



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MACARIO DIAZ CARPIO,
Petitioner,

G.R. No. 183102

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ*.

COURT OF APPEALS, SPOUSES
GELACIO G. ORIA and
MARCELINA PRE ORIA,
Respondents.

Promulgated:

FEB 27 2013

X-----X

DECISION

SERENO, *CJ*:

In this Petition for Certiorari under Rule 65 of the Rules of Court, we are asked to rule whether a case for *accion publiciana* on appeal with the Court of Appeals (CA) has been rendered moot and academic by an intervening implementation of a writ of execution pursuant to a Regional Trial Court (RTC) Omnibus Order in Civil Case no. 97-148 later voided with finality by this Court.

The Petition seeks to annul and set aside the CA Resolutions¹ dated 4 October 2007 and 28 May 2008. These Resolutions denied petitioner's Manifestation/Motion praying for the dismissal of respondents' appeal, docketed as CA-G.R. CV No. 87256. The Manifestation/Motion was anchored on the above-mentioned ground that the appeal had become moot and academic.

¹In CA-G.R. CV No. 87256, both penned by CA Associate Justice Myrna D. Vidal and concurred in by Associate Justices Jose L. Sabio, Jr. and Noel G. Tijam.

FACTS

In 1978, petitioner Macario Carpio (Carpio) informed respondent-spouses Gelacio and Marcelina Oria (respondents Oria) of their alleged encroachment on his property to the extent of 137.45 square meters. He demanded that respondents return the allegedly encroached portion and pay monthly rent therefor. However, the spouses refused.²

Thus, petitioner filed an action for unlawful detainer before the Metropolitan Trial Court (MeTC) of Muntinlupa City, Branch 80, which dismissed the case for lack of jurisdiction.³ The case was appealed to the RTC of Muntinlupa City, Branch 256, which affirmed the MeTC's Decision *in toto*. However, in a Petition for Review before it, the CA held that the RTC should not have dismissed the case, but should have tried it as one for *accion publiciana*, as if it had originally been filed with the RTC, pursuant to paragraph 1 of Section 8, Rule 40 of the 1997 Rules of Court.⁴

Consequently, the case was remanded to the RTC pursuant to the CA ruling. The trial court rendered a Decision dated 11 November 2003 finding that respondents Oria had encroached on the property of Carpio by an area of 132 square meters; and requiring respondents to vacate the property and pay monthly rentals to petitioner from the time he made the demand in 1978 until they would vacate the subject property. It also awarded attorney's fees to petitioner and ordered respondents to pay the costs of suit.⁵

On 24 November 2003, petitioner filed a Motion for Immediate Execution. Thereafter, on 2 December 2003, respondents filed a Motion for Reconsideration of the Decision. On 17 March 2004, the RTC issued its assailed Omnibus Order denying the Motion for Reconsideration and simultaneously granting the Motion for Immediate Execution of the judgment.⁶

On 6 April 2004, respondents filed their Notice of Appeal of the RTC Decision and filed, as well, a Petition for Certiorari questioning the RTC's Omnibus Order.⁷

² CA *rollo*, p. 100.

³ *Id.*

⁴ SECTION 8. *Appeal from orders dismissing case without trial; lack of jurisdiction.* — If an appeal is taken from an order of the lower court dismissing the case without a trial on the merits, the Regional Trial Court may affirm or reverse it, as the case may be. In case of affirmance and the ground of dismissal is lack of jurisdiction over the subject matter, the Regional Trial Court, if it has jurisdiction thereover, shall try the case on the merits as if the case was originally filed with it. In case of reversal, the case shall be remanded for further proceedings.

⁵ CA *rollo*, p. 100.

⁶ *Id.* at 100-101.

⁷ *Id.* at 101.

