

FRANCISCO MOTORS CORP., PETITIONER, VS. HON. COURT OF APPEALS AND ANTONIO RAQUIZA, RESPONDENTS.

G.R. NOS. 117622-23. October 23, 2006

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

It is the spirit and not the form of law that keeps justice alive.

- former US Chief Justice Earl Warren

The Court, at times, bends in its regimen of strictly enforcing its own rules and issuances when technicalities would becloud the serving of equity and fairness-especially when protracted litigation ensues and such prolonged dispute bars litigants from having a genuine day in court. However, protracted litigation, which by its nature puts the odds against a party, should not be a bar to discovering the truth and ruling on the merits of a case.

The Case

This petition for review[1] challenges the April 28, 1994 Decision[2] of the Court of Appeals in CA-G.R. SP No. 15512 and CA-G.R. SP No. 15515 entitled Antonio Raquiza v. Hon. Milagros Caguioa, Judge, RTC of Pasig, M.M. Branch 165. The assailed Decision granted respondent Raquiza's right to the issuance of a writ of execution against the lot which was in the name of petitioner Francisco Motors Corporation (FMC).

The Facts

We reiterate the facts found by the Court of Appeals, in addition to those borne by the records.

The present controversy originated in 1958 concerning the annulment of public auction sales of parcels of land in San Jose and Norzagaray, Bulacan; Antipolo; and Las Piñas, Metro Manila owned by spouses Epifanio Alano and Cecilia Pading-Alano. Records show that Raquiza was the lawyer of the Alano spouses in Civil Case Nos. 2608 and 4622.[3] As payment for Raquiza's legal services, the Alano spouses agreed in a written contract to pay him attorney's fees equivalent to 30% of the properties in litigation. Raquiza, however, was subsequently dismissed by the Alano spouses without justifiable cause. Hence, he was allowed to intervene in the civil cases with respect to his claim for attorney's fees.[4]

On May 30, 1958, the Court of First Instance of Rizal, Branch VI, granted the motion of Raquiza to have his contract of legal retainer annotated in the titles involved in Civil Case No. 4622, which includes Transfer Certificate of Title (TCT) No. 56520 covering a parcel of land in Las Piñas (Las Piñas property) then in the name of Miguel Campos. On January 30, 1959, said annotation of attorney's lien was cancelled.[5]

On December 11, 1970, Presiding Judge Herminio C. Mariano of the Court of First Instance (CFI) of Pasig, Branch 10, rendered a Joint Decision[6] in Civil Case Nos. 2608 and 4622. The dispositive portion partly reads:

Regarding the claim of intervenor, Atty. Antonio V. Raquiza, the Court declares that said intervenor is entitled to 30% of whatever rights and interests the Alanos may have in the Natalia Realty, Inc. as stockholder thereof

considering that the Contract of Legal Retainer is obviously on a contingent basis. The Alanos are further ordered to reimburse Atty. Antonio V. Raquiza the sum of P10,000.00 representing various advances made by the latter to the former and as litigation and other expenses.

SO ORDERED.[7]

Separate appeals were filed by Raquiza and the Alanos before the Court of Appeals (CA) which were docketed as CA-G.R. Nos. 52159-60-R. Meanwhile, the Las Piñas property was transferred from Miguel Campos to CPJ Corporation as nominee of the Alano spouses, and TCT No. 56520 was replaced with TCT No. 190712 in the name of CPJ Corporation on May 18, 1967. The property was transferred to the Alano spouses on October 3, 1973, but the Deed of Reconveyance was not immediately presented to the Register of Deeds for registration. On December 7, 1973, the Alano spouses executed a Deed of Sale with First Mortgage in favor of petitioner FMC.[8] Both the Deed of Reconveyance and Deed of Sale with First Mortgage were presented to the Register of Deeds of Rizal only on January 21, 1974. On the same date, TCT No. 190712 was cancelled and replaced by TCT No. 432260 in the name of the Alanos, which in turn, was cancelled and replaced by TCT No. 432261[9] in the name of petitioner FMC.

