



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

EDMUND SIA,

Petitioner,

- versus -

WILFREDO ARCENAS,
FERNANDO LOPEZ, and
PABLO RAFANAN,
 Respondents.

G.R. Nos. 209672-74

Present:

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

Promulgated:

JAN 14 2015

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated January 31, 2013 and the Resolution³ dated August 29, 2013 of the Court of Appeals (CA) in CA-G.R. SP Nos. 04598, 04607, and 04608 which set aside the Writ of Possession⁴ dated June 19, 2009 and the Writ of Demolition⁵ dated August 28, 2009 of the Regional Trial Court (RTC) of Roxas City, Capiz, Branch 15 (RTC Br. 15) in Special Civil Action No. V-7075 (SCA No. V-7075), involving Lot 145-A and Lot No. 1839-pt, with areas of 7,652 and 8,381 square meters, respectively, both located in Barangay IX, Roxas City, Capiz (subject lots), issued in favor of petitioner Edmund Sia (petitioner).

¹ *Rollo*, pp. 4-15.

² Id. at 17-35. Penned by Associate Justice Pedro B. Corales with Associate Justices Edgardo L. Delos Santos and Gabriel T. Ingles, concurring.

³ Id. at 44-49. Penned by Associate Justice Edgardo L. Delos Santos with Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino, concurring.

⁴ Id. at 36-37. Issued by Acting/OIC Branch Clerk of Court Patricia A. Abaldonado.

⁵ Id. at 38. Issued by Judge Juliana C. Azarraga.

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The Facts

Due to the real property tax delinquencies of Panay Railways, Incorporated (PRI) over the subject lots covering the years 1992 to 1996, the City Treasurer of Roxas City (City Treasurer) auctioned the subject lots, with petitioner as the highest bidder.⁶ Consequently, on December 20, 1996, a Certificate of Sale was issued in petitioner's favor.⁷ This notwithstanding, petitioner was not able to take possession thereof in view of the refusal of the City Treasurer to issue a Final Bill of Sale despite the lapse of the one-year redemption period. Worse, then-Mayor Juliano Alba (Mayor Alba) of Roxas City issued Executive Order No. (EO) 08-97, nullifying the auction sale.⁸ Hence, petitioner was constrained to file a Petition⁹ for the annulment of EO 08-97, *mandamus*, and damages on February 4, 1998 against the City Treasurer, Mayor Alba, the members of the City Council of Roxas City, the Roxas City Government, and the PRI before the RTC of Roxas City, Branch 17 (RTC Br. 17), docketed as SCA No. V-7075, ultimately seeking that a Final Bill of Sale over the subject lots be issued to him.¹⁰

In a Decision¹¹ dated March 21, 2001, the RTC Br. 17 ruled in petitioner's favor, and accordingly ordered the City Treasurer to issue the Final Bill of Sale as prayed for.¹² PRI appealed to the CA, which affirmed the RTC Br. 17's ruling *in toto*.¹³ Dissatisfied, PRI appealed to the Court,¹⁴ which was denied outright for having been filed beyond the 15-day reglementary period and for failure to pay the docket and other fees on time. On October 23, 2007, the Court's ruling became final and executory.¹⁵

Petitioner moved for execution¹⁶ before the RTC Br. 15 and was granted the corresponding writ on February 28, 2008.¹⁷ This notwithstanding, the City Treasurer refused to issue the Final Bill of Sale, positing that petitioner still had to settle the delinquent real property taxes over the subject lots in the amount of ₱2,394,526.44 which accrued during the pendency of the case.¹⁸ Instead of paying said delinquent taxes, petitioner filed a Motion for Order Divesting Panay Railway, [Inc. of] Title and

⁶ Id. at 22 and 79.

⁷ Id. at 95-96.

⁸ Id. at 22.

⁹ Dated January 30, 1998. (Id. at 92-105.)

¹⁰ See id. at 103-104.

¹¹ Id. at 79-91. Penned by Judge Julius L. Abela.

¹² Id. at 91. See also id. at 22.

¹³ See CA Decision dated November 16, 2006 in CA-G.R. CV. No. 72776 penned by Associate Justice Priscilla Baltazar-Padilla with Associate Justices Isaias P. Dicdican and Romeo F. Barza; CA *rollo* (CA G.R. SP No. 04598), pp. 57-73.

