

ARTURO Q. SALIENTES, PETITIONER, VS. THE INTERMEDIATE APPELLATE COURT, EDGARDO ONGSIAKO, JOSEPH ONGSIAKO, ERLINDA ONGSIAKO, CARMELITA ONGSIAKO, RODOLFO ONGSIAKO, CARLOS LEGASPI,...

G.R. No. 66211. July 14, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

The petition in G.R. No. 66211 seeks to set aside the Decision of the Court of Appeals in CA-G.R. SP No. 12683, which nullified the Orders dated March 20, 1981 and May 9, 1981 of the Court of First Instance of Rizal, Branch XII, in Civil Case No. C-8682 (now Regional Trial Court, Branch 70, Kaloocan City). The said orders denied the motion to dismiss the complaint in said civil case.

On April 26, 1984, Encarnacion Cruz and 40 other individuals filed a motion to intervene in G.R. No. 66211, claiming to be the recipients of contracts to sell different parcels of land subject of the decision of the Court of Appeals in CA-G.R. SP No. 12683 but who were being harassed by ejectment suits by private respondents (Rollo, pp. 124--132). In a resolution dated May 21, 1984, movants were allowed to intervene (Rollo, p. 133).

The petition in G.R. Nos. 70528-35 seeks to set aside the Decision of the Court of Appeals in CA-G.R. SP Nos. 05514-05521, which affirmed the order of demolition issued by the Regional Trial Court, Kaloocan City and denied the petition to prohibit said trial court from conducting further proceedings in Civil Cases Nos. C-7360, C-7364 and C-7839 to C-7842.

The intervenors in G.R. No. 66211 are likewise the petitioners in G.R. Nos. 70528-35.

The two petitions were consolidated inasmuch as they involved the recovery of the same property.

I

G.R. No. 66211

In September 1980, Arturo Q. Salientes filed a complaint in Civil Case No. C-8682 for annulment of the titles of private respondents in the Court of First Instance of Rizal, Branch XII, Caloocan City (now Regional Trial Court, Branch 70, Kaloocan City). Salientes instituted the action in his capacity as the receiver appointed on April 18, 1980 in Civil Case No. C-424 of the same court "to administer, preserve and protect" all the parcels of land covered by OCT Nos. 982-985 and 994 (Rollo, p. 100). The complaint alleged, inter alia, that said trial court in a decision dated December 29, 1965 in Civil Case No. C-424, declared the lands covered by OCT Nos. 982-985 and 994 and known as the Maysilo Estate in Caloocan City (now Kaloocan City), to be the common property of Isabel Gil de Sola and several co-owners; that no portion of the Maysilo Estate had been alienated to anybody, much less to private respondents; and that Transfer Certificates of Title (TCT) Nos. 26136, 26137, 26138, 26139, 26140, 56626, 57358, 55525, 57498, 56640, 57427 and 57048 of Register of Deeds of Caloocan City issued in the names

of private respondents covered lots within the Maysilo Estate. The complaint also sought to enjoin private respondents from proceeding with the ejectment cases they filed against the occupants of the lots covered by the titles of private respondents.

Private respondents filed a motion to dismiss the complaint on the grounds of lack of cause of action, *res judicata* and *lis pendens*. They averred that Salientes, not claiming to be the owner of the property subject of the complaint, had no legal interest to protect and that the titles over the lots in question had been adjudicated in their favor by Branch XII of the Court of First Instance of Caloocan City in Civil Cases Nos. 7360, 7364, 7365, 7842 and Branch XXIV of the same Court in Civil Case No. 7849. Said judgments had been affirmed by the Court of Appeals.

On March 20, 1981, the trial court denied the motion to dismiss, stating that the grounds therefor did not appear to be indubitable. Upon the denial of their motion for reconsideration on May 9, 1981, private respondents filed a petition for certiorari with the Court of Appeals (CA-G.R. No. SP 12683).

On November 24, 1983, the Court of Appeals upheld private respondents and reversed the questioned orders of the trial court in Civil Case No. C-8682.