On January 17, 1980, the Special First Division of the CA rendered a Decision in CA-G.R. Nos. 52159-60-R. The dispositive portion reads:

IN VIEW OF THE FOREGOING, the judgment of the lower Court in Civil Cases Nos. 2608 and 4622 is MODIFIED insofar as the claim of Atty. Raquiza for attorney's fees is concerned in the sense that he shall be entitled to 30% pro indiviso interest in all the properties reconveyed by Campos, Philamgen and Philamlife under the Compromise Agreement of December 28, 1965, except the Antipolo properties covered by the Deed of Sale of September 10, 1953 in favor of Natalia Realty, and to 30% interest in the participation of the Alanos as shareholder of Natalia Realty, subject to his reimbursing the Alanos the amount of P195,000.00, representing 30% of the consideration paid by the Alanos for said reconveyance. The Alanos shall also reimburse Atty. Raquiza the sum of P10,000.00, representing various advances made by him to the Alanos.

In all other respects, the appealed decision is AFFIRMED in toto with costs against appellant Alanos.

SO ORDERED.[10] (Emphasis supplied.)

This Decision became final and executory on July 13, 1981.[11]

On October 1, 1980, Raquiza filed with the trial court an Ex-Parte Motion for Execution of the Decision of the CA. He also filed an Ex-Parte Motion for Production of Title alleging that the title which eventually replaced TCT No. 56520, TCT No. 190712, is missing in the Register of Deeds.[12] A Writ of Execution was issued on February 10, 1982 ordering the Sheriff of Pasig to implement the judgment of the CA within 60 days from receipt of the writ.[13]

On April 15, 1982 and May 19, 1982, Raquiza filed with the trial court Motions for the Issuance of a Separate Transfer Certificate of Title[14] in his name covering the area corresponding to his attorney's fees. This was opposed by the Alano spouses on June 14, 1982 through the filing of an Opposition.[15]

On October 8, 1982, the trial court issued an Order granting Raquiza's motion for the issuance of a separate title, thus:

WHEREFORE, premises considered, and in accordance with the decision of the Court of Appeals dated January 17, 1980 which has long become final and executory, as prayed for, a portion with an area of 162,576.60 sq.m. of the real property with Transfer Certificate of Title No. S-65162 is hereby ordered segregated from the total area of the real property covered by said titles S-65161 and S-65162 and a separate

transfer certificate of title be issued in the name of Antonio Epifanio J. Alano, Sr. and Cecilia P. Alano and Trans-Resource Management and Development Corporation are further ordered to surrender Transfer Certificate of Title No. 190713 (S-65161) and Transfer Certificate of Title No. 190714 (now S-65162) to the custody of this Court within fifteen (15) days from receipt hereof in order that the corresponding segregation and issuance of a separate transfer certificate of title in favor of Antonio V. Raquiza can be effected.

SO ORDERED.[16]

On May 8, 1983, Trans-Resource Management and Development Corporation, a party in one of the original civil cases, appealed the above Order through a Petition for Certiorari and Prohibition.[17] The appeal was dismissed by the Intermediate Appellate Court (IAC) on August 27, 1985.[18]

On January 31, 1986, Raquiza filed with the lower court a Supplemental Motion for Execution[19] alleging that the October 8, 1982 Order failed to include the lot covered by TCT No. 56520, that is, the Las Piñas property which was acquired by petitioner FMC.

On February 5, 1986, the trial court, through Judge Eficio Acosta, issued an Order of Execution directing FMC to surrender its title so that Raquiza's 30% of the property can be segregated. The Order reads:

AS PRAYED FOR by Intervenor Antonio V. Raquiza in his supplemental Motion for Execution and there being no objection thereto, the Court hereby orders the segregation of the 30% of the parcel of land previously covered by Transfer Certificate of Title No. 56521[20] of the Register of Deeds of Rizal in the name of CPJ Corporation which the said company later transferred and conveyed to Francisco Motors, Inc., and the issuance of a new Certificate of Title over said portion in the name of the intervenor Antonio V. Raquiza and that Francisco Motors, Inc. is hereby ordered to surrender to this Court the title of the subject parcel of land so that the segregation and issuance of a separate transfer of certificate of title in favor of the intervenor over 30% can be effected.