In their appeal of the RTC Decision, docketed as CA-G.R. No. 87256, respondents contended that the trial court erred in finding that they had encroached on the land of petitioner, as well as in finding that he had a right to recover possession of the subject lot. They also questioned the award of attorney's fees.⁸ The appeal is still pending with the CA Special Eighth Division and petitioner is now, in the instant Petition, seeking its dismissal on the ground of mootness.

Meanwhile, in their Petition for Certiorari docketed as CA-G.R. SP No. 84632, respondents imputed grave abuse of discretion to the RTC for granting the Motion for Immediate Execution of the RTC Decision and for failing to act on their appeal.⁹

In CA-G.R. SP No. 84632, the CA First Division ruled that, on the matter of the grant of the writ of execution of the RTC Decision pending appeal, the governing rule was Section 2 of Rule 39 of the Rules of Court, since the RTC in its original jurisdiction had tried the case as one for *accion publiciana*. The aforementioned provision requires that before a writ of execution pending appeal may issue at the discretion of the trial court, the following requisites have to be met:

1. The trial court still has jurisdiction over the case and is in possession of either the original record or the record on appeal.
2. There is a motion filed by the prevailing party with notice to the adverse party.
3. **There is a good reason for issuing the writ of execution.**
4. **The good reason is stated in a special order.**¹⁰

The CA found that while the RTC still had jurisdiction to grant the Motion for Immediate Execution, the latter stated no reason at all for the issuance of the writ.¹¹ The statement of a good reason in a special order is strictly required by the Rules of Court, because execution before a judgment has become final and executory is the exception rather than the rule.

The CA also ruled that the failure of the RTC to act on the appeal likewise constituted grave abuse of discretion, considering that respondents had correctly availed themselves of the proper mode of appealing the main case for *accion publiciana* to the CA.¹²

⁸ Id. at 88.

⁹ Id. at 101.

¹⁰ Id. at 105.

¹¹ Id. at 105-106.

¹² Id. at 106.

Thus, in a Decision¹³ in CA-G.R. SP No. 84632 dated 14 April 2005, the CA First Division set aside the portion of the Omnibus Order granting the Motion for Immediate Execution. The dispositive portion of the Decision reads:

WHEREFORE, the petition is hereby GRANTED. **The portion in the Omnibus Order granting the motion for immediate execution is hereby ANNULLED AND SET ASIDE.** The Regional Trial Court of Muntinlupa City, Branch 256, is hereby ordered to act on the appeal of petitioners and to forthwith elevate the case to this Court.

SO ORDERED.¹⁴ (Emphasis supplied)

Petitioner's Motion for Reconsideration of the CA Decision was denied in a Resolution dated 30 May 2005. Petitioner then filed before this Court a Petition for Review on Certiorari, which was docketed as G.R. No. 168226. His Petition was denied in a Resolution dated 12 December 2005 for failure to show reversible error on the part of the CA.¹⁵ His Motion for Reconsideration was also denied with finality in a Resolution dated 13 March 2006. With the issuance of an Entry of Judgment, the Resolution of this Court became final and executory on 4 April 2006.

On 26 April 2007, petitioner filed with the CA Special Eighth Division a Manifestation/Motion praying for the dismissal of the appeal of respondents in CA-G.R. CV No. 87256, the main case for *accion publiciana*. He argued that while the issue of the validity of the grant of immediate execution was being litigated, the sheriff, in the meantime, executed the RTC Decision pursuant to the Omnibus Order. Petitioner explained that the writ of execution had been satisfied by the levying of the property of respondents. Thus, the judgment debt had been partially paid through a public auction sale of the property. Consequently, Transfer Certificate of Title (TCT) No. S-43053 covering the levied property of respondents Oria was cancelled and a new one entered in the name of petitioner, who was the highest bidder at the auction sale. Hence, the latter asserted that the appealed case had become moot and academic.

