

**CRESENCIANA ATUN ESQUIVEL, AND LAMBERTO ESQUIVEL,
PETITIONERS, VS. HON. ANGEL M. ALEGRE, PRESIDING JUDGE,
REGIONAL TRIAL COURT, BRANCH II, 5TH JUDICIAL REGION,
LEGASPI CITY AND ...**

G.R. No. 79425. April 17, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari seeking to set aside, nullify and declare invalid the order of respondent Judge in Civil Case No. 4883, dated July 21, 1987 denying petitioners' motion dated July 3, 1987 and the order of August 6, 1987 denying petitioners' motion for reconsideration of the order of July 21, 1987.

The questioned order of July 21, 1987 (Rollo, p. 10) reads, as follows:

"For utter lack of factual and legal basis, and considering further that this case was already terminated and decided against the plaintiffs-movants by the affirming decision of the Supreme Court, the motion of plaintiffs-movants dated July 3, 1987 is hereby DENIED.

The dispositive portion of the questioned order of August 6, 1987 (Rollo, p. 11) also reads as follows:

"WHEREAS, for lack of merit, the motion for reconsideration is hereby DENIED. This shall be a final Order on the same incident."

The antecedents of the case are taken from G.R. No. L-38826 which was promulgated by the Court on June 27, 1975 (Rollo, p. 46) and are quoted as follows:

"It appears that in the action of ejectment (Civil Case. No. 990 of the City Court of Legaspi City), petitioners secured a judgment ordering respondents to vacate a parcel of land, with an area of 205 square meters situated in Legaspi Port, Legaspi City and known as Lot No. 57 of Plan MSI-V-11535-D of the Cadastral Survey of said City. In said ejectment case, respondents claimed prior and continued possession of the land in question, and with respect to Original Certificate of Title No. 28 of the Register of Deeds of Legaspi City on which petitioners based their action, respondents alleged that the same was secured through fraud. Upon this decision being appealed to the Court of First Instance, the same was affirmed, the court holding that the evidence of prior possession in favor of petitioners was so strong that the action for annulment of petitioner's (Teotimo Alaurin) title (Civil Case No. 4602 filed by the Republic of the Philippines at the instance of respondents) was 'only a mere weak attempt to annul an existing certificate of title in favor of which the presumption of law is clearly on its side.' Eventually, this decision of the Court of First Instance was affirmed by the Court of Appeals, said appellate court holding that Civil Case No. 4602 is 'a contingency which may not be taken into consideration in deciding the issue of who has prior possession.' Respondents attempt to have the case appealed to the Supreme Court did not prosper, and so, the ejectment decision became final and executory."

The judgment having become final and executory on July 25, 1973, the City Court of Legaspi ordered the issuance of a writ of execution for the enforcement of its judgment (Rollo, p. 123). However, before the decision

could be executed, petitioners, the spouses Cresenciana Atun and Lamberto Esquivel filed against respondents Teotimo Alaurin and Visitacion Magno and the City Sheriff, Civil Case No. 4883 on August 24, 1973, for reconveyance with nullity of judgment, damages and preliminary injunction, before the Court of First Instance of Albay, Branch I, (Respondents' Memorandum, Rollo, p. 245). The issuance of the writ of preliminary injunction having been granted by the court a quo (Rollo, p. 104), the respondent spouses and Teotimo Alaurin and Visitacion Magno, filed a petition for certiorari with the Court to set aside the order granting the writ, docketed as G.R. No. L-38826 (Respondents' Memorandum, Rollo, p. 246). Meantime, on July 1, 1974, Civil Case No. 4602, the case filed by Republic against private respondent Teotimo Alaurin, was dismissed (Rollo, p. 47).

During the hearing of the petition, the parties agreed to file with the Court a Joint Manifestation which when filed was embodied in the decision of the Court promulgated on June 27, 1975 (Rollo, p. 46), as follows:

"The PARTIES assisted by their respective counsel, unto the Honorable Supreme Court respectfully set forth:

"1. That during the hearing of the above-entitled case on November 25, 1974, the parties agreed to the suspension of the consideration of the petition for certiorari. Instead the parties agreed to have Civil Case No. 4883 entitled Cresenciana Atun, et. al, versus Teotimo Alaurin, et. al., before the Court of First Instance of Albay, tried on the merits.