SO ORDERED.[21]

On February 14, 1986, Raquiza filed an Urgent Ex-Parte Motion for correction of the above Order. He alleged that upon further inquiry, what was conveyed to FMC was the parcel of land covered by TCT No. 190712 in the name of CPJ Corporation, not TCT No. 56521.[22] Finding merit in the motion, the lower court, on February 18, 1986, issued an Order correcting the February 5, 1986 Order by changing TCT No. 56521 to TCT No. 190712.[23]

On March 10, 1986, Raquiza filed an Ex-Parte Motion praying that FMC be ordered to explain why it had not surrendered TCT No. 190712.[24] In its March 13, 1986 Opposition, FMC alleged inter alia that it is a buyer in good faith as the attorney's lien of Raquiza was not annotated at the back of TCT No. 190712.[25] On June 3, 1986, FMC filed a Motion to Quash the Writ of Execution.[26]

On June 6, 1986, the lower court, also through Judge Eficio Acosta, granted Raquiza's motion. It held that FMC's defense of good faith was without merit. The dispositive portion of the order reads:

WHEREFORE, premises considered, the motion to quash writ of execution filed by Francisco Motors Corporation is hereby denied. The opposition to motion of intervenor Raquiza filed by Francisco Motors Corporation is hereby denied and the Orders of this Court dated February 5, 1986 and February 18, 1986 stand. Francisco Motors Corporation is hereby ordered to submit to the Court the portion of the property it prefers to hold so that the remaining portion shall be segregated and titled in the name of the intervenor Antonio Raquiza.

SO ORDERED.[27]

On June 19, 1986, Raquiza filed an Ex-Parte Motion for the Issuance of a Writ of Execution pursuant to the orders

dated February 5 and 18, 1986.[28]

On July 8, 1986, FMC filed a Motion for Reconsideration of the said Order. FMC alleged that it purchased the property from the Alano spouses as early as December 7, 1973, while Raquiza's attorney's fees were awarded by the CA much later, or only on January 17, 1980; hence, it cannot be levied upon to answer for his attorney's fees.[29]

On September 23, 1986, the lower court, through Judge Nicolas Galing, issued an Order quashing the writ of execution issued by Judge Eficio Acosta on the ground that the land, having been sold by the Alano spouses to FMC as early as December 7, 1973, long before the Court of Appeals awarded Raquiza's attorney's fees, could no longer be reached by execution.[30] On November 4, 1986, Raquiza filed a Motion for Reconsideration while FMC opposed.[31]

On June 10, 1987, Raquiza filed a Motion to Enforce his Motion to Execute alleging that the decision sought to be enforced had long become final and executory. He prayed that the writ of execution, which was quashed in the order dated September 23, 1986, be reinstated and enforced immediately.[32] FMC and Alano spouses opposed the motion. Meanwhile, the entire judiciary was reorganized. The cases were re-raffled to Branch 164. Subsequently, Branch 164 was converted into a Special Criminal Court; hence, the cases were re-raffled to Branch 165 which was presided by Judge Milagros V. Caguioa.[33]

On January 19, 1988, the lower court denied Raquiza's Motion to Enforce the Motion to Execute for lack of merit on the ground that the decision sought to be enforced had become final and executory after the lapse of five years, and the same Decision could no longer be enforced by a mere motion.[34]

On February 11, 1988, Raquiza filed a Motion for Reconsideration citing the delay in the implementation of the judgment which was brought about by various causes. Again, spouses Alano and FMC opposed the motion. On May 13, 1988, respondent court denied the Motion for Reconsideration.[35]

On June 21, 1988, Raquiza filed a Motion for Extension of Time to file a petition for certiorari before the Supreme Court. In the July 4, 1988 Resolution, this Court granted Raquiza 30 days within which to file a petition for certiorari.[36] The petition[37] was filed on July 25, 1988 and the case was docketed as G.R. No. 83718-19. In that petition, Raquiza prayed that the Court (1) give due course to the petition, (2) include FMC as respondent, and (3) reverse the Decision of Judge Caguioa and order the execution of the January 17, 1980 Decision of the CA. In the August 15, 1988 Resolution, the Court remanded the case to the CA.[38] The case was docketed as CA-G.R. SP No. 15512 and 15515[39] which is now for review.

The Ruling of the Court of Appeals

The April 28, 1994 Decision of the CA set aside the January 19 and May 13, 1988 Orders of the trial court, citing the following three (3) reasons: (1) that Raquiza's motions dated April 15 and May 19, 1982 for the segregation of titles were for the execution of the decision in his favor; thus, the subsequent motions should be treated as mere follow-up;[40] (2) that FMC, as a successor-in-interest in relation to the property of the Alano spouses and transferee pendente lite, was bound to recognize the encumbrances attached to the land, including the attorney's liens, although not inscribed in the title;[41] and (3) it justified Raquiza's petition for certiorari after finding the appeal was not a speedy or sufficient remedy.[42]

FMC's Motion for Reconsideration was denied by the CA in its October 26, 1994 Resolution. [43]

