

**ENRIQUE L. S. VILLARUEL, JAVIER B. VILLARUEL, MA. LUISA
VILLARUEL DE LUZURIAGA, ACCOMPANIED BY HER HUSBAND
CLAUDIO R. LUZURIAGA AND TEOFILO PONCE, PETITIONERS, VS.
HON. COURT OF...**

G.R. No. 78827. April 17, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

This case stemmed from an unlawful detainer suit filed before the Municipal Court of Bacolod City, entitled "Enrique Villaruel, et al. v. Domingo Lopez, et al."

As owners of Lots Nos. 23-A, 23-B and 23-C of the Bacolod cadastre, the Villaruels, petitioners herein, leased the same to private respondents, the Lopezes, for ten (10) years, extendible for another ten (10) years, but subject to further agreement on the rate of rentals and other conditions. The lease contract which was executed on 22 June 1955 provided for the lessees' right to construct on the commercial lots a building which the lessors would have the right to buy at the end of the extended lease period. From 1955, monthly rentals were paid by the Lopezes, until September 1965, when the Villaruels requested for the fixing of a new rate of rentals. No negotiation, however, ensued between the parties. In December 1965, the Lopezes paid the amount of P1,800.00, representing rentals for the months of October, November and December 1965. The payment was covered by a temporary receipt. The acceptance of said amount was made subject to a further fixing of the rate of rentals, if the lease contract was to be extended for another ten (10) years. The Lopezes insisted thereafter that by virtue of the lessors' acceptance of the three (3) months' rentals, an extension of the lease for another ten (10) years was impliedly agreed upon. The lessors, claiming otherwise, filed an action to eject the Lopezes from the premises.

The trial court, on 8 September 1967,[1] ruled in favor of the Villaruels. The Lopezes appealed the decision to the Court of First Instance (CFI) of Negros Occidental, docketed therein as Civil Case No. 8319. Finding no contract between the parties which extended the term of the original lease, the CFI declared the defendants Lopezes to be without right to remain in possession of the lots. The decretal part of the 12 July 1968 decision of the CFI is quoted hereunder:[2]

"WHEREFORE, judgment is hereby rendered for the plaintiffs and against the defendants who are hereby ordered:

"1. To vacate Lots Nos. 23-A, 23-B and 23-C, Bacolod Cadastre, within a period of 30 days from receipt of this decision:

"2. To pay the rentals for the 3 lots from Oct. 1965 until the property is finally vacated at the rate of P2,250.00 a month xxx"

On 17 August 1968, a motion for execution pending appeal was granted by the CFI, but execution was restrained by the Court of Appeals (CA) on 10 September 1969 in the appeal filed by the Lopezes to said court, docketed as

CA-G.R. No. 43880-R. The appellate court on 18 December 1969,[3] resolved however to set aside its restraining order. The CA resolution was questioned by the Lopezes in a petition filed before this Court in G.R. No. L-31946. The petition was dismissed,[4] whereupon, the Lopezes went back to the CA on a second motion for reconsideration of its 18 December 1969 resolution; again, said second motion for reconsideration was denied by the CA on 18 February 1972 when the appeal on the merits of the Lopezes was dismissed by the CA. This last dismissal is certified as having become final on 20 March 1972.[5]

Meanwhile, the CFI, upon motion of the Villaruels, issued an alias writ of execution, dated 16 January 1971, to enforce its decision in Civil Case No. 8319,[6] by virtue of which writ, the possession of the disputed three (3) lots and the building thereon, the Floredith Theater, was to be delivered to the Villaruels on 19 January 1971.[7]

However, in another petition dated 13 February 1971 filed by the Lopezes before this Court (G.R. Nos. L-33161-62), their prayer for the issuance of an injunctive writ against the 16 January 1971 writ of execution issued by the CFI, was granted on 5 March 1971. In said petition, the alias writ of execution of 16 January 1971 was assailed by the Lopezes on the main ground that the order to turn over the possession of the theater to the plaintiffs was not included in the 12 July 1968 decision of the CFI. On 26 May 1982, this Court dismissed the petition,[8] a part of the ruling reading as follows:

"x x x, the appeal on the merits of petitioners of the decision in Civil Case No. 8319 was dismissed by the Court of Appeals, has already become final and entry of judgment therein was made on March 29, 1972 yet, and up to this time, petitioners have not been heard on said last mentioned motion of private respondents, thereby giving rise to the presumption that said petitioners have lost interest in this case, the Court Resolved to DISMISS the petition for lack of merit."