"2. That after a decision is rendered in Civil Case No. 4883, the winning party shall possess the land in litigation - that is, if the plaintiffs win (private respondents herein) they shall be entitled to the writ of preliminary injunction issued the Court of First Instance of Albay, otherwise, plaintiffs shall immediately vacate the premises and the defendants (petitioners herein) restored to the possession of the land in litigation.

"3. That the parties pray that a directive be issued by the Honorable Supreme Court to Branch II, Court of First Instance of Albay (Branch I of the same Court where Civil Case No. 4883 was assigned for hearing has no presiding Judge) to expedite the trial of Civil Case No. 4883, preferably to hear and decide the case within ninety (90) days from notice."

In view of the joint manifesto, the Court dismissed the case and ordered the trial court to expedite the trial of Civil Case No. 4883 and to try and decide the same within ninety (90) days from notice. The Court also ordered the transfer of the case from Branch I of the Court of First instance of Albay which had no presiding Judge then to Branch II, enjoining the judge therein to comply with the decision, and the parties, to observe the agreement embodied in the aforequoted joint manifesto (Rollo, p. 49).

On October 29, 1975, the Court of First Instance of Albay, Branch II, rendered a decision in Civil Case No. 4883 dismissing the case and dissolving the preliminary injunction issued earlier (Rollo, p. 107), the dispositive portion of which reads as follows:

"WHEREFORE, the above-entitled case is hereby dismissed. Accordingly, the writ of preliminary injunction heretofore issued is hereby dissolved."

On January 19, 1976, herein petitioners filed a notice of appeal. The record of appeal was filed in due time (Rollo, p. 30). They were, however, directed to amend their record on appeal in an order dated April 14, 1978 but before they filed their amended record on appeal, on May 10, 1978 petitioners filed a motion for permission to serve supplemental complaint impleading the spouses Wilfredo Encinas and Patrocinia Dasmarinas, the two other private respondents herein (Rollo, p. 30). The amended record on appeal was only filed on August 24, 1978 after several extensions granted by the court a quo. On July 20, 1979, private respondents filed a notice to disapprove the record on appeal and for execution of judgment which was denied by the court a quo, in its order of August 15, 1979 (Rollo, p. 31).

The supplemental complaint was admitted by the court a quo in its order dated January 12, 1979 and on motion of respondents herein in that supplemental complaint, supplemental defendants were declared in default (Rollo, p. 17).

On July 31, 1979, the court a quo rendered a decision on the supplemental complaint declaring the supplemental defendants as successors-in-interest of herein private respondents Teotimo Alaurin and Visitacion Magna, such that whatever is the result of the appealed case shall be legally binding upon them (Rollo, p. 17). This dispositive portion of the decision reads, as follows:

"WHEREFORE, premises considered, judgment is hereby rendered declaring that Wilfredo Encinas and Patrocinia Dasmarinas are successors-in-interest of defendants Teotimo Alaurin and Visitacion Magno such that whatever is the result of the appealed case shall be legally binding upon them, with costs against supplemental defendants."

Not satisfied with the trial court's decision in the supplemental complaint declaring private respondents Wilfredo Encinas and Patrocinia Dasmarinas as successors-in-interest of private respondents Teotimo Alaurin and Visitacion Magno, said private respondents filed a petition for certiorari in the Court of Appeals praying that: (1) the petition be given due course; (2) after hearing on the merits, the decision in Civil Case No. 4883 entitled *Crescenciana Atun, et al. v. Alaurin, et. al.*, be declared final and executory; and (3) the decision against supplemental defendant spouses Wilfredo Encinas and Patrocinia Dasmarinas be declared null and void (Rollo, p. 29).

The appellate court dismissed the petition in a decision promulgated on November 18, 1982. The dispositive portion of the decision (Rollo, p. 29), states:

"WHEREFORE, the instant petition is hereby DISMISSED with costs."