The Court of Appeals stated:

"Private respondent [Arturo Q. Salientes] does not have authority to file the complaint for annulment of title against petitioners [private respondents]. Under Section 2, Rule 3 of the Rules of Court, every action must be prosecuted and defended in the name of the real party in interest. Private respondent does not claim ownership of the lands covered by transfer certificates of title sought to be annulled.

"Neither is private respondent a representative party within the contemplation of Section 3, Rule 3 of the Rules of Court which states that 'A trustee of an express trust, a guardian, executor or administrator, or a party authorized by statute, may sue or be sued without joining the party for whose benefit the action is presented or defended x x x.' We find no specific statute which could be invoked as authority for private respondent as alleged receiver to institute an action to annul the Torrens title issued in the names of petitioners" (Rollo, pp. 31-32).

The Court of Appeals held that there was no legal basis for the trial court to appoint petitioner as receiver under Section 1, Rule 59 of the Revised Rules of Court because the land registered in the names of private respondents are not the subject of litigation (Rollo, pp. 31-33).

Furthermore, the Court of Appeals held:

"Incidentally, it is exceedingly strange that private respondent [Arturo G. Salientes] has not been able to attach to the complaint for annulment of title a copy of his authority as receiver. Many pleadings had been filed before the lower court before the present petition was ventilated to this Court but respondent had failed to give even the slightest hint as to the nature and extent of his authority as a receiver. Nor has he bothered to explain what Civil Case No. C-424, in which he received his appointment, was all about. These circumstances cast serious doubts not only on the genuineness but also on the validity of his appointment as a receiver" (Rollo, pp. 33-34).

Petitioner, however, claims that he has authority to file the complaint for the recovery of the lots in question under Section 7, Rule 59 of the Revised Rules of Court, which empowers a receiver to bring and defend actions in his own name and "to do such acts respecting the property as the court may authorize." Said Section provides:

General powers of receiver.- Subject to the control of the court in which the action is pending, a receiver shall have power to bring and defend, as such, actions in his own name; to take and keep possession of the property in

controversy; to receive rents; to collect debts due to himself as receiver or to the fund, property, estate, person, or corporation of which he is receiver; to compound for and compromise the same; to make transfers; to pay outstanding debts; to divide the money and other property that shall remain among the persons legally entitled to receive the same; and generally to do such acts respecting the property as the court may authorize. But funds in the hands of a receiver may be invested at interest only by order of the court made upon the written consent of all the parties to the action."

In *Cahilo v. Judge De Guzman and La Fuente*, 106 Phil. 520 (1959), interpreting Section 7, Rule 61 of the Rules of Court, which is the progenitor of Section 7, Rule 59 of the Revised Rules of Court, we held that a receiver of a land may be sued by the tenant of said land in that capacity under said Rule, which allowed the receiver to bring and defend actions in such capacity in his own name. A receiver sued in such a capacity cannot claim that the plaintiff must first obtain the permission to do so from the Court having jurisdiction over the receivership proceedings. Under Section 7, Rule 61 of the Rules of Court, "a receiver shall have the power to bring and defend, as such actions in his own name subject to the control of the court in which the action is pending" (*Evans v. Workmen's Compensation Commission and Vda. de Naval*, 111 Phil. 1002 [1961]).

A receiver is a representative of the court appointing him for the purpose of preserving and conserving the property under receivership and preventing its possible destruction or dissipation, if it goes to the possession of another person. In the case at bench, petitioner had to take action to question the right of private respondents in transferring portions of the land covered by O.C.T. No. 994.

The Court of Appeals erred in holding that a receiver is proper only during the pendency of the case in which the appointment of petitioner as a receiver was sought and that any appointment of petitioner as a receiver could not extend beyond December 29, 1965, the date when the decision in Civil Case No. C-424 was rendered (Rollo, p. 33). The Court of Appeals overlooked that even after judgment, a receiver may still be appointed, or if previously appointed, retains certain powers to implement the execution of said judgment.

