

LUIS SUSON, PETITIONER, VS. COURT OF APPEALS, RAMON AM. TORRES, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH VI, CEBU CITY, AND SPOUSES ISAAC AND LEONCIA SOCO, RESPONDENTS.

G.R. No. 78684. April 12, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

This petition for certiorari is an aftermath of the judgment[1] rendered on 31 August 1978 by the Regional Trial Court of Cebu, Branch VI (respondent court), in Civil Case No. R-14351 entitled, "Cerila Besabella, et al. vs. Isaac Soco and Leoncia Soco." The said case was a complaint for recovery of a portion of Lot 2051, located in Mandaue City, and for quieting of title. The respondent court, after hearing, rendered judgment in favor of therein defendants, now private respondents, the spouses Isaac Soco and Leoncia Soco.

The respondent court's decision of 31 August 1978 was affirmed by the Court of Appeals in a decision[2] rendered on 16 December 1981 in CA-G.R. No. 66007 which became final and executory on 26 January 1982. Consequently, private respondents (as defendants) filed with the respondent court a motion for the issuance of a writ of demolition of the improvements erected by plaintiffs Susons on the subject property. However, at the hearing of said motion for demolition, it surfaced that herein petitioner, Luis Suson, who was not a party to the case, had his house standing on a Portion of the subject lot.

The respondent court thereupon issued an order dated 27 September 1982[3] directing petitioner within ten (10) days to file a complaint in intervention, which petitioner, however, failed to do. For such failure to file the complaint in intervention, the respondent court ordered petitioner on 20 October 1982,[4] to demolish the house within five (5) days from receipt of said order.

Petitioner filed a motion to hold in abeyance compliance with the demolition order. Another order of demolition against petitioner and his two (2) sons (being among the plaintiffs in the case) was issued on 2 December 1982.[5] Petitioner's urgent motion to suspend the writ was denied. Similarly, plaintiffs' motion for relief from judgment in said Civil Case No. R-14351 was denied by respondent court on 15 November 1982.[6]

Plaintiffs in said Civil Case No. R-14351, joined by herein petitioner Luis Suson, appealed the abovementioned orders of the respondent court to the Court of Appeals, docketed therein as AC-G.R. CV No. 00680. Finding no reversible error on the part of the respondent court, the Court of Appeals on 18 December 1985 affirmed in toto the appealed orders.[7]

In the meantime, or on 1 December 1982, petitioner Luis Suson filed a separate complaint before the Regional Trial Court of Cebu, Branch X, docketed as Civil Case No. R-22651, entitled, "Luis Suson vs. Isaac Soco and Leoncia Soco." [8] The action was for quieting of title to a portion of Lot 2051 which petitioner claims to have purchased from one Ursula Gerebese.

Plaintiffs in Civil Case No. R-14351, including herein petitioner Luis Suson appealed the aforementioned decision of the Court of Appeals in AC-G.R. CV No. 00680 to this Court by certiorari in G.R. No. 74205. The Court resolved on 23 June 1986 to deny the petition for lack of merit. On 8 September 1986, the Court denied with finality petitioner's motion for reconsideration of the resolution of 23 June 1986. Thereafter, by resolution dated 3 December 1986[9] the case was remanded to the Court of Appeals for prompt execution by the proper court.

In compliance with this Court's resolution of 3 December 1986, respondent court, presided over by Judge Ramon Am. Torres, ordered on 23 February 1987 in Civil Case No. R-14351 the issuance of an alias writ of execution.[10] However, upon motion of herein petitioner Luis Suson in Civil Case No. R-22651 (where he was the plaintiff), Judge Leonardo B. Canares of Branch X, RTC of Cebu, issued an order, dated 11 March 1987, restraining the sheriff from enforcing the alias writ of execution issued in Civil Case No. R-14351 by the respondent court against petitioner, until the issues in Civil Case No. R-22651 shall have been resolved.[11] Private respondents thereupon filed before Judge Ramon Am. Torres in Civil Case No. R-14351 a motion to implement the latter's order of 23 February 1987. The motion was, however, denied.[12]

In his present recourse, petitioner Suson again challenges the respondent court's aforesated order of demolition directed against him, dated 20 October 1982.

Meanwhile, in Civil Case No. R-22651, Branch X of the Regional Trial Court of Cebu issued an order dated 8 May 1987 dismissing herein petitioner's complaint in said case.[13]

Petitioner then filed with this Court a Supplementary Pleading seeking also relief from said Order dated 8 May 1987 of the Regional Trial Court of Cebu, Branch X, dismissing his complaint in said Civil Case No. R-22651.[14]

The principal issue to be resolved here is whether on not the respondent Regional Trial Court (Branch VI) acted with grave abuse of discretion amounting to lack of jurisdiction, or acted in excess of its jurisdiction, when it issued the order dated 20 October 1982 in Civil Case No. R-14351 ordering petitioner to demolish his house on the questioned lot.

As mentioned earlier in this decision, after the respondent, court found during the hearing of the private respondents' motion for demolition that petitioner had his house erected on the disputed property, the Court ordered the petitioner, who was not a party to the action, to file a complaint in intervention to guide the court in disposing of the motion for execution (demolition). It will be remembered also that the Motion was filed for the execution of the decision dated 31 August 1978 of the respondent court which had become final and executory after appeal had been unsuccessfully taken therefrom by the plaintiffs in the case to the Court of Appeals.