¹⁴ Entitled "*Panay Railways Incorporated v. Edmund Sia*" docketed as G.R. No. 175698.

¹⁵ See Entry of Judgment dated October 23, 2007; CA *rollo* (CA-G.R. SP No. 04598), p. 74. See also *rollo*, pp. 22-23.

¹⁶ See Motion for Execution dated December 21, 2007, CA *rollo* (CA-G.R. SP No. 04598), pp. 75-78.

¹⁷ See Writ of Execution issued by Clerk of Court VI Blas C. Nolasco, Jr.; id. at 80-81.

¹⁸ See Letter dated March 19, 2008 of City Treasurer Joselito R. Almodiente addressed to petitioner; id. at 84. See also *rollo*, p. 23.

Vesting Title to Plaintiff Edmund Sia¹⁹ dated March 31, 2008. Finding the motion to be meritorious, the RTC Br. 15 issued an Order²⁰ dated June 10, 2008 granting petitioner's motion, and likewise holding that petitioner cannot be held liable for any real property tax prior to the issuance of a Final Bill of Sale.²¹

Thereafter, petitioner moved for the delivery of the possession²² of the subject lots as they were already being occupied by third parties, including herein respondents Wilfredo Arcenas, Fernando Lopez, and Pablo Rafanan (respondents). Thus, a Writ of Possession²³ dated June 19, 2009, and eventually, a Writ of Demolition²⁴ dated August 28, 2009 were issued in petitioner's favor.

Respondents, who, at that time, were occupying the subject lots as lessees of PRI, moved for the quashal of the abovementioned writs,²⁵ essentially contending that the March 21, 2001 Decision in SCA No. V-7075 sought to be executed arose from a *mandamus* petition where a writ of possession is proscribed. They posited that the execution of a final judgment in a *mandamus* case is similar to the execution of special judgments as provided in Section 11, Rule 39 in relation to Section 9, Rule 65 of the Rules of Court.²⁶

In his Opposition,²⁷ petitioner argued that the ruling in SCA No. V-7075, as well as the orders directing the issuance of the Final Bill of Sale and the divesting of PRI's title over the subject lots entitles him to their possession.²⁸

The RTC Br. 15 Ruling

In an Order²⁹ dated September 18, 2009, the RTC Br. 15 denied respondents' motion to quash. It held that the proceedings for tax delinquency sale at a public auction takes the nature of, or is akin to, an extrajudicial foreclosure, thus necessitating the issuance of the corresponding writs of possession and demolition. In this relation, it agreed

¹⁹ CA rollo, pp. 85-86.

²⁰ Id. at 87-91. Penned by Judge Juliana C. Azarraga.

²¹ Rollo, pp. 23-24.

²² See Motion for Writ of Possession filed on November 4, 2008; CA rollo (CA-G.R. SP. No. 04598), pp. 92-94.

²³ Id. at 96-97.

²⁴ Id. at 108.

²⁵ See Urgent Motion to Quash the Writs of Possession and/or Demolition dated September 1, 2009 (id. at 109-114), which were adopted by Fernando Lopez through a Manifestation dated September 3, 2009 (CA rollo [CA-G.R. SP No. 04607]), pp. 40-42) and Pablo Rafanan through an Urgent Motion dated September 14, 2009 (CA rollo [CA-G.R. SP No. 04608], pp. 117-121).

²⁶ Rollo, p. 25.

²⁷ See Opposition to Urgent Motion to Quash the Writs of Possession and/or Demolition dated September 1, 2009; CA rollo (CA-G.R. SP. No. 04598), pp. 127-129.

²⁸ See Rollo, pp. 25-26.

²⁹ Id. at 50-55.

with petitioner's posture that his entitlement to the aforesaid writs arose from the ruling in SCA No. V-7075, as well as the orders directing the issuance of the Final Bill of Sale, thereby vesting unto petitioner title over the subject lots.³⁰

Respondents moved for reconsideration,³¹ which was, however, denied in an Order³² dated October 15, 2009. Aggrieved, respondents elevated the matter to the CA through three (3) separate petitions for *certiorari*.³³

The CA Ruling

In a Decision³⁴ dated January 31, 2013, the CA set aside RTC Br. 15's June 19, 2009 Writ of Possession³⁵ and August 28, 2009 Writ of Demolition,³⁶ and directed the said court to enforce with dispatch the Writ of Execution dated February 28, 2008 in accordance with Section 11, Rule 39 in relation to Section 9, Rule 65 of the Rules of Court.³⁷