Section 1, Rule 59 of the Revised Rules of Court, provides:

xxx xxx xxx

"(d) After judgment, to preserve the property during the pendency of an appeal, or to dispose of it according to the judgment, or to aid execution when the execution has been returned unsatisfied or the judgment debtor refuses to apply his property in satisfaction of the judgment, or otherwise to carry the judgment into effect;

(e) Whenever in other cases it appears that the appointment of a receiver is the most convenient and feasible means of preserving, administering, or disposing of the property in litigation."

While under Section 7, Rule 59 of the Revised Rules of Court, the exercise of the general powers of a receiver is specifically made subject "to the control of the court in which action is pending" (Civil Case No. C-424 of Br. XII CFI of Rizal) and the practice is for the receiver to first apply to the court for an order to prosecute an action in the name of persons having the legal right to be defended or redressed, a peculiar circumstance removes the instant case from the ordinary run of cases filed by receivers in their own name.

Salientes was appointed as receiver by the Court of First Instance of Rizal, Branch XII, Kaloocan City now Regional Trial Court, Branch 70, Kaloocan City), to preserve and protect the Maysilo Estate. He filed the action to annul the titles of private respondents (which he claims overlapped portions of the Maysilo Estate) with the Court of First Instance of Rizal and which case was raffled to Branch XII of the same court.

If the said court believed that the action was not proper, it could have dismissed it. Instead of doing so, it denied the motion to dismiss filed by private respondents.

This case was filed in 1980 and the motion to dismiss questioning the right of Salientes to file the action in his capacity as a receiver, was denied in 1981. The protracted appeal from the order of the trial court could have been avoided if the trial court or the Court of Appeals merely ordered the inclusion of the registered owners of the Maysilo Estate in Civil Case No. C-8682, pursuant to Section 8, Rule 3 of the Revised Rules of Court. Under said Rule, persons "who ought to be parties if complete relief is to be accorded as between those already parties, have not been made parties and are subject to the jurisdiction of the Court as to both service of process and venue" may be ordered to appear in the action.

G.R. Nos. 70528-35

In G.R. Nos. 70528-35, the facts of the case as summarized by the Court of Appeals are as follows:

"x x x In the aforesaid cases (AC-G.R. SP No. 05514-05521), judgment was rendered ordering the ejectment of the petitioners from certain lots on General Geronimo and Torres Bugallon Streets in Caloocan City. Upon the finality of the judgments in Case Nos. C-7839 to C-7842, the trial court ordered on October 12, 1983 the issuance of a writ of demolition for the removal of the structures of the petitioners. A similar order was issued in the other cases (Nos. C-7360 to C-7842) on March 16, 1984.

"The demolition order was not enforced as the petitioners filed a petition for certiorari, claiming that there was a pending action in another branch of the trial court, in which the ownership of the lots in question was in issue. The petition was filed with this court which on November 29, 1983 dismissed the petition as nothing but a 'last-ditch effort to stave off the execution of the judgments in the eight civil cases.' The petitioners filed a petition for certiorari with the Supreme Court, but their petition was dismissed on March 5, 1984.

"Following the dismissal of the Supreme Court case, the trial court, on motion of the private respondents, issued another demolition order on January 11, 1985. The dispositive portion of its order reads:

`WHEREFORE, considering that the proceedings in the above-entitled cases, which is summary in nature, have been pending for almost ten years now and it appearing that the decisions and/or resolutions rendered in the above-entitled cases by the Lower and Appellate courts have long become final and executory, the defendants herein and any and all persons claiming rights under them are hereby directed TO VACATE and REMOVE the respective improvements introduced on the premises in question within forty-eight (48) hours from receipt hereof. In the event that the defendants fail to comply with this directive within the aforesaid period. Deputy Sheriff Abraham L. Ramirez of this court is ordered to effect, without delay, the immediate demolition of the improvements introduced on all the premises in question, and thereafter, to surrender the aforesaid premises to the respective plaintiffs in these cases; and to submit the corresponding returns in accordance with the Rules'" (Rollo, pp. 12-13).