Petitioner contends that when the respondent trial court in Civil Case No. R-14351 ordered him to intervene at the execution stage of its judgment and when, because of his failure to do so, said court ordered his house demolished, this was tantamount to erroneously amending and altering a decision (31 August 1978) that had become final.

We do not agree. It cannot be overlooked that the hearing before the respondent court on the motion for demolition was in connection with the implementation or execution of a final judgment in Civil Case No. R-14351. Petitioner was precisely given an opportunity to intervene in order to guide the court in disposing of private respondents' motion for demolition in the light of petitioner's claim that his house was erected on the disputed lot, and yet, he was not an original party to the action. Petitioner was thus given a chance to raise and prove his claim of ownership over a part of the lot in question, but he ignored such opportunity. He cannot now complain that he was denied due process. "A case in which an execution has been issued is regarded as still

pending so that all proceedings on the execution are proceedings in the suit. There is no question that the court which rendered the judgment has a general supervisory control over its process of execution, and this power carries with it the right to determine every question of fact and law which may be involved in the execution." [15]

Moreover, this Court has already ruled that a writ of execution may be issued against a person not a party to a case where the latter's remedy, which he did not avail of, was to intervene in the case in question involving rights over the same parcel of land. [16]

In fine, the respondent court acted within its power when it issued the Order of 20 October 1982 directing the demolition of petitioner's house after he failed to intervene in the case despite notice to do so. Furthermore, by petitioner's act of joining the plaintiffs in Civil Case No. R-14351, when the latter appealed the respondent court's orders (which included the demolition order dated 20 October 1982) to the Court of Appeals, and later, to this Court, petitioner placed himself within the jurisdiction of the respondent court and thereby bound himself to its judgment and orders.

There is also no dispute that the assailed decision of the respondent court, dated 31 August 1978, had become final and, therefore, its execution cannot be postponed or deferred by the respondent court.

We now come to Civil Case No. R-22651 the separate action filed by petitioner against the private respondents before Branch X of the Regional Trial Court of Cebu. The question to be resolved here is: whether substantially the same evidence presented in the first action, i.e. Civil Case No. R-14351 would support and establish the complaint's cause of action in the second case.

An examination of the record and the arguments proffered by petitioner clearly indicates that no really new substantial issues and evidence in support thereof are raised in the second action. We agree with private respondents that the parties in both actions are the same: [17] the subject matter is the same, i.e. Lot 2051, Plan 11-5121 covered by OCT 562, while the causes of action are basically identical in both actions, such that the second action is barred by prior judgment (in the first action) or *res judicata*. It has been held that:

"Although postulated in a slightly different form, the present action is barred by the final order of dismissal in Case No. 4731, 'since a party can not, by varying his form of action or adopting a different method of presenting his case, escape the effects of *res judicata* (*Cayco v. Cruz*, L-12663, August 21, 1959; *Aguirre v. Atienza*, L-10665, Aug. 30, 1958; *Labarro v. Labitoria*, 54 Phil. 845; *Penolosa v. Tuason*, 22 Phil. 303, 321)'" [18]

In the light of the foregoing, we see no compelling reason to resuscitate issues which have long been laid to rest by discussing them anew. The Regional Trial Court of Cebu, Branch X, acted correctly in dismissing petitioner's complaint in Civil Case No. R-22651.

WHEREFORE, the petition is **DISMISSED**. The Order of the respondent court dated 20 October 1982 is again **AFFIRMED**.

The order of the Regional Trial Court of Cebu, Branch X, dated 8 May 1987, issued in Civil Case No. R-22651 and assailed in the petition at bar through petitioner's "Supplementary Pleading to the Petition for Certiorari" dated 1 June 1987 is also **AFFIRMED**. Costs against petitioner.

This decision is immediately executory.

SO ORDERED.

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

[1] Penned by Judge Rafael T. Mendoza.

[2] Fifth Division, composed of Justices B. S. de la Fuente (ponente), Jorge R. Coquia, and Onofre A. Villaluz.

[3] Annex E, Ibid., p. 66

[4] Annex F, Ibid., p. 67

[5] Rollo, P. 75

[6] Rollo, p. 108

[7] Second Civil Cases Division, composed of Justices Crisolito Pascual, Jose C. Campos, Jr., Serafin Camilon, and Desiderio P. Jurado (ponente).

[8] Annexes J and K, Ibid., pp. 76-84

[9] Annex O, Ibid., p. 99

[10] Rollo, p. 100

[11] Rollo, p. 104

[12] Ibid., p. 105

[13] Ibid., pp. 135-139

[14] Ibid., pp. 130-134

[15] Vda. de Paman vs. Seneris, 115 SCRA 709; Seavan Carrier, Inc. vs. GTI Sportswear Corporation, 137 SCRA 580

[16] Lising vs. Plan. L-50107, 14 November 1984, 133 SCRA 194

[17] Petitioner, while not an original party in Civil Case No. R-14351, joined the plaintiffs in said case and made cause with them before the Court of Appeals and the Supreme Court.

[18] Rasay-Lahoz vs. Leonor, No. L-27388, March 23, 1971, 38 SCRA 48

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