In a Resolution dated 4 October 2007, the CA Special Eighth Division denied the Manifestation/Motion. It reasoned that the Omnibus Order, pursuant to which the writ of execution had been invalidly issued, was annulled by the CA First Division, and that the annulment was in fact affirmed by the Supreme Court. Therefore, as the RTC Decision was not yet deemed executed, the CA Special Eighth Division ruled that the appeal pending before the latter had not yet become moot and academic:

¹³ Penned by Presiding Justice Romeo A. Brawner and concurred in by Associate Justices Edgardo P. Cruz and Jose C. Mendoza (now a member of this Court).

¹⁴ CA *rollo*, p. 106.

¹⁵ *Rollo*, p. 20.

This resolves the Manifestation/Motion filed by Defendant-Appellee MACARIO DIAZ CARPIO (hereinafter Appellee) praying for the dismissal of the instant appeal for being moot and academic. In the main, Appellee alleges that the writ of execution of the Decision of the Regional Trial Court of Muntinlupa City, Branch 256 dated 11 November 2003, the subject of the present appeal, had been complied with, implemented and partially paid upon a public auction, thereby canceling Transfer Certificate of Title No. S-43053 under the name of Plaintiffs-Appellants Spouses GELACIO and MARCELINA ORIA (hereinafter Appellants) and a new one was entered in the name of the Appellee.

On 2 July 2007, the Appellants filed an Opposition To The Motion To Dismiss seeking the denial of the Manifestation/Motion, *supra*, considering that the Omnibus Order of the RTC which allowed the immediate execution of the Decision, thru the writ of execution, *supra*, was annulled by this Court.

After a judicious perusal of the instant motion, We find that the ground relied upon by the Appellee deserves scant consideration. It bears noting that this Court's Decision dated 14 April 2005 annulling the Omnibus order, *supra*, was affirmed by the Supreme Court on 12 December 2005.

In the light of the foregoing factual backdrop and the law applicable on the matter, **We hold that the Decision being challenged in the instant appeal has not yet been executed. Accordingly, instant motion is hereby DENIED.**

SO ORDERED.¹⁶ (Emphases supplied; citations omitted)

Petitioner's Motion for Reconsideration was likewise denied by the CA in its Resolution dated 28 May 2008.

Hence, the instant Petition.

Petitioner merely rehashes his argument before the CA Special Eighth Division. He says that since the writ of execution of the RTC Decision in the case for *accion publiciana* has been implemented, the case is now moot and academic. He explains that, pursuant to the writ, the property of the spouses Oria adjoining his own has been levied and sold to him. In fact, a Sheriff's Final Deed of Sale has been executed in his favor, and the property has already been merged and transferred to his name under a new TCT. Thus, he now contends that the spouses have no more proprietary right or practical relief that can be further protected or adversely affected by their appeal.¹⁷

¹⁶ Id. at 19-20.

¹⁷ Id. at 9.

ISSUE

The issue to be resolved in this case is whether the case for *accion publiciana* on appeal with the CA Special Eighth Division has been rendered moot and academic by the intervening implementation of the writ of execution of the RTC Decision dated 11 November 2013 pursuant to the trial court's Omnibus Order, although the Order was later annulled with finality by this Court.

THE COURT'S RULING

We dismiss the Petition.

Discussion

I

**The writ of execution is void; consequently,
all actions pursuant to the void writ are of no legal effect.**

Petitioner argues that the sheriff, whose duty was merely ministerial, properly implemented the writ of execution issued by the RTC. Thus, the implementation of the writ should be respected. Petitioner cites *Hulst v. P.R. Builders*,¹⁸ in which this Court ruled that the sheriff properly proceeded with the auction sale despite the objection of the judgment debtor. The latter had objected that the property being sold had a value higher than that of the judgment debt that had to be satisfied. We held in that case that because the duty of the sheriff was ministerial, he had no discretion to postpone the conduct of the auction sale of the levied properties. Applying that ruling, petitioner herein is now similarly asserting in this case that the sheriff properly proceeded with the ministerial duty of the latter, whose implementation of the writ of execution should therefore be respected. Thus, petitioner now asserts that the auction sale pursuant to the execution was valid and cannot be undone. Consequently, the issue in the main case has supposedly become moot and academic.