The Court of Appeals dismissed the petition, holding that:

"x x x [T]he order of January 11, 1985 is nothing but a reiteration of the order of demolition issued earlier on October 12, 1983. The validity of that order was upheld by this Court in its decision on November 29, 1983 in AC--G.R. Nos. SP-01195-02002. That decision is conclusive between the parties in that case, who are the same parties in this case, not only with respect to the matter directly adjudged in the former case but also as to any other matter that could have been raised in relation thereto. (Rule 39, Sec. 49(b). While that case involved the earlier order of demolition, the fact is that the order now in question is a mere reiteration of the former one which could not be enforced because of the filing of the previous case. It is important to note that the prior order of demolition was issued after hearing held on October 7, 1983 and that in their present petition the petitioners do not state what right they have that they should again be afforded a hearing.

"Nor is there any merit in the claim that the present order cannot be issued without first giving the petitioners a period within which they should remove their improvements. The order in question provides for a 48-hour period. Demolition would not commence until after the deadline if they still fail to comply with the order.

Indeed, the petitioners have had enough time to comply with the decisions in the ejectment cases. We do not think they can ask for more" (Rollo, pp. 13-14).

The reasons relied upon for the allowance of the petition are:

I

"That the respondent court cannot grant a motion for execution if the decision sought to be executed is more than five (5) years from the time it became final and executory;

II

"That what the respondent court should have done was to require the filing of a separate civil action for revival of judgment, considering that the decision sought to be executed is almost ten years according to the respondent judge and the allegation of the respondents themselves;

III

"That it is not proper for the respondent judge to execute the decision rendered by the metropolitan trial court because ejectment cases, jurisdictionally speaking, belong to the city courts" (Rollo, p. 7).

Petitioners' contentions have no merit.

The demolition order was not enforced as petitioners filed a petition for certiorari, claiming that there was a pending action in another branch of the trial court, in which the ownership of the lots in question was an issue (Rollo, p. 13).

As noted by the Court of Appeals, "the order in question is a mere reiteration of the former one which could not be enforced because of the filing of the previous case" (Rollo, p. 14).

Under Section 6, Rule 39 of the Revised Rules of Court, a judgment may be executed on motion within five years from the date of its entry or from the date it becomes final and executory. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action.

In the case at bench, however, the judgment was never executed since petitioners filed different actions to stave off the execution of said judgment. Petitioners were at fault and consequently caused the delay in the execution of judgment for almost ten years.

It would be an idle ceremony to insist on the filing of a separate action that would only unduly prolong petitioners unlawful retention of the premises which they had, through all devious means, unjustly withheld from private respondents all these years (David v. Ejercito, 71 SCRA 484 [1976]).

In ejectment cases, the rule is explicit in that the judgments must be executed immediately when it is in favor of the plaintiff. This is to prevent further damage to him arising from the loss of possession. The sense of urgency is more pronounced in the instant case where the ejectment in favor of plaintiffs (private respondents herein) was decided in 1983 but the judgments therein were subsequently appealed all the way to the Supreme Court. But the final victory continues to elude the plaintiffs to this day due to the legal maneuvers utilized by the defendants (petitioners herein) to forestall the inevitable (Hualam Construction and Development Corporation v. Court of Appeals, 214 SCRA 612 [1992]).

As to the proper court to issue the writ of execution in an ejectment case, this Court in *Sy v. Romero*, 214 SCRA 187 (1992) clarified that:

"xxx [a]lthough the decision in the ejectment case binds the petitioner, the execution thereof, or the issuance of

the demolition order, falls within the jurisdiction of the City Court, now Metropolitan Trial Court of Kalookan City which rendered the decision in Civil Case No. 13199. In an ejectment case, the appellate court, which affirms a decision brought before it on appeal cannot decree its execution in the guise of an execution of the affirming decision. The only exception to that is when said appellate court grants an execution pending appeal."

WHEREFORE, the petition in G.R. No. 66211 is GRANTED with a MODIFICATION that the registered owners of the property in question be joined as plaintiffs. The petition in G.R. Nos. 70528-35 is DENIED and the Decision of the Court of Appeal in AC-G.R. SP No. 05514-05521 is AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.
Bellosillo, J., on leave.

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