It held that the writs of possession and demolition issued by the RTC Br. 15 are null and void as they were issued beyond the ambit of the March 21, 2001 Decision in SCA No. V-7075.³⁸ In this regard, the CA ruled that since SCA No. V-7075 is one for *mandamus*, the RTC Br. 15's power in executing the judgment therein is limited to directing compliance with the judgment (*i.e.*, ordering the City Treasurer to issue a Final Bill of Sale in petitioner's favor) and, in case of refusal, punish with contempt the person required by law to obey the same.³⁹

Dissatisfied, petitioner filed a Motion for Reconsideration⁴⁰ dated March 1, 2013, which was, eventually, denied in a Resolution⁴¹ dated August 29, 2013, hence, this petition.

³⁰ Id. at 53.

³¹ See Motion for Reconsideration filed on September 29, 2009; CA *rollo* (CA-G.R. SP. No. 04598), pp. 153-157.

³² *Rollo*, p. 56.

³³ See Petition of: (a) Wilfredo Arcenas filed on October 23, 2009; CA *rollo* (CA-G.R. SP No. 04598), pp. 4-21; (b) Fernando Lopez filed on October 26, 2009; CA *rollo* (CA-G.R. SP No. 04607), pp. 4-27; and (c) Pablo Rafanan filed on October 26, 2009; CA *rollo* (CA-G.R. SP No. 04608), pp. 4-19. All these cases were consolidated in a Resolution dated August 17, 2010 (CA *rollo* [CA-G.R. SP No. 04607], pp. 219-220).

³⁴ *Rollo*, pp. 17-35.

³⁵ Id. at 36-37.

³⁶ Id. at 38.

³⁷ Id. at 35.

³⁸ Id. at 34.

³⁹ See id. at 31-34.

⁴⁰ Id. at 39-43.

⁴¹ Id. at 44-49.

The Issue Before the Court

The primordial issue for the Court's resolution is whether or not the CA correctly declared the writs of possession and demolition null and void, and accordingly directed the RTC Br. 15 to enforce the Writ of Execution dated February 28, 2008 in accordance with Section 11, Rule 39 in relation to Section 9, Rule 65 of the Rules of Court.

The Court's Ruling

The petition is without merit.

At the outset, it is essential to note that the petition in SCA No. V-7075 before the RTC Br. 17 is primarily that of *mandamus*, seeking that the court, through the issuance of a writ of *mandamus*, compel the City Treasurer to issue a Final Bill of Sale covering the subject lots in petitioner's favor pursuant to its mandate under Section 262⁴² of Republic Act No. 7160,⁴³ otherwise known as the "Local Government Code of 1991" (LGC).⁴⁴ In fact, the RTC Br. 17 granted such petition when it declared valid the auction sale where petitioner purchased the subject lots in supersession of EO 08-97, and accordingly ordered the City Treasurer to issue the sought for Final Bill of Sale, *viz.*:

Judgment is hereby rendered as follows:

1. Declaring Panay Railways Inc. and/or the subject [lots] as not exempt from real property Taxes and declaring the auction sale of December 20, 1996 as valid and binding;
2. Ordering the City Treasurer of Roxas City to issue in favor of the petitioner the Final Bill of Sale over [the subject lots] described in the petition.

SO ORDERED. ⁴⁵

As case law defines, a writ of *mandamus* is a "command issuing from a court of law of competent jurisdiction, in the name of the state or sovereign, directed to an inferior court, tribunal, or board, or to some corporation or person, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom

⁴² SEC. 262. *Final Deed to Purchaser*. – In case the owner or person having legal interest therein fails to redeem the delinquent property as provided herein, the local treasurer shall execute a deed conveying to the purchaser said property, free from lien of the delinquent tax, interest due thereon and expenses of sale. The deed shall briefly state the proceedings upon which the validity of the sale rests.

⁴³ Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991" (January 1, 1992).

⁴⁴ *Rollo*, pp. 99-103.