Intervening Events

On January 2, 1995, FMC filed the instant petition for review. After the submission of the parties' respective

Memoranda in August 1995, counsel for private respondent filed on June 19, 2002 an Urgent Motion for Substitution of Parties and Early Resolution.[44] Furthermore, Antonio Raquiza reportedly passed away last December 24, 1999.[45] In the July 28, 2003 Resolution, we denied the motion for substitution for lack of merit.[46]

The Issues

The parties submitted the following issues for our consideration:

WHETHER OR NOT THE PROPER REMEDY OF PRIVATE RESPONDENT IS CERTIORARI AND NOT APPEAL

WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IN CA-G.R. NOS. 52159-60-R CAN STILL BE ENFORCED BY A SIMPLE MOTION UNDER SEC. 6, RULE 39 OF THE RULES OF COURT

WHETHER OR NOT THE ATTORNEY'S FEES AWARDED TO PRIVATE RESPONDENT IN CA-G.R. NOS. 52159-60-R [ON JANUARY 17, 1980] CAN BE ENFORCED/SATISFIED AS AGAINST THE PARCELS OF LAND ACQUIRED BY PETITIONER FROM THE ALANOS ON DECEMBER 7, 1973

The Court's Ruling

We find the petition partly meritorious.

(1) Resort to Certiorari

Petitioner contends that Raquiza's resort to certiorari is erroneous because one of the essential requisites for the issuance of a writ of certiorari is that there must be no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. Petitioner reasoned that since the subject of the petition for certiorari were the orders of the trial court dated January 19 and May 13, 1988, appeal, not certiorari, is the proper remedy. Petitioner further alleged that the petition for certiorari was filed with the CA only in March 1989, after the lapse of more than one year from the assailed orders.

Section 1, Rule 65 of the Revised Rules of Court provides that a writ of certiorari lies when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his [/her] jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. We have consistently held that where the error sought to be corrected neither relates to the court's jurisdiction nor involves grave abuse of discretion, review [of the error] through certiorari will not be allowed. This rule, however, admits exceptions such as (1) when it is necessary to prevent irreparable damages and injury to a party, (2) where the trial judge capriciously and whimsically exercised his [/her] judgment, (3) where there may be danger of failure of justice, (4) where an appeal would be slow, inadequate, and insufficient, (5) where the issue raised is one purely of law, (6) where public interest is involved, and (7) in case of urgency.[47] In *Jaca v. Davao Lumber Company*, we further ruled that:

Although Sec. 1, Rule 65 of the Rules of Court provides that the special civil action of certiorari may only be invoked when "there is no appeal, nor any plain, speedy and adequate remedy in the [ordinary] course of law," this rule is not without exception. The availability of the ordinary course of appeal does not constitute sufficient ground to prevent a party from making use of the extraordinary remedy of certiorari where the appeal is not an adequate remedy or equally beneficial, speedy and sufficient. It is the inadequacy - not the mere absence of all other legal remedies and the danger of failure of justice without the writ that must usually determine the propriety of certiorari.[48]

In this case, while private respondent had other legal remedies against the trial courts' orders, these remedies would be slow, inadequate and insufficient in light of the excessive delay in this case. Private respondent's attempts to collect his fees in 1958 was evident when he intervened in Civil Case Nos. 2608 and 4622. He received a favorable decision after 22 years, or on January 17, 1980, after an appeal to the CA. The Decision became final on July 13, 1981. Since then private respondent had been trying to execute the decision by filing various motions. The trial court, however, frustrated private respondent's efforts when it issued its January 19 and May 13, 1988 Orders. Thereafter, private respondent filed the questioned petition for certiorari and the CA issued its Decision only in 1994. The number of years alone that the private respondent had devoted in enforcing his claim, that is, almost half a century to date, exceptionally calls for certiorari as a more speedy and adequate remedy. The availability of other legal remedies cannot prevent the recourse to certiorari when these remedies would be slow and inadequate to effectively dispense justice in favor of the private respondent.

