execution is stayed, either by agreement of the parties for a definite time, by injunction, by the taking of an appeal or writ of error so as to operate as a supersedeas, by the death of a party, or otherwise. Any interruption or delay occasioned by the debtor will

extend the time within which the writ may be issued without scire facias." (at pp. 227-228).

We, however, agree with the petitioner that the procedure undertaken by the private respondents (plaintiffs) in executing the judgment which was condoned by the lower court is not sanctioned by law.

When, on the basis of successive new requirements imposed on them, the private respondents "lost hope" that the petitioner would ever pay them, they should have filed a motion to declare the petitioner in default of payment and asked for an alias writ of execution for the enforcement of the other alternative found in the judgment. The decision states that after the failure of the petitioner to pay within one (1) year from receipt of the decision, the petitioner is ordered to vacate the land in litigation and deliver the same to the plaintiffs and intervenors after which the subject land would be partitioned among them on the ratio of 2 to 1.

Another option which the private respondents could have taken when the COA issued another new requirement to take steps in titling the subject parcel of land in the name of the petitioner was to file a motion to declare such requirement unreasonable. It must be noted that the judgment only ordered the respondents to execute a conveyance in favor of the Province of Sorsogon upon payment of the value of the land. It was the problem of Sorsogon to have the title registered in its name.

Whatever feelings they had against the petitioner in relation to the shabby treatment accorded them by the COA cannot justify the respondents taking the law into their hands and taking possession of some portions of the subject parcel of land, much less allowing third persons to occupy the property.

Consequently, the lower court's questioned Order granting the restraining motion of the private respondents, the end result of which was the execution of the judgment, appears to be improper and irregular.

At the same time, we cannot blame the private respondents for their drastic action. As aptly summarized by the lower court:

"x x x a writ of execution was issued on July 21, 1975, upon motion of plaintiffs, but said writ was returned unsatisfied, although with the report that the parties had chosen to await the opinion of the Commission on Audit. Even so, the plaintiffs exerted efforts to comply with the requirements which were allowed by the court. Be that as it may, additional requirements were imposed one after the other to the extent of asking for absurd, (sic) i.e., 'to have the corresponding title issued in the name of the Municipality, free from all liens and encumbrances.' This was in the later part of 1980, or more than six (6) years after defendant province's receipt of the decision by which it was ordered to effect payment within one (1) year only from said receipt. Clearly, we have here an instance of a suitor who, instead of wooing his hearthrob, would rather dictate his wish to the latter in pursuing his interest. He would rather impose upon the object of his concern such terms and conditions that would suit him, even if in so doing time inexorably marches on against his favor. Certainly, this cannot be allowed to remain unreined.

It should be noted that the last communication the defendant province admits to have knowledge of relative to this matter is an indorsement to the General Counsel of the Commission on Audit dated October 27, 1980. Yet, it never bothered to follow this up with an inquiry as to the action that was taken thereon. On the contrary, it blames the plaintiffs for its non-receipt of any reply thereto. This supine attitude is hardly in keeping with human experience relative to the exercise of one's duty to protect his interest. Here the defendant province harps on its allegation that the land at issue involves public interest. This being so, it should have helped facilitate the approval of the vouchers, considering that it has the bounded (sic) duty to uphold and protect public interest. This the defendant never did, despite the time element that it had to meet inasmuch as item (b) in the above-quoted dispositive portion of the decision expressly states that payment was to be made within one (1) year from receipt, in failure of which said defendant had to vacate and deliver the land to the prevailing parties. This alternative should have alerted the defendant to take the necessary steps to comply with the

decision if only to preserve its prior right and thus uphold public interest. It opted, on the other hand, to reverse its side of the coin and place the obligation on the plaintiffs' shoulders." (Rollo, pp. 66-67).

The complaint in the instant case was filed on March 30, 1957. It was only on March, 1974 or seventeen years later that a decision was promulgated. When the the private respondents expected the payment of the value of their land occupied by the Gubat High School, they still were unable to collect such payment eight years after the promulgation of the decision.

For these reasons and in the interest of justice, we resolve the remaining issue and facilitate the execution of the final judgment in Civil Case No. 50. Hence, we declare as unreasonable the additional requirement charging the private respondents with the duty to have the corresponding title issued in the name of the municipality free from all liens and encumbrances as a condition before the release of the payment for the value of the land. The dispositive portion of the decision explicitly states that in case the petitioner favors payment of the value of the land, the private respondents are ordered to execute a conveyance in favor of the petitioner. The respondents have complied with all the requirements originally imposed by COA. The petitioner cannot, therefore, deny payment to the private respondents.

This case is a classic example of a common problem besetting hapless citizens in varying degrees. Because of insistent but distorted application of administrative rules and regulations, persons dealing with government are often placed in unfair predicaments which require needless expenditure of their time, money, and patience.

The petitioners have been waiting for more than thirty years to be paid for their land which was taken for use as a public high school. As a matter of fair procedure, it is the duty of the Government, whenever it takes property from private persons against their will, to supply all required documentation and facilitate payment of just compensation. The imposition of unreasonable requirements and vexatious delays before effecting payment is not only galling and arbitrary but a rich source of discontent with government. There should be some kind of swift and effective recourse against unfeeling and uncaring acts of middle or lower level bureaucrats.

Under ordinary circumstances, immediate return to the owners of the unpaid property is the obvious remedy. In cases where land is taken for public use, public interest however, must, be considered. The children of Gubat, Sorsogon have been using the disputed land as their high school athletic grounds for thirty years.

In the execution of this decision, the Provincial Government of Sorsogon is expected to immediately pay as directed. Should any further delays be encountered, the trial court is directed to seize any of the patrimonial property or cash savings of the province in the amount necessary to implement this decision.

WHEREFORE, the questioned order of the then Court of First Instance of Sorsogon is SET ASIDE. The original judgment dated March 28, 1974 is REINSTATED. The Regional Trial Court of Sorsogon is ordered to immediately execute the final judgment in Civil Case No. 50 and effect payment of the P49,500.00 with interests at the legal rate from March 27, 1975. The court is further ordered to restore possession to the Gubat High School of any portion of the disputed property which was taken away from it.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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