The decision became final and executory on December 20, 1982 (Rollo, p. 36).

On the other hand, the appeal of herein petitioners of the decision of the trial court promulgated on October 29, 1975 in the original complaint for reconveyance with nullity of judgment, damages and preliminary injunction was docketed in the appellate court as AC-G.R. CV No. 01896. On March 10, 1986 the appellate court rendered a decision (Rollo, G.R. No. 74339, p. 47) affirming the appealed decision, as follows:

"WHEREFORE, the decision appealed from is hereby AFFIRMED with costs against plaintiffs-appellants."

The motion for reconsideration filed by petitioners herein was denied by the appellate court in a resolution dated April 14, 1986, for lack of merit (Rollo, G.R. No. 74339, P. 52). Consequently, the case was raised to the Court for the second time in G.R. No. 74339 in a petition for certiorari, also filed by petitioners herein (Rollo, G.R. No. 74339, p. 11).

On July 2, 1986, the Court resolved to deny the petition for lack of merit (Rollo, G.R. No. 74339, p. 58). The motion for reconsideration filed by petitioner herein (Rollo, G.R. No. 74339, p. 63) was also denied by the Court in a resolution dated September 17, 1986 wherein the Court resolved "to DENY the Motion for lack of merit, and this denial is FINAL" (Rollo, G.R. No. 74339, p. 102). The decision of the Court became final and executory on October 6, 1986 (Rollo, G.R. No. 74339, p. 100).

On October 16, 1986, petitioners herein moved for the issuance of a writ of execution of respondent court's supplemental decision as affirmed by the appellate court in CA-G.R. No. 09754-P (Rollo, p. 39) which was granted by the trial court in its order of October 2, 1986 (December 2, 1986 according to petitioners, Rollo, p. 54), "it appearing further that the decision rendered in this case has already become final and executory." It directed

the Branch Clerk of Court to issue the corresponding writ of execution upon receipt of proof of payment of the corresponding Sheriff's fee (Rollo, p. 41).

Armed with the said order of respondent court, on May 23, 1987 petitioner herein Cresenciana Atun, claiming to be the prevailing party, took possession of the property in question (Rollo, pp. 15; 133).

On May 25, 1987, a motion for contempt was filed by private respondents herein, the prevailing parties in Civil Case No. 4883, against petitioners herein, praying among others, that respondent court: (1) immediately order petitioners herein to appear in court and be ordered to desist from doing the contemptuous acts complained of in order to maintain the status quo before this contempt charge; and, (2) hold petitioners herein contempt of court (Rollo, p. 132), but it was dismissed and denied by respondent court in an order dated June 5, 1987 (Rollo, p. 43). A restraining order was however, issued by the Court of First Instance of Legaspi City, Branch X, on June 8, 1987 which according to the Sheriff's return was served personally on petitioners herein who declined to vacate the premises subject of the restraining order (Rollo, p. 62). Upon motion of the new owners of the subject premises (Rollo, p. 124), the same branch of the court issued its order of June 10, 1987 ordering the Station Commander of the INP, Legaspi, "to assign two (2) policemen to help the sheriff implement the restraining order of this Court dated June 8, 1987, and to use force, if necessary, should the defendants still refuse to abide by the above-mentioned Order" (Rollo, p. 61).

On July 3, 1987, petitioners herein, filed a motion with respondent court praying among others, that an order be issued: (1) ordering private respondents herein to reconvey to movants the property in question, and directing the City Register of Deeds to cancel TCT No. 311 in the name of Encinas, for having been obtained through fraud, hence, null and void; and (2) allowing petitioners herein to immediately take possession of the property in question, it being in accordance with the agreement of the parties in a manifestation submitted and approved by the court (Rollo, p. 16). Respondent court denied the motion in the questioned order of July 21, 1987 (Rollo, p. 10).

A motion for reconsideration was filed by petitioners herein on August 6, 1987 (Rollo, p. 54), which motion was likewise denied by respondent court in its equally questioned order of the same date which respondent court denominated as a final order on the same incident (Rollo, p. 221).