⁴⁵ *Id.* at 91.

the writ is directed, or from operation of law. It is employed to compel the performance, when refused, of a ministerial duty, which, as opposed to a discretionary one, is that which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his or its own judgment upon the propriety or impropriety of the act done.”⁴⁶

In this case, the judgment in SCA No. V-7075 primarily compels the City Treasurer to issue the Final Bill of Sale covering the subject lots in favor of petitioner pursuant to Section 262 of the LGC, a ministerial duty, which said officer unduly refused to perform. Thus, it may be properly deemed as a judgment ordering the issuance of a writ of *mandamus* against the City Treasurer.

Given that the judgment in SCA No. V-7075 ordered the issuance of a writ of *mandamus* compelling the performance of a ministerial duty, and not the payment of money or the sale or delivery of real or personal property, the same is in the nature of a special judgment⁴⁷ – that is which a judgment directs the performance of a specific act requiring the party or person to personally do because of his personal qualifications and circumstances.⁴⁸ As such, execution of the said judgment should be governed by Section 11, Rule 39 of the Rules of Court, which provides:

SEC. 11. *Execution of special judgments.* – When a judgment requires the performance of any act other than those mentioned in [Sections 9 and 10, Rule 39 of the Rules of Court], a certified copy of the judgment shall be attached to the writ of execution and shall be served by the officer upon the party against whom the same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may be punished for contempt if he disobeys such judgment.

This is in consonance with the rule on service and enforcement of orders or judgments concerning, among others, the special civil action of *mandamus* under Section 9, Rule 65 of the Rules of Court, which states:

SEC. 9. *Service and enforcement of order or judgment.* – A certified copy of the judgment rendered in accordance with the last preceding section shall be served upon the court, quasi-judicial agency, tribunal, corporation, board, officer or person concerned in such manner as the court may direct, and disobedience thereto shall be punished as contempt. An execution may issue for any damages or costs awarded in accordance with Section 1 of Rule 39.

⁴⁶ *National Home Mortgage Finance Corporation v. Abayari*, 617 Phil. 446, 458 (2009); citations omitted.

⁴⁷ *Id.*

⁴⁸ *Sandico, Sr. v. Piguing*, 149 Phil. 422, 431 (1971).

The rule therefore is that the service and execution of a special judgment, such as a favorable judgment in *mandamus* – as in this case – should be deemed to be limited to directing compliance with the judgment, and in case of disobedience, to have the disobedient person required by law to obey such judgment punished with contempt.

In this case, it is undisputed that the City Treasurer obstinately refused to issue the Final Bill of Sale in petitioner's favor, despite the finality of the judgment in SCA No. V-7075, as well as the issuance and service of the Writ of Execution dated February 28, 2008 commanding him to do so. In view of such refusal, the RTC Br. 15 should have cited the City Treasurer in contempt in order to enforce obedience to the said judgment.⁴⁹ However, instead of simply doing so, it granted petitioner's numerous motions, resulting in, among others, the issuance of a writ of possession.

A writ of possession is defined as a "writ of execution employed to enforce a judgment to recover the possession of land. It commands the sheriff to enter the land and give its possession to the person entitled under the judgment."⁵⁰ It may be issued under the following instances: (a) land registration proceedings under Section 17⁵¹ of Act No. 496,⁵² otherwise known as "The Land Registration Act;" (b) judicial foreclosure, provided the debtor is in possession of the mortgaged realty and no third person, not a party to the foreclosure suit, had intervened; (c) extrajudicial foreclosure of a real estate mortgage under Section 7⁵³ of Act No. 3135,⁵⁴ as amended by Act

⁴⁹ "Under Section 9 [now Section 11, Rule 39 of the Rules of Court], the court may resort to proceedings for contempt in order to enforce obedience to a judgment which requires the personal performance of a specific act other than the payment of money, or the sale or delivery of real or personal property." (*Sandico, Sr. v. Piguing*, supra.)

⁵⁰ *Metropolitan Bank & Trust Company v. Abad Santos*, G.R. No. 157867, December 15, 2009, 608 SCRA 222, 232, citing Black's Law Dictionary, 5th Ed., 1979, p. 1444.

⁵¹ SEC. 17. The Court of Land Registration, in all matters over which it has jurisdiction, may enforce its orders, judgments, or derives in the same manner as orders, judgments, and decrees are enforced in the Courts of First Instance, and, upon the request of the judge of the Court of Land Registration, the governor or sheriff of any province or of the city of Manila, as the case may be shall assign a deputy to attend the sittings of the court in that province or city.