We take special cognizance that when the CA issued the questioned Decision in 1994, private respondent Raquiza was almost 90 years old. Private respondent had once appealed the case which resulted in a Decision in his favor after ten years of pendency in the appellate court. Considering the private respondent's age and the slow disposition of his previous appeal, it is easy to understand why he had resorted to certiorari instead of appeal in trying to execute the Decision in his favor. Dismissing the instant petition on the basis of technicality alone would be unjust to private respondent. We reiterate that:

Technicalities should be disregarded if only to render to the respective parties that which is their due. Thus, although We have said that certiorari cannot be a substitute for a lapsed appeal, We have, time and again, likewise held that where a rigid application of that rule will result in a manifest failure or miscarriage of justice, the rule may be relaxed. Hence, considering the broader and primordial interests of justice, particularly when there is grave abuse of discretion, thus impelling occasional departure from the general rule that the extraordinary writ of certiorari cannot substitute for a lost appeal, respondent appellate court may legally entertain the special civil action for certiorari.[49]

Petitioner FMC mistakenly pointed out that private respondent filed the petition for certiorari before the CA in 1989, concluding that more than one year had elapsed from the assailed orders of the trial court dated January 19 and May 13, 1988. As previously mentioned, private respondent initially filed a petition for certiorari on July 25, 1988 which was within the extended period of time granted to him by this Court. [50] On August 15, 1988, the Court remanded the case to the CA.[51] While the case was pending in the CA, Raquiza asked for an extension of time to file his Amended Petition. The appellate court granted his motion and on March 30, 1989, Raquiza filed the Amended Petition for Certiorari.[52] Thus, private respondent's Petition for Certiorari was filed within the time set by the rules and with the approval of the Supreme Court and CA. Private respondent, therefore, cannot be said to have slept on his right to appeal for more than a year.

(2) Enforcement of the Decision by Motion

There is no dispute that the judgment sought to be enforced by private respondent was the January 17, 1980 Decision of the CA which became final on July 13, 1981. Petitioner asserts, however, that judgments can be enforced by mere motion within five years from finality and since private respondent's Motion to Enforce the Motion to Execute was filed only on June 10, 1987, said Motion had already prescribed.

Section 6, Rule 39 of the Revised Rules of Court states:

SEC. 6. Execution by motion or by independent action - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred

by the statute of limitations.

In *Lancita v. Magbanua*, we held that:

In computing the time limited for suing out of an execution, although there is authority to the contrary, the general rule is that there should not be included the time when execution is stayed, either by agreement of the parties for a definite time, by injunction, by the taking of an appeal or writ of error so as to operate as a supersedeas, by the death of a party or otherwise. Any interruption or delay occasioned by the debtor will extend the time within which the writ may be issued without scire facias (citation omitted).[53]

As pointed above, in computing the time limited for suing out an execution, the time during which execution is stayed should be excluded, and the said time will be extended by any delay occasioned by the debtor. In *Blouse Potenciano v. Mariano*, we held that the motion for examination of the judgment debtor, which is a proceeding supplementary to execution, and the action for mandamus amounted to a stay of execution which effectively interrupted or suspended the five (5)-year period for enforcing the judgment by motion.[54] In *Camacho v. Court of Appeals, et. al.*, where after a final judgment, the petitioner (obligor) moved to defer the execution, elevated the matter to the CA and the Supreme Court, transferred the property to her daughter, in addition to the issues regarding counsel and subsequent vacancies in the courts, we ruled that:

Under the peculiar circumstances of the present case where the delays were occasioned by petitioner's own initiatives and for her advantage as well as beyond the respondents' control, we hold that the five [5]-year period allowed for the enforcement of the judgment by motion was deemed to have been effectively interrupted or suspended. Once again we rely upon basic notions of equity and justice in so ruling. (Emphasis supplied.)

The purpose of the law in prescribing time limitations for enforcing judgment or actions is to prevent obligors from sleeping on their rights. Far from sleeping on their rights, respondents persistently pursued their rights of action. It is revolting to the conscience to allow petitioner to further avert the satisfaction of her obligation because of sheer literal adherence to technicality (citation omitted).[55]

We also subtracted from the five (5)-year period the time when the judgment could not be enforced due to the restraining order issued by this Court,[56] and when the records of the case were lost or misplaced through no fault of the petitioner.[57] In *Provincial Government of Sorsogon v. Vda. de Villaroya*, we likewise excluded the delays caused by the auditor's requirements which were not the fault of the parties who sought execution, and ruled that "[i]n the eight years that elapsed from the time the judgment became final until the filing of the restraining motion by the private respondents, the judgment never became dormant. Section 6, Rule 39 of the Revised Rules of Court does not apply." [58] In *Jacinto v. Intermediate Appellate Court*, this Court further held:

Granting for the sake of argument that the motion for an alias writ of execution was beyond the five [5]-year limitation within which a judgment may be executed by mere motion, still under the circumstances prevailing wherein all the delay in the execution of the judgment lasting for more than eight [8]-years was beneficial to private respondents, this Court[,] for reasons of equity[,] is constrained to treat the motion for execution as having been filed within the reglementary period required by law.[59] (Emphasis supplied.)