From the aforecited ruling, motions for reconsideration were filed but were denied for having been filed late, as entry of judgment had already been made on 4 August 1982.[9]

Accordingly, the plaintiffs (Villaruels) on 23 July 1982 filed a motion for the issuance of another alias writ of execution which was granted on 14 December 1984 by the Regional Trial Court (which had by then replaced the CFI).[10]

Again in another move, the Lopezes filed a complaint for annulment of judgment directly with the Intermediate Appellate Court, docketed as CA-G.R. No. Sp. 07305, questioning therein at the same time the RTC's aforesaid order of 14 December 1984, but the complaint (petition) was dismissed in the 31 October 1985 decision of the appellate court. We quote hereunder a part of the ruling.[11]

"The decision of the CFI which plaintiff now assails was rendered way back on July 12, 1968, or more than 17 years before the present complaint for annulment of judgment was filed."

In still another move, the above ruling was appealed to this Court, in G.R. No. 74162 but the recourse was dismissed on 2 July 1986 for lack of merit.[12]

Finally, the RTC, by order, dated 16 September 1986[13] caused the issuance of another alias writ of execution on 2 October 1986, and the deputy sheriff finally delivered possession of the lots in question to the Villaruels on 6 October 1986.[14]

Even at this point, an "Urgent Motion to Nullify and Set Aside Unlawful Execution" was again filed by the Lopezes, and other parties, alleging that there was nothing in the 12 July 1968 judgment of the CFI ordering the occupants, other than the Lopezes, to be removed from the premises; that the occupants were lessees of the building who were not brought to suit; and that the writ of execution was not served on the defendants Domingo Lopez and Magdalena Jimenez who are already dead.[15] On 25 November 1986, the RTC issued the following

order:

"xxx

"This Court does not see anything unlawful when the execution was done to satisfy a final judgment. xxx. It is the policy of the law that, at some point in time, the case must terminate and to prolong its agony, despite its finality, is in violation of this policy." [16]

Undaunted by the above RTC order, the Lopezes on 26 February 1987 filed a new petition for certiorari before the Court of Appeals docketed as CA-G.R. Sp. No. 11423, again assailing the execution of the 12 July 1968 CFI judgment. Pending outcome of this latest petition, the Provincial Sheriff of Negros Occidental made a report that, on 15 December 1986, plaintiffs Villaruels had demolished the Floredith Building and started the construction of a new building, which was already 60% finished as of 5 March 1987.

The Court of Appeals, on 22 May 1987, promulgated its decision* on the said latest petition of the Lopezes - now the subject of this review - which we, in part, quote: [17]

"Sec. 6, Rule 39, Revised Rules of Court, reads:

'A judgment may be executed on motion within five (5) 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.'

Under the aforecited rule in point, from March 20, 1972, date of entry of the Resolution of the then Court of Appeals in CA-G.R. No. 43880-R, dismissing the appeal from subject decision rendered by the trial court a quo on July 12, 1968, the prevailing party had only five (5) years or until March 20, 1977, within which to move for the execution of such judgment. Thereafter, absent interruption of the running of the said period for execution on motion, respondent court was devoid of authority or jurisdiction to cause the execution of the judgment in question upon just the motion of the interested parties. xxx

"x x x it does not appear here that in the series of petitions and actions brought before the then Court of Appeals, Intermediate Appellate Court, and before the Supreme Court, execution of subject judgment, dated July 12, 1968, in Civil Case No. 8319 below was ever restrained or enjoined by the superior courts.

