

**RAYMUNDO ORTEGAS, AURELIA PALER, ARTHUR MATURAN,
ARTURO CARMONA, NACIANCINO LEE, ROGELIO TUBURAN, RELINO
OLMOGIS, SR, PETITIONERS, VS. HON. VICENTE A. HIDALGO, THE
PRESIDING JUD...**

G.R. No. 80140. June 28, 1991

Ponente: BIDIN, J.

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BIDIN, J.:

This petition for certiorari seeks to (1) stay the execution of the decision of respondent judge convicting petitioners of the crime of squatting (PD 722); (2) suspend the enforcement of the Order of Demolition dated August 17, 1987 directing the Sheriff to demolish the houses of petitioners and (3) set aside the second order of respondent judge dated September 29, 1987 directing the immediate demolition of petitioners' houses.

The facts are undisputed.

Sometime in 1968, petitioners occupied the contested property (Lot No. 1524-PLS-4), located at the poblacion of Buenavista, Agusan del Norte. They established their residence thereon and paid rentals therefor to the estate of Villa on the belief that the latter was the owner of said property.

In 1974, petitioners stopped paying rentals to private respondent upon learning that the disputed lot is a public land and since then claimed ownership over said property, secured tax declarations and paid the corresponding taxes therefor.

On April 8, 1974, petitioners with other occupants of the lot totalling around 72 families, filed a petition with the Office of the President praying that the respective portions occupied by them be subdivided and awarded to them. The petition was then referred to the Bureau of Lands for investigation and disposition.

On September 28, 1981, petitioners, at the instance of private respondent, were charged with violation of the Anti-Squatting Law (PD 772), docketed as Criminal Case No. 1747, before the then Court of First Instance (now Regional Trial Court) of Agusan del Norte for alleged squatting on lot 1524-PLS-4 allegedly owned by the Estate of Villa.

On March 14, 1986, judgment was rendered by respondent judge convicting petitioners of the crime of squatting and ordered them to pay a fine of P1,000.00 each and to immediately vacate the disputed land (Rollo, p. 50).

No appeal having been taken, the judgment became final and executory.

On February 18, 1987, the Director of Lands (Cagayan de Oro City) in B.L.C. No. 1838 rendered a decision declaring lot 1524-PLS-4 as public land and giving due course to the claim of petitioners thereon, viz.:

"WHEREFORE, it is ordered that the claim of the estate of Villa be as hereby if is (sic), rejected, for lack or basis. In the same vein the claim of the petitioners headed by Irineo Llido is hereby dismissed for lack of merit. The claims of petitioners headed by Regino Ortigas over the same parcel of land shall be given due course. A

scheme of subdivision shall be formulated segregating the respective claims of each petitioners, the expenses of which shall be borne by them pro-rata, and thereafter, if qualified, shall file their respective appropriate public land applications, covering their actual occupations thereof within thirty (30) days after the approval of the said subdivision plan, otherwise, they shall lose their preferential rights thereto." (Rollo. p. 53)

On August 13, 1987, respondent judge issued an order of demolition directing the provincial sheriff to demolish the houses of petitioners for failure to vacate the premises pursuant to the decision dated March 14, 1986 rendered in Crim. Case No. 1747.

Petitioners filed a motion for reconsideration to lift said order using as basis the February 18, 1987 decision of the Director of Lands.

On September 29, 1987, respondent judge denied the motion for reconsideration and at the same time issued a second order of demolition.

Imputing grave abuse of discretion, petitioners filed the instant petition with prayer for issuance of a temporary restraining order. On October 26, 1987, the Court Resolved to issue a Temporary Restraining Order (Rollo, p. 61).

After respondents have filed their respective comments, the Court, on January 17, 1990, resolved to give due course to the petition. On July 6, 1990, private respondent submitted his memorandum and thereafter, the case was deemed submitted for decision.

Petitioners contend that the execution of the judgment rendered in Crim. Case No. 1747 is unfair and unjust considering that their status have changed from private land dwellers to public land settlers based on the decision rendered by the Director of Lands dated February 18, 1987.

In his comment, the Solicitor General agrees with the argument of petitioners and recommends that the execution of the assailed judgment be stayed.

Private respondent, on the other hand, denies any change in the situation of the parties and further argues that the decision of the Director of Lands was not offered in evidence and should not therefore be considered.

The argument is untenable. The judgment in Crim. Case No. 1747 was rendered on March 14, 1986; whereas, the decision of the Director of Lands was issued on February 18, 1987. Consequently, the same could not have been offered as evidence in said Criminal Case No. 1747 as there was nothing to offer in the first place - the decision of the Director of Lands was not yet rendered.

The issue, however, lies not in the admissibility of the decision of the Director of Lands but rather in the determination of whether there has been a change in the situation of the parties to warrant a stay of the execution of the judgment.