Republic v. Court of Appeals summed it up as follows:

To be sure, there had been many instances where this Court allowed execution by motion even after the lapse of five years, upon meritorious grounds. These exceptions have one common denominator, and that is: the delay is caused or occasioned by actions of the judgment debtor and/or is incurred for his benefit or advantage (emphasis supplied).[60]

In the case at bar, since the judgment of the CA became final on July 13, 1981, private respondent had filed

several motions for and in support of its execution. After the dismissal of the appeal of Trans-Resource Management Corporation in 1985, private respondent moved for the inclusion of the Las Piñas property in the order of execution. He reasoned that the February 10, 1982 Writ of Execution could not be enforced against the Las Piñas property because the title number was already changed and could not be traced or found in the Register of Deeds.[61]

Nevertheless, during the five (5) year period from the finality of judgment, private respondent filed several motions for and in support of execution. His persistence is manifest in the number of motions, manifestations, oppositions, and memoranda he had filed since the judgment became final on July 13, 1981. He obtained three writs of execution (February 10, 1982; February 5, 1986 and June 6, 1986) and two orders in aid of execution (October 8, 1982 and February 18, 1986) but the alleged loss of the title, incorrect orders, and the subsequent refusal of petitioner FMC to surrender its title prevented the satisfaction of judgment. While the delay was not wholly attributable to FMC, it nevertheless worked to FMC's advantage. FMC's motion for reconsideration of the order of execution prevented the implementation of said order, especially considering that it was filed on July 8, 1986. Said motion effectively suspended the five (5) year prescriptive period which was supposed to expire on July 13, 1986.

Subsequently, an order quashing the writ of execution was issued by the court a quo on September 23, 1986 which private respondent questioned in a motion for reconsideration. Before the lower court released its Decision, on private respondent's motion for reconsideration, Raquiza filed the assailed Motion to Enforce the Motion to Execute. In view of the foregoing circumstances and for reasons of equity, we are constrained to treat the Motion to Enforce the Motion to Execute as having been filed within the reglementary period. The purpose of the law in prescribing time limitations for enforcing judgments or actions is to prevent obligors from sleeping on their rights.[62] Private respondent, on the contrary, persistently sought the execution of the judgment in his favor.

(3) Satisfaction of Claims Against the Petitioner's Property

Private respondent's claim on the property is based on the January 17, 1980 decision of the CA which awarded him "30% pro indiviso interest in all the properties reconveyed by Campos, Philamgen and Philamlife under the Compromise Agreement of December 28, 1965." One of the properties that was reconveyed to the Alano spouses is the Las Piñas property which is now in dispute.

Petitioner contends that when it acquired the property, there was neither an attorney's lien at the back of TCT No. 56520 nor a notice of lis pendens; thus, it was in good faith at the time of purchase. Petitioner also asserts that it acquired the property before the CA awarded the attorney's fees against the property in question.[63] Nevertheless, the trial court ruled that petitioner should have been alerted by the fact that TCT No. 190712 was in the name of CPJ as nominee and assignee of the Alanos. The appellate court affirmed this finding, adding that the petitioner is bound to recognize the encumbrances including attorney's lien although not inscribed in the title and that petitioner is bound by the judgment even though there was no formal substitution of the parties. The appellate court ruled that petitioner should have exercised the ordinary care expected of a buyer in real estate. [64]

We DISAGREE.

The annotation of attorney's lien on TCT No. 56520 was cancelled on January 30, 1959, long before petitioner FMC acquired the property in question, on December 7, 1973. TCT No. 56520 was later cancelled and replaced by TCT No. 190712 in the name of CPJ Corporation. A notice of lis pendens was inscribed on TCT No. 190712 on February 6, 1958 by spouses Epifanio J. Alano and Cecilia Alano in view of the pendency of Civil Case No. 4622 entitled Epifanio J. Alano; et al. v. Miguel Campos, et al. On the other hand, respondent Antonio Raquiza did not bother to have his attorney's lien annotated at the back of TCT NO. 190712, to protect his interests in it.