Hence, the instant petition filed with the Court on August 20, 1987 (Rollo, p. 4).

In the resolution of March 14, 1988 the Court resolved: (a) to give due course to the petition; and (b) to require the parties to submit simultaneously their respective memoranda within thirty (30) days from notice thereof.

The sole issue is whether or not the decision rendered by a trial court in a supplemental complaint modified the decision of the same branch of the court in the original complaint and amounts to an amendment of the original decision.

The question must be answered in the negative.

The original complaint for reconveyance with nullity of judgment, damages and preliminary injunction in Civil Case No. 4883 decided by respondent court on October 29, 1975 arose from Civil Case No. 990 for unlawful detainer filed by the spouses Teotimo Alaurin and Visitacion Magno, private respondents herein, against the spouses Cresenciana Atun and LamCerto Esquivel, petitioners herein, in the City Court of Legaspi which rendered a decision in favor of private respondents herein, the spouses Teotimo Alaurin and Visitacion Magno. Said decision was affirmed by respondent court herein, the Court of Appeals and finally by the Supreme Court. The question of prior possession of the land in question was raised and passed upon in that case which had already become final and executory when Civil Case No. 4883 was filed in the Court of First Instance of Albay.

In Civil Case No. 4883, petitioners herein anchored their action for reconveyance on their claim of prior possession but this matter had already been resolved in favor of private respondents herein and therefore, conclusive on respondent court in Civil Case No. 4883 being *res judicata* as to the issue of possession *de facto* (Ang Ping, et. al. v. Regional Trial Court, 154 SCRA 77 [1987]. Trial on the merits was held on all the other aspects of the case after which judgment was rendered by respondent court which proved to be unfavorable to petitioners herein.

After their motion for reconsideration was denied, petitioners herein filed their notice of appeal but due to the opposition of private respondents herein, to the non-inclusion in the record on appeal of certain pleadings, orders and decisions which they claimed are relevant to the disposition of the appeal, petitioners herein were ordered by respondent court to amend their record on appeal to satisfy the objections of the private respondents who were the original defendants in Civil Case No. 4883 (Rollo, p. 30). In the meantime private respondents transferred the property in question to the spouses Wilfredo Encinas and Patrocinia Dasmarinas, the two other private respondents herein, evidenced by an inscription of a Deed of Absolute Sale dated April 19, 1970 at the back of Original Certificate of Title No. 28 on November 2, 1976 (Rollo, p. 38). Petitioners must have learned of the sale before they could file their amended record on appeal which must have prompted them to file a motion for supplemental complaint against the vendees of the property in question, the spouses Wilfredo Encinas and Patrocinia Dasmarinas which was admitted by respondent court. As borne by the records of the case, respondent court ruled in favor of herein petitioners in the supplemental complaint which was affirmed by the Court of Appeals.

Petitioners claim that the decision of respondent court in the supplemental complaint revised the decision in the original complaint tantamount to an amendment or reversal of said original decision of respondent court penned by a previous presiding judge therein (Petitioner's Memorandum, Rollo, p. 181).

The claim is without merit.

There is a difference between an amended judgment and a supplemental judgment. In an amended and clarified judgment, the lower court makes a thorough study of the original judgment and renders the amended and clarified judgment only after considering all the factual and legal issues. The amended and clarified decision is an entirely new decision which supersedes the original decision (*Magdalena Estate, Inc. v. Caluag* 11 SCRA 333 [1964]; *Sta. Romana v. Lacson*, 104 SCRA 93 [1981]). Following the Court's differentiation of a supplemental pleading from an amending pleading, it can be said that a supplemental decision does not take the place or extinguish the existence of the original. As its very name denotes, it only serves to bolster or adds something to the primary decision. A supplement exists side by side with the original. It does not replace that which it supplements (*Aznar III, et. al. v. Bernard, et. al.*, G.R. No. 81190, May 9, 1988).