"x x x We are of the opinion, and so hold, that the challenged alias writ of execution of October 2, 1986, issued pursuant to the order of September 16, 1986, cannot be upheld. Its issuance was tainted with lack of jurisdiction on the part of the issuing court; it having been issued long after the lapse of the prescriptive period for the issuance thereof.

"WHEREFORE, the petition for certiorari is granted and the questioned alias writ of execution, dated October 2, 1986, and all proceedings conducted by virtue thereof are nullified and set aside; and the restraining order of March 2, 1987 is hereby made permanent."

Hence, the present petition of the Villaruels before this Court. The Villaruels allege that the respondent appellate court erred in counting the five (5) year period provided for in Sec. 6, Rule 39 of the Rules of Court from 20 March 1972, the date when the Court of Appeals decision in CA-G.R. No. 43880-R, affirming the CFI judgment, dated 12 July 1968, became final. They contend that said CFI judgment did not become executory on such date (20 March 1972), in view of the effectivity of the injunction issued by this Court on 5 March 1971 in G.R. No. L-33161-62 which was actually lifted only on 26 May 1982. Petitioners submit that the period between 26 May 1982 and the time they moved for the issuance of an alias writ of execution on 23 July 1982, is well within the said 5-year period.

According to petitioners also, to hold that the 6 October 1986 alias writ of execution is barred by prescription is to

give premium to the delaying tactics employed by the private respondents and to ignore all the efforts exerted by the Villaruels to enforce their right to have the judgment in Civil Case No. 8319 executed, as manifested by the numerous motions for execution they had filed.

Private respondents, upon the other hand, support the appellate court's findings that the 1986 execution writ had prescribed and further postulate that since the case is essentially an action for ejectment, Rule 70 (and not only Rule 39) equally governs. Sections 8 & 10 of Rule 70 provide:

"Sec. 8. Immediate execution of judgment. How to stay same. - If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond. xxx to pay the rents, damages, and costs xxx and unless during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time xxx.

"Sec. 10. Stay of execution on appeal to Court of Appeals or Supreme Court. - Where defendant appeals from a judgment of the Court of First Instance, execution of said judgment, with respect to the restoration of possession, shall not be stayed unless the appellant deposits the same amounts and within the periods referred to in section 8 of this rule to be disposed of in the same manner as therein provided."

Following the foregoing provisions, the Lopezes aver that the CFI judgment in the action for unlawful detainer filed by the Villaruels became executory on 17 August 1968, when the CFI granted the Villaruels' motion for execution pending appeal. They conclude that from such date, a period of over six (6) years had elapsed before the questioned 2 October 1986 execution writ was issued, even deducting all the time restraining orders were enforced. Such being the case, they contend that the 2 October 1986 writ should not have been issued upon mere motion of the Villaruels.

We reverse the questioned decision of the Court of Appeals. The respondent appellate court erred in counting the five (5) year period provided for in Section 6, Rule 39 - when judgments may be executed upon mere motion - from 20 March 1972, the date when the CA decision in CA-G.R. No. 43880-R affirming the CFI judgment of 12 July 1968, became final. It missed one important fact that transpired in the case brought before it, i.e. that despite the finality of the CA decision in CA-G.R. No. 43880-R in March 1972, the execution of the 12 July 1968 CFI judgment could not be enforced due to the then still enforced restraining order issued by this Court in G.R. No. L-33161-62 on 5 March 1971, and lifted only on 26 May 1982. The dismissal of the petition filed by the Lopezes in said G.R. No. L-33161-62 became final only on 4 August 1982. It is thus on the latter date only that it may be said that the 1968 CFI judgment became final and executory. Therefore, the October 1986 execution of the said CFI decision, granted upon motion of the Villaruels, is clearly within five (5) years from 4 August 1982.