This annotation was cancelled on June 19, 1967 by the Alano spouses.[65] Private respondent did not cause the reannotation of the attorney's lien and the notice of lis pendens despite the pendency of the two civil cases. Thus, when petitioner bought the property in question on December 7, 1973, the title was free from the attorney's lien and notice of lis pendens.

Private respondent argued that the reannotation of his claim could not be effected due to the alleged loss of TCT No. 190712 (formerly TCT No. 56520) and its derivatives. This posture does not hold water. The annotation of lis pendens is done on the original certificate of title which is on file with the Register of Deeds. Even conceding that the original TCT No. 190712 was missing, still respondent Raquiza should have filed the notice of lis pendens with the Office of the Register of Deeds so that the latter will be forewarned if a person requests for the transfer of the title which appears to have been misplaced or lost. Another remedy would be to file a motion for preliminary injunction to prevent the Alano spouses from selling the lot subject of TCT No. 190712, and to direct the Register of Deeds not to transfer the title to any third party. Unfortunately, respondent Raquiza failed to undertake the safeguards necessary to protect his attorney's lien. Thus, we hold that petitioner FMC bought the property without notice of any defect in the title. It is therefore a purchaser in good faith and for value.

In *Spouses Po Lam v. Court of Appeals*, we held that the filing of a notice of lis pendens in effect (1) keeps the subject matter of the litigation within the power of the court until the entry of the final judgment so as to prevent the defeat of the latter by successive alienations; and (2) binds the purchaser of the land subject of the litigation to the judgment or decree that will be promulgated there on whether such a purchaser is a bona fide purchaser or not; but (3) does not create a non-existent right or lien. The cancellation of a notice of pendency terminates the effects of such notice; thus, the buyers of the property cannot be considered transferees pendente lite and purchasers in bad faith.[66] This ruling holds true for petitioner FMC. Similar to the aforementioned case, petitioner FMC bought the property pending appeal. The title carried no notice of lis pendens and the private respondent did not cause the reannotation of or the attorney's lien. Thus, petitioner FMC could not be considered a transferee pendente lite and buyer in bad faith.

Furthermore, private respondent's right over the property is based on the January 17, 1980 Decision of the CA in CA-GR No. 52159-60R which modified the ruling of the lower court by granting the claim of respondent Raquiza for attorney's fees of 30% pro indiviso interest in all the properties reconveyed by Campos, et al. At the time of the sale on December 7, 1973 in favor of petitioner FMC, private respondent Raquiza did not yet have a right over 30% of the Las Piñas property. Had respondent Raquiza been vigilant, he could have impleaded petitioner FMC as a party-litigant in the civil cases. However, it was only in March 1986 when respondent Raquiza asked that petitioner be ordered to surrender its title. By that time, it was already too late. Apparently, private respondent slept on his rights, and verily such inaction should not prejudice an innocent purchaser for value. Having bought the property in good faith, petitioner FMC cannot be considered a transferee pendente lite which could be bound by the 1980 judgment of the appellate court.

WHEREFORE, the petition for review is GRANTED IN PART and the April 28, 1994 Decision and the October 26, 1994 Resolution of the Court of Appeals are MODIFIED, so that the attorney's fees awarded to petitioner Raquiza in the January 17, 1980 Decision in CA-G.R. Nos. 52159-60-R entitled *Natasha Realty, Inc. v. Sheriff, Province of Rizal, et al.* can no longer be satisfied and enforced against the lot registered under TCT No. 432261 in the name of petitioner Francisco Motor Corporation being an innocent purchaser for value of said lot.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Tinga, JJ., concur.
Carpio-Morales, J., no part, concurred in the appealed decision.

[1] Rollo, pp 7-21.

[2] Rollo, pp. 23-35.

[3] Civil Case No. 2608 was captioned, "Natalia Realty, Inc. vs. Sheriff, Province of Rizal, et. al.; Miguel Campos, et. al., Third Party Plaintiff; Vivencio D. Antonio, et. al., Third Party Defendants;" while Civil Case No. 4622 was captioned, "Epifano J. Alano, et. al, vs. Miguel Campos, et. al.; Antonio V. Raquiza, Intervenor."

[4] Supra note 2, at 24.

[5] CFI Records, Vol. II, pp. 348-349.

[6] CFI Records, Vol. I, pp. 647-682.

[7] Id. at 682.

[8] Supra note 2, at 25.

[9] Rollo, pp. 172-177.

[10] CFI Records, Vol. I, pp. 723-747.

[11] Supra note 2, at 26.