In the instant case no restudy was made by respondent court of the original decision but only on the issues raised in the supplemental complaint. The supplemental decision cannot stand alone as a judgment on the merits as there was no declaration of the respective rights and duties of the parties. It only declared the supplemental defendants as successors-in-interest of the defendants in the original complaint, "such that whatever is the result of the appealed case shall be legally binding upon them...." (Rollo, p. 28).

The part of the supplemental decision which petitioners claim to have revised the original, is quoted as follows:

"In the light of the foregoing testimony of the witnesses presented by supplemental plaintiffs together with the documentary exhibits supporting the allegations of the supplemental complaint, the court finds that the evidence presented by the supplemental plaintiffs are preponderantly sufficient to justify and warrant a judgment in their favor." (Rollo, p. 28).

There can be no other interpretation of the above statement of respondent court than that all documentary and testimonial evidence prescribed by supplemental plaintiffs, petitioners herein, sufficiently prove that when supplemental defendants entered into the contract of absolute sale with the original defendants, they already had full knowledge of the controversy between supplemental plaintiffs and the original defendants in Civil Case No. 4883 such that they must be adjudged as successors-in-interest of original defendants Teotimo Alaurin and Visitacion Magno. This interpretation is borne by the statement of respondent court at the end of the paragraph preceeding that which petitioners herein claim to have revised the original decision, which states:

“ . . . One thing, however, clear is that both supplemental defendants are successors-in-interest of Teotimo Alaurin. The prayer for reconveyance of the property in question cannot be justified in the light of the decision of Hon. Jose C. Razo.” (Rollo, p. 28)

It must be pointed out that the dispositive portion itself of the supplemental decision is clear and unambiguous. It does not make any declaration or pronouncement that may be taken to have revised or amended the original decision. All that it declares is that the supplemental defendants Wilfredo Encinas and Patrocinia Dasmarinas are successors-in-interest of defendants Teotimo Alaurin and Visitacion Magno such that whatever is the result of the appealed case shall be legally binding upon them.

Petitioners herein pursued their appeal of the original decision with the Court of Appeals which can be interpreted to mean that they themselves did not believe that the supplemental decision had amended the original decision of respondent court. Unfortunately for them, the appellate court found the appeal without merit. Petitioners herein then filed a petition for certiorari with the Supreme Court questioning the decision of the appellate court which petition likewise did not prosper.

The original decision became final and executory on October 6, 1986. In general, the prevailing party is entitled as a matter of right to a writ of execution, the issuance of which is a ministerial duty compellable by mandamus (Nunez v. Court of Appeals, 152 SCRA 197 [1987]; Borja v. Court of Appeals, G.R. No. 37944, June 30, 1988; Ngo Bun Tiong v. Sayo, G.R. No. 45875, June 30, 1988). The issuance of an order of execution is the ministerial duty of the lower court once the judgment of a higher court is returned to it and it is without jurisdiction to interpret or reverse the judgment of the higher court (Ang Ping v. Regional Trial Court, 154 SCRA 77 [1987]). The writ of execution must, however, conform to the judgment which is to be executed (Gabaya v. Mendoza, 113 SCRA 400 [1982]) which in this instant case, is the dispositive portion of the original decision in Civil Case No. 4883.

The restraining order issued by respondent court on June 8, 1987 restored the status quo between the parties before May 23, 1987. There was no need for the issuance of a writ of execution. The respondents who won the case were already in actual possession of the property in question (Respondents' Memorandum, Rollo, p. 258) in accordance with the decision rendered in Civil Case No. 4883 and in consonance with paragraph No. 2 of the joint manifestation of the parties embodied in the decision of the Court in G.R. No. L-38826. As a consequence, respondent judge did not commit any grave abuse of discretion amounting to lack of jurisdiction in denying the motion of petitioners herein to take possession of the property in question, in his order of July 21, 1987 and petitioners' motion for reconsideration of aforesaid order.

PREMISES CONSIDERED, the petition is DISMISSED for lack of merit and the restraining order issued by respondent court on June 8, 1987 is made permanent.

SO ORDERED.

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

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