The reliance of petitioner on *Hulst* is utterly off the mark. In that case, there was no question about the validity of the issuance of the writ. The issue therein was whether the sheriff, whose duty was merely ministerial, should have postponed the auction sale. In that case, a motion to stop the auction had been filed on the ground that the value of the property to be sold was more than that of the judgment debt to be satisfied. In the present case, what is involved is a writ of execution that this Court has declared void with finality; and what is in issue is the legal effect of the actions done pursuant

¹⁸ G.R. No. 156364, 3 September 2007, 532 SCRA 74.

to the writ. There is no question as to the ministerial nature of the duty of the sheriff or the propriety of his proceeding to implement the writ.

More important, we never said in *Hulst* that since it was the ministerial duty of the sheriff to implement the writ of execution, all his actions pursuant thereto were valid and could not be undone; that is, even if the writ itself was later invalidated when the Omnibus Order for its issuance was later set aside as a nullity. Nothing in jurisprudence says that if the sheriff has in the meantime executed an otherwise invalid writ of execution pending appeal, the appealed case becomes moot and academic. That would be an absurd conclusion.

This Court has said that it does not sanction the piecemeal interpretation of its decisions.¹⁹ Much less does it sanction the carelessly and absolutely incorrect interpretation and application of its rulings. To understand our ruling in *Hulst* – or in any other decision for that matter – and get its true intent and meaning, no specific portion of our Decision should be read in isolation, but must be mulled in the context of the whole. While we understand that the ethics of the profession requires that lawyers do their best in advocating the cause of their clients, we frown upon the clear misapplication and misuse of our rulings, as in the present case, whether deliberate or not.

In any case, we proceed to rule that because the writ of execution was void, all actions and proceedings conducted pursuant to it were also void and of no legal effect. To recall, this Court affirmed the Decision of the CA in CA-G.R. SP No. 84632, annulling the RTC's Omnibus Order granting the Motion for Immediate Execution pending appeal. We affirmed the CA Decision because of the RTC's failure to state any reason, much less good reason, for the issuance thereof as required under Section 2, Rule 39. In the exercise by the trial court of its discretionary power to issue a writ of execution pending appeal, we emphasize the need for strict compliance with the requirement for the statement of a good reason, because execution pending appeal is the exception rather than the rule.²⁰

Since the writ of execution was manifestly void for having been issued without compliance with the rules, it is without any legal effect.²¹ In other words, it is as if no writ was issued at all.²² Consequently, all actions taken pursuant to the void writ of execution must be deemed to have not been taken and to have had no effect. Otherwise, the Court would be

¹⁹ *Telefunken Semiconductors Employees Union v. Court of Appeals*, 401 Phil. 776, 800 (2000); *Valderrama v. National Labor Relations Commission*, 326 Phil. 477, 484 (1996); *Policarpio v. Philippine Veterans Board*, 106 Phil. 125, 131 (1959).

²⁰ *Planters Products, Inc. v. Court of Appeals*, 375 Phil. 615, 624 (1999).

²¹ *David v. Judge Velasco*, 418 Phil. 643 (2001). See also *Continental Watchman and Security Agency, Inc. v. National Food Authority*, G.R. No. 171015, 25 August 2010, 629 SCRA 238.

²² *Id.* at 654.

sanctioning a violation of the right to due process of the judgment debtors – respondent-spouses herein.²³

Therefore, there is no basis for the claim of petitioner that since a levy and an auction sale of respondents' property have been held and a new TCT issued in his name, respondents have therefore automatically and permanently lost any further proprietary right to their auctioned property. Hence, his argument that their appeal is moot and academic, because what they seek to prevent has been executed, does not hold water. On the contrary, the practical effect of the voidness of the writ of execution is that it would be as if the levy, and the auction held pursuant to it, never happened. That the void writ has already been satisfied does not perforce clothe it, and all actions taken pursuant to it, with validity.