⁵² Entitled "AN ACT TO PROVIDE FOR THE ADJUDICATION AND REGISTRATION OF TITLES TO LANDS IN THE PHILIPPINE ISLANDS" (November 6, 1902).

⁵³ SEC. 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an ex parte motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of the court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four hundred and ninety-six, as amended by Act Numbered Twenty-eight hundred and sixty-six and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

⁵⁴ Entitled "AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES" (March 6, 1924).

No. 4118;⁵⁵ and (d) in execution sales.⁵⁶ Proceeding therefrom, the issuance of a writ of possession is only proper in order to execute judgments ordering the delivery of specific properties to a litigant, in accordance with Section 10, Rule 39,⁵⁷ of the Rules of Court.

As already discussed, the judgment in SCA No. V-7075 sought to be enforced in the case at bar only declared valid the auction sale where petitioner bought the subject lots, and accordingly ordered the City Treasurer to issue a Final Bill of Sale to petitioner. Since the said judgment did not order that the possession of the subject lots be vested unto petitioner, the RTC Br. 15 substantially varied the terms of the aforesaid judgment – and thus, exceeded its authority in enforcing the same – when it issued the corresponding writs of possession and demolition to vest unto petitioner the possession of the subject lots. It is well-settled that orders pertaining to execution of judgments must substantially conform to the dispositive portion of the decision sought to be executed. As such, it may not vary, or go beyond, the terms of the judgment it seeks to enforce.⁵⁸ Where the execution is not in harmony with the judgment which gives it life and exceeds it, it has no validity.⁵⁹ Had the petitioner pursued an action for ejectment or reconveyance, the issuance of writs of possession and demolition would have been proper; but not in a special civil action for *mandamus*, as in this case.

⁵⁵ Entitled “AN ACT TO AMEND ACT NUMBERED THIRTY-ONE HUNDRED AND THIRTY-FIVE, ENTITLED ‘AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES’” (December 7, 1933).

⁵⁶ *Factor v. Martel, Jr.*, 567 Phil. 521, 526-527 (2008).

⁵⁷ Section 10, Rule 39 of the Rules of Court reads:

SEC. 10. *Execution of judgments for specific act.* –

(a) *Conveyance, delivery of deeds, or other specific acts; vesting title.* – If a judgment directs a party to execute a conveyance of land or personal property, or to deliver deeds or other documents, or to perform any other specific act in connection therewith, and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done shall have like effect as if done by the party. If real or personal property is situated within the Philippines, the court in lieu of directing a conveyance thereof may by an order divest the title of any party and vest it in others, which shall have the force and effect of a conveyance executed in due form of law.

x x x x

(c) *Delivery or restitution of real property.* – The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money.

x x x x

⁵⁸ See *Lao v. King*, 532 Phil. 305, 312 (2006), citing *Dev’t. Bank of the Phils. v. Union Bank of the Phils.*, 464 Phil. 161, 168 (2004).

⁵⁹ *Greater Metropolitan Manila Solid Waste Management Committee v. Jancom Environmental Corporation*, 526 Phil. 761, 779 (2006), citing *Equatorial Realty Dev’t., Inc. v. Mayfair Theater, Inc.*, 387 Phil. 885, 895 (2000).

Perforce, the CA correctly ruled that the Writ of Possession dated June 19, 2009 and the Writ of Demolition dated August 28, 2009 issued in this case are null and void for having been rendered beyond the authority of RTC Br. 15 in enforcing the judgment in SCA No. V-7075.

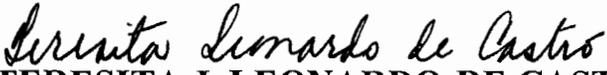
WHEREFORE, the petition is **DENIED**. Accordingly, the Decision dated January 31, 2013 and the Resolution dated August 29, 2013 of the Court of Appeals in CA-G.R. SP Nos. 04598, 04607, and 04608 are hereby **AFFIRMED**.

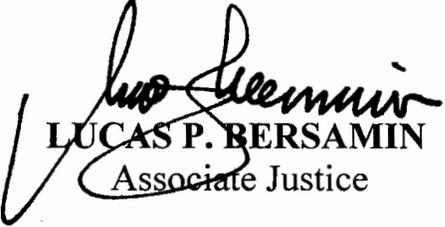
SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


JOSE PORTUGAL PEREZ
 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