The five (5) year period provided for by Sec. 6, Rule 39 of the Rules of Court, within which a party may enforce his right to have a judgment in his favor executed by motion, properly commences from the date said judgement becomes final and executory. Section 6, Rule 39 applies to all types of cases, notwithstanding the provisions of Sections 8 and 10 of Rule 70, allowing the immediate execution of judgments in unlawful detainer cases. Rule 70 merely means that, in ejectment cases, execution can be had by mere motion, as a matter of right, after the rendition of the judgment therein and is designed to protect the plaintiff's rights against further illegal dispossession by the defendant therein. This departs from the general rule in ordinary cases that execution can be had only when the case has been disposed of with finality. While the plaintiff in an ejectment case has the right to have the judgment executed even pending appeal, prescription runs against him only upon the finality of the judgment. Sec. 6, Rule 39 clearly states that "A judgment maybe executed on motion within five (5) years from the date of its entry or from the date it becomes final and executory xxx".

Besides, the records of this case show that, as early as 16 January 1971, execution was already ordered for the delivery of possession of the lots and the building to the plaintiffs by virtue of an alias writ of execution of the

same date, which this Court found to be proper in G.R. No. L-33161-62. Therefore, the 6 October 1986 execution, in effect, was merely a reiteration or confirmation of the ordered execution in 1971, the effects of which should not be disturbed. Moreover, the 2 October 1986 alias writ was enforced four (4) days thereafter, and the building on the disputed lots was demolished on 15 December 1986, thereby rendering the respondent appellate court's 22 May 1987 decision moot and academic.

It is obvious that the private respondents have benefited so much by improperly, but successfully, delaying the execution of a 1968 CFI final judgment, to the prejudice of the Villaruels. Despite the expiration of the lease contract in 1965, the Lopezes continued their illegal possession of the lots thru occupants-lessees of the building, thereon, from whom they were collecting rentals, even as they had stopped paying rentals to the Villaruels. The successive appeals, petitions for review and motions for reconsideration, etc. which the Lopezes filed one after another before this Court, the CFI, the RTC and the CA dragged an otherwise simple ejectment case for almost twenty-two (22) years before final execution in 1986 of such 1968 judgment, thus unduly depriving the petitioners of their property rights.

This case now belongs to the ugly part of jurisprudence where the judicial processes have been so unscrupulously abused and re-abused, and where knowledge of procedural rules had been mercilessly employed to defeat the ends of substantial justice. May there be less of its kind.

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals in CA-G.R. SP No. 114423 dated 22 May 1987 is hereby REVERSED and SET ASIDE. With costs against private respondents.

This decision is not only immediately executory: this case is declared CLOSED and TERMINATED.

SO ORDERED.

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

[1] See Annex "B", Appendix "A", Petition, p. 66, Rollo

[2] Ibid.

[3] Annex 2, Appendix "B", Petition p. 114, Rollo

[4] Annex 3, Appendix "B", Petition, p. 115, Rollo

[5] Annex 7, Appendix "B", Petition, p. 124, Rollo

[6] Annex 4, Appendix "B", Petition, p. 120, Rollo

[7] See Annexes A-1 and A-2, Petitioner's Reply, p. 215-A Rollo

[8] Annex 8, Appendix "B", Petition, p. 125, Rollo

[9] Annexes 9 and 10, Appendix "B", Petition, pp. 127-128, Rollo

[10] Annex 11, Appendix "B", Petition, p. 129, Rollo

[11] Annex 12, Appendix "B", Petition, p. 131, Rollo

[12] Annex 19, Appendix "B", Petition, p. 148, Rollo

[13] See Appendix "A", Petition, p. 54, Rollo

[14] Annex 25, Appendix "B", Petition, 160, Rollo

[15] Annex "D", Appendix "A", Petition, p. 77, Rollo

[16] Annex 29, Appendix "B", Petition, p. 170, Rollo.

* Penned by Justice Fidel Purisima and concurred in by Justices Emeterio C. Cui and Nicolas P. Lapena, Jr.

[17] Appendix "G", Petition, p. 181, Rollo

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