[12] CFI Records, Vol. I, pp. 713-719.

[13] CFI Records, Vol. I, pp. 790-793.

[14] CFI Records, Vol. I, pp. 773-776 & 798-802.

[15] Supra note 11.

[16] CFI Records, Vol. I, pp. 869-870.

[17] CFI Records, Vol. I, pp. 924-935.

[18] CFI Records, Vol. II, pp. 131-141.

[19] CFI Records, Vol. II, pp. 302-304.

[20] Should read as "56520."

[21] CFI Records, Vol. II, p. 309.

[22] CFI Records, Vol. II, pp. 310-311.

[23] CFI Records, Vol. II, p. 312.

[24] CFI Records, Vol. II, pp. 316-318.

[25] CFI Records, Vol. II, pp. 345-347.

[26] CFI Records, Vol. II, pp. 430-432.

- [27] CFI Records, Vol. II, pp. 435-437.
- [28] CFI Records, Vol. II, pp. 438-440.
- [29] CFI Records, Vol. II, pp. 441-444.
- [30] CFI Records, Vol. II, p. 462.
- [31] CFI Records, Vol. II, pp. 497-501 and 464-487.
- [32] CFI Records, Vol. II, pp. 579-591.
- [33] Supra note 2, at 30.
- [34] CFI Records Vol. III, pp. 51-52.
- [35] CFI Records, Vol. III, p. 101.
- [36] Rollo, p. 137.
- [37] Rollo, pp. 138-142.
- [38] CA rollo, p. 17.
- [39] The case was captioned, "Antonio Raquiza versus Hon. Milagros Caguioa, in her capacity as Presiding Judge of the Regional Trial Court of Pasig, Metro Manila, Branch 165, Fernando Francisco, as President of Francisco Motors Corp., Epifanio Alano and wife Cecilia Pading-Alano, Judge Eutropio Migriño, Judge Nicolas Galing, Judge Fernando Gerona, Jr., and Atty. Eleazar Ferry."
- [40] Rollo, p. 32.
- [41] Id. at 33-34.
- [42] Id.
- [43] Rollo, pp. 37-38.
- [44] Rollo, pp. 223-232.
- [45] Id. at 225.
- [46] Rollo, p. 276.
- [47] Republic v. Sandiganbayan, G.R. No. 113420, March 7, 1997, 269 SCRA 316, 324-325 (citations omitted).
- [48] G.R. No. L-25771, March 29, 1982, 113 SCRA 107, 129.
- [49] Luna v. Court of Appeals, G.R. No. 100374-75, November 27, 1992, 216 SCRA 107, 111, citing Aranda v. CA, G.R. No. 63188, 186 SCRA 456 (1990), and other cases.
- [50] Supra note 37.
- [51] CA rollo, p. 17.
- [52] Id. at 24-39.
- [53] G.R. No. L-15467, January 31, 1963, 7 SCRA 42, 46.
- [54] Blouse Potenciano v. Mariano, G.R. No. L-30904, March 6, 1980, 96 SCRA 463, 468-470.

[55] G.R. No. 118339, March 19, 1988, 287 SCRA 611, 617.

[56] Villaruel v. Court of Appeals, G.R. No. 78827, April 17, 1989, 172 SCRA 305, 312-313.

[57] Gonzales v. Court of Appeals, G.R. No. 62556, August 13, 1992, 212 SCRA 595, 603.

[58] G.R. No. L-64037, August 27, 1987, 153 SCRA 291, 298.

[59] G.R. No. L-66478, August 29, 1988, 164 SCRA 739, 746-747.

[60] GR No. 91885, August 7, 1996, 260 SCRA 344, 349-350.

[61] Private respondent Raquiza submitted the affidavit (CFI Records, Vol. III, pp. 59-60) dated July 15, 1986 of his secretary, Mr. Antonio Calaro, who attested that upon his search sometime in 1981, TCT No. 190712 could not be found in the Registry of Deeds in Pasay, Makati, Pasig, and Las Piñas; and it was only in January 1986 when the title and its derivatives were discovered.

[62] Republic v. Court of Appeals, G.R. No. 91885, August 7, 1996, 260 SCRA 344, 351-352.

[63] Rollo, pp. 191-192.

[64] Supra note 41.

[65] Rollo, p. 200.

[66] G.R. No. 116220 (Resolution), December 6, 2000, citing *Somes v. Government*, 62 Phil. 432 (1935);

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