It is a settled rule that once a decision becomes final and executory, it is incumbent upon the judge to issue a writ of execution. The rule, however, admits of certain exceptions.

Thus, this Court would invariably stay execution of judgments (1) when certain facts and circumstances transpire or supervene after the judgment has become final which could render the execution of the judgment unjust (*Cabias v. Adil*, 135 SCRA 354 [1985]; *Service Specialist, Inc. v. Sheriff of Manila*, 145 SCRA 139 [1986]); (2) when there has been a change in the situation of the parties which make such execution inequitable (*Chua Lee v. Mapa*, 51 Phil. 624 [1928]; *Li Kim Tho v. Sanchez*, 82 Phil. 776 [1949]) or would render the execution of the judgment unjust (*Philippine Veterans Bank v. Intermediate Appellate Court*, 178 SCRA 645 [1989]; citing *Lipana v. Development Bank of Rizal*, 154 SCRA 257 [1987]); (3) when it appears that the controversy had never been submitted to the judgment of the court (*Luna v. IAC*, 137 SCRA 7 [1985]); (4) when it appears that the writ has

been issued improvidently or without authority or against the wrong party (*Ibid.*); (5) that the judgment debt has been paid or otherwise satisfied (*Ibid.*); or (6) where it becomes imperative, in the higher interests of justice, to direct its modification in order to harmonize the disposition with the prevailing circumstances (*Galindez v. NLRC*, 175 SCRA 132 [1989]; citing *Seavan Carrier, Inc., v. GTI Sportswear Corp.*, 137 SCRA 580 [1985]; *Pascual v. Tan*, 85 Phil. 164 [1949]; *Central Textile Mills, Inc., v. United (CTM) Textile Workers Union-TGWF*, 94 SCRA 883 [1979]).

In the case at bar, the Court finds that by virtue of the decision of the Director of Lands rejecting the claim of the estate of Villa and giving due course to the claims of petitioners, the situation of the parties has substantially changed from private land dwellers to public land settlers. In view thereof, the execution of the assailed judgment must therefore be stayed.

Private respondent's basis in filing the complaint against petitioners for alleged violation of the Anti-Squatting Law is anchored on its alleged ownership over the disputed property, lot 1524-PLS-4. Based on said claim of ownership, the trial court rendered judgment against herein petitioners.

As found by the Regional Director, "(r)ecords show that the land was previously claimed by one Teresio Villa during the survey thereof. However, its approved plan covering the same tract of land has an annotation in this wise '1514, G-3604, Rejected.' 'G-3604' might be a mode of disposition or a survey number and if it is a public land application indeed, the applicant to the same parcel of land cannot be ascertained since the records bearing the same are no longer available. x x x Records further reveal that Lot No. 1524, Pls-4 is not registered neither is it a decreed property in the name of somebody, much less in the name of Teresio Villa. It is worthwhile to note that the estate of Teresio Villa made no attempt to perfect their alleged rights thereto either administratively or judicially over the same parcel of land for almost forty (40) years now. It would seem that they have either lost interest or deliberately deferred in perfecting their rights thereto. It was only later that they (estate of Villa) became interested in the land when these occupants (petitioners) have already introduced various improvements thereon." (Rollo, pp. 51-52; underscoring supplied)

It is clear, therefore, that private respondent (estate of Villa) is not the registered owner of the disputed parcel of land. Assuming *arguendo* that respondent had been granted a patent to the land in question, the same has never been registered with the Registry of Deeds of the province where the property is located. Indeed, respondent could offer no proof to show that the same was registered. All patents that may be granted must be registered since the conveyance of the land covered thereby is effective only upon such registration which shall be the operative act to convey and affect the land (CA 141, Sec. 107). Registration is mandatory under the law to affect third parties. Thus, second paragraph of Sec. 51 of PD 1529 provides:

"The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the office of the Register of Deeds for the province or city where the land lies."

Absent the fact of registration of a patent, title to the land covered thereby, whether it be by sales or homestead, may not be said to have been perfected and, therefore, not indefeasible. A patent becomes indefeasible as a Torrens Title only when said patent is registered with the Register of Deeds pursuant to the provisions of the Land Registration Act (*Republic v. Abacite*, 1 SCRA 1076 [1961]; citing *Director of Lands v. de Luna*, L-14641, Nov. 23, 1960, in turn citing *Ramoso v. Obligado*, 70 Phil. 86 and *Lucas v. Durian*, L-7886, Sept. 23, 1957; see also *Pamintuan v. San Agustin*, 43 Phil. 558 [1922] and *Manalo v. Lukban and Liwanag*, 48 Phil. 976 [1924]).

WHEREFORE, the petition is GRANTED and public respondent is hereby enjoined from enforcing the assailed orders. The temporary restraining order issued by this Court is hereby made PERMANENT.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Davide, Jr., JJ., concur.

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