II

The execution of the RTC judgment does not automatically mean that the issues on appeal have become moot and academic.

Moreover, even assuming that the writ of execution in the instant case were not void, the execution of the RTC judgment cannot be considered as a supervening event that would automatically moot the issues in the appealed case for *accion publiciana*, which is pending before the CA. Otherwise, there would be no use appealing a judgment, once a writ of execution is issued and satisfied. That situation would be absurd. On the contrary, the Rules of Court in fact provides for cases of reversal or annulment of an executed judgment. Section 5 of Rule 39 provides that in those cases, there should be restitution or reparation as warranted by justice and equity. Therefore, barring any supervening event, there is still the possibility of the appellate court's reversal of the appealed decision – even if already executed – and, consequently, of a restitution or a reparation.

In any case, the issues in the appealed case for *accion publiciana* cannot, in any way, be characterized as moot and academic. In *Osmeña III v. Social Security System of the Philippines*,²⁴ we defined a moot and academic case or issue as follows:

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be

²³ Id.

²⁴ G.R. No. 165272, 13 September 2007, 533 SCRA 313, citing *Province of Batangas v. Romulo*, G.R. No. 152774, 27 May 2004, 429 SCRA 736, 754; *Olanolan v. Comelec*, 494 Phil. 749, 759 (2005); *Paloma v. CA*, 461 Phil. 269, 276-277 (2003).

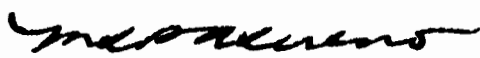
negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness — save when, among others, a compelling constitutional issue raised requires the formulation of controlling principles to guide the bench, the bar and the public; or when the case is capable of repetition yet evading judicial review.²⁵ (Emphasis supplied; citations omitted)

Applying the above definition to the instant case, it is obvious that there remains an unresolved justiciable controversy in the appealed case for *accion publiciana*. In particular, did respondent-spouses Oria really encroach on the land of petitioner? If they did, does he have the right to recover possession of the property? Furthermore, without preempting the disposition of the case for *accion publiciana* pending before the CA, we note that if respondents built structures on the subject land, and if they were builders in good faith, they would be entitled to appropriate rights under the Civil Code. This Court merely points out that there are still issues that the CA needs to resolve in the appealed case before it.

Moreover, there are also the questions of whether respondents should be made to pay back monthly rentals for the alleged encroachment; and whether the reward of attorney's fees, which are also being questioned, was proper. The pronouncements of the CA on these issues would certainly be of practical value to the parties. After all, should it find that there was no encroachment, for instance, respondents would be entitled to substantial relief. In view of all these considerations, it cannot be said that the main case has become moot and academic.

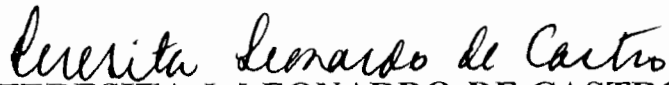
WHEREFORE, premises considered, the instant Petition for Certiorari is **DISMISSED**. The Court of Appeals Resolutions dated 4 October 2007 and 28 May 2008, which denied petitioner's Motion praying for the dismissal of respondents' appeal in CA-G.R. CV No. 87256, are hereby **AFFIRMED**.

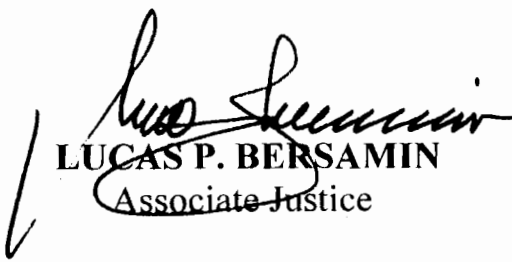
SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

²⁵ Id. at 327.

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice