

**BON-MAR REALTY AND SPORT CORPORATION, PETITIONER, VS.
SPOUSES NICANOR AND ESTHER DE GUZMAN, EVELYN UY AND THE
ESTATE OF JAYME UY, HON. LORNA CATRIS F. CHUA-CHENG,
PRESIDING JUDG...**

G.R. Nos. 182136-37. November 27, 2008

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This resolves spouses Nicanor and Esther de Guzman's (the DE GUZMANS) Motion for Reconsideration of this Court's Decision dated August 29, 2008, the dispositive portion of which reads:

WHEREFORE, the Court hereby resolves as follows:

1) The petition in CA-G.R. SP No. 94945 is GRANTED. The assailed Decision of the Court of Appeals dated November 14, 2007 denying BON-MAR Realty and Sport Corporation's petition for intervention in Civil Case No. 56393 and granting Spouses Nicanor, Jr. and Esther de Guzman's motion for issuance of a writ of possession, and the Resolution dated March 17, 2008 denying reconsideration thereof, are REVERSED and SET ASIDE. The Regional Trial Court of Pasig City, Branch 168, in Civil Case No. 56393 is DIRECTED to receive evidence on Bon-Mar Realty and Sport Corporation's third-party claim with a view to determining the nature and extent of its claim to the subject lots and to hold in abeyance the enforcement of the writ of possession.

2) The petition in CA-G.R. SP No. 97812 is DISMISSED. The November 14, 2007 Decision of the Court of Appeals granting the leave to intervene of the Spouses Nicanor, Jr. and Esther de Guzman in SCA No. 2988-SJ, as well as the March 17, 2008 Resolution denying the motion for reconsideration are REVERSED and SET ASIDE. SCA No. 2988-SJ is ordered DISMISSED for being the wrong mode of remedy.

SO ORDERED.[1]

Specifically, they assail the portion of the Decision directing the Regional Trial Court of Pasig City, Branch 168 to allow petitioner Bon-Mar Realty and Sport Corporation (BON-MAR) the opportunity to introduce evidence on its third-party claim in Civil Case No. 56393 with a view to determining the nature and extent of its claim to the subject lots, as well as the denial of their prayer for the issuance of a writ of possession.

The DE GUZMANS argue that since the decision in Civil Case No. 67315[2] cannot bind them, the same being a proceeding quasi in rem, BON-MAR should not be allowed to intervene in Civil Case No. 56393 and, instead, they should be granted a writ of possession over the disputed lots; that BON-MAR's intervention in Civil Case No. 56393 is not proper since the case is now at its execution stage; that res judicata should instead set in; and that since the final and executory decision in CA-G.R. SP No. 82807 has settled BON-MAR's status as a stranger to the litigation in Civil Case No. 56393, the latter should thus be precluded from intervening in said case. Finally, they question the Court's finding that the decision in Civil Case No. 67315 declared BON-MAR as the DE GUZMANS' successor-in-interest to the disputed lots.

The motion is denied for lack of merit.

It is clear that BON-MAR has acquired legal interest over the subject lots by virtue of the final and executory decision in Civil Case No. 67315, which adjudged it as the owner of the disputed lots. The Rules of Court provide that a person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action.[3]

The final and executory decision in CA-G.R. SP No. 82807 cannot have the effect of *res judicata* against BON-MAR because its situation has changed after the decision in Civil Case No. 67315 was rendered and after it became final and executory. In other words, when the decision in Civil Case No. 67315 became final and executory, the decision in CA-G.R. SP No. 82807 lost its applicability. Having been declared by final judgment the owner of the disputed lots as a successor-in-interest of respondent DE GUZMANS - after the latter re-acquired title to the lots by virtue of the execution of the judgment in G.R. No. 109217, which is actually rooted in Civil Case No. 56393 - BON-MAR has acquired the legal interest to intervene in said case. Moreover, the evidence in Civil Case No. 67315 clearly indicate that indeed, the DE GUZMANS are attempting to execute anew the already executed judgment in Civil Case No. 56393. As successor-in-interest of the DE GUZMANS and possessing legal interest in the disputed lots by virtue of a final judgment in Civil Case No. 67315, BON-MAR became an indispensable party in Civil Case No. 56393, and should be allowed to intervene therein in order to protect itself against a possible double execution by the DE GUZMANS of the judgment in said case.

In several cases, intervention was allowed notwithstanding that it was belatedly filed.[4] This is one of those cases. As stated earlier on, the evidence in Civil Case No. 67315 strongly suggests that the DE GUZMANS are attempting to recover anew upon an already executed judgment, which is contrary to law and equity. If this were true, we cannot allow it. BON-MAR should thus be heard in this respect.

We do not subscribe to the DE GUZMANS' argument that since the decision in Civil Case No. 67315 cannot bind them, then the writ of possession should be issued in their favor. The most prudent course of action is to allow BON-MAR to be heard on its intervention cum third-party claim. Rather than sow further chaos and confusion and open the door to fraud, falsehood and misrepresentation should BON-MAR's claim prove to be true, the trial court should hear its case. It must be remembered that BON-MAR is in possession of the disputed lots, and it appears that the reason why it is in possession thereof is because it is a transferee of the DE GUZMANS, precisely as a result of the execution of the decision in Civil Case No. 56393. Actual possession under claim of ownership raises a disputable presumption of ownership; the DE GUZMANS are not entitled to a writ of possession under the circumstances.

The trial court's arbitrary denial of BON-MAR's right to be heard on its claim as both adjudged owner and possessor of the subject lots is a violation of its right to due process. The writ of possession constitutes a veritable threat of deprivation of the subject property; BON-MAR should at least be heard under that threat, and not be made to find succor in another court.

Contrary to the DE GUZMANS' claim that the decision in Civil Case No. 67315 did not declare BON-MAR as their successor-in-interest with respect to the disputed lots, the evidence adduced therein certainly point to this conclusion. Indeed, the decision in said case is explicit enough:

Contrary to the claim of defendants-spouses (UYS) that their source of titles is not from the titles of plaintiff (BON-MAR), the glaring fact, however, is the stark reality that these titles have been cancelled and restored to Nicanor de Guzman from where plaintiff (BON-MAR) acquired its titles.[5] (Words in parentheses supplied)

The pendency of a case for annulment of the decision in Civil Case No. 67315 cannot affect the character of our disposition in the instant case; unless annulled, the decision in said case stands. It must be borne in mind that annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy.[6] Having given the parties herein the opportunity to confront each other head on in Civil Case No. 56393, we cannot, on mere unilateral assertions, bordering on contumacious conduct, of obtaining a better resolution devoid of our "erroneous assumptions," see the wisdom of DE GUZMANS' argument that a resolution of the issues could be better had via a petition for annulment of judgment.

WHEREFORE, the Motion for Reconsideration is DENIED WITH FINALITY.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Rollo, p. 590.

[2] For nullification of title against Spouses Jayme and Evelyn Uy.

[3] RULES OF COURT, Rule 19, Sec. 1.

[4] Pinlac v. Court of Appeals, G.R. No. 91486, September 10, 2003, 410 SCRA 419; Mago v. Court of Appeals, 303 SCRA 600 (1999); Tahanan Development Corp. v. Court of Appeals, G.R. No. 55771, November 15, 1982, 118 SCRA 273; Director of Lands v. Court of Appeals, G.R. No. L-45168, September 25, 1979, 93 SCRA 238.

[5] Rollo, p. 238.

[6] Espinosa v. Court of Appeals, G.R. No. 128686, May 28, 2004, 430 SCRA 96.

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