



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

HH & CO. AGRICULTURAL G.R. No. 217095
CORPORATION,

Petitioner, Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
REYES, A., JR.,
HERNANDO,
INTING, and
DELOS SANTOS, JJ.

- versus -

ADRIANO PERLAS,

Respondent.

Promulgated:

12 FEB 2020

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RESOLUTION

INTING, J.:

This resolves the Petition¹ for *Certiorari* under Rule 45 of the Rules of Court assailing the Decision² dated July 3, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 05568 which dismissed the petition for *certiorari*³; and the Resolution⁴ dated January 30, 2015 which denied petitioner's motion for reconsideration.⁵

The Antecedents

On April 22, 1994, HH & Co. Agricultural Corporation (petitioner) instituted an extrajudicial foreclosure on the real estate mortgage (REM) covering Lot No. 3 located in Cadiz City and registered under Transfer

¹ *Rollo*, pp. 9-21.

² *Id.* at 25-36; penned by Associate Justice Gabriel T. Ingles with Associate Justices Pamela Ann Abejia Maxino and Renato C. Francisco, concurring.

³ CA *rollo*, pp. 4-15.

⁴ *Rollo* pp. 38-39.

⁵ CA *rollo*, pp. 65-74.

Certificate of Title (TCT) No. T-11964. Subsequently, petitioner emerged as the highest bidder in the public auction sale and a certificate of sale dated April 22, 1994 was eventually issued in its favor.⁶

On December 15, 2000, petitioner caused the annotation of the certificate of sale and asserted that the redemption period of the property was until December 15, 2001. It, nonetheless, admitted that the formalities for consolidation of title, *i.e.*, affidavit of consolidation was not executed and registered with the Register of Deeds of Cadiz City because of the preliminary injunction issued by Branch 60, Regional Trial Court (RTC), Cadiz City in a separate case for declaration of nullity of mortgage, foreclosure sale, interest, penalties, and other damages (nullity of mortgage) also involving the subject property and docketed as Civil Case No. 655-C.⁷

Later, petitioner filed an Application for Writ of Possession⁸ dated December 5, 2008 docketed as LRC Case No. 679-C. In the Order⁹ dated March 16, 2009, the RTC granted the application. Accordingly, a Writ of Possession was thereby issued.¹⁰ Thereafter the corresponding Entry of Final Judgment¹¹ was issued on April 27, 2009.

On June 3, 2009, Adriano Perlas (respondent) filed a Motion to Quash Writ of Possession.¹²

According to respondent, he and his siblings, namely: Lourdes, Azuncion, Monserrat and Manuel, all surnamed Perlas, had filed a case for annulment of sale, recovery of possession, and cancellation of title over the subject property and docketed as Civil Case No. 255-C which, at that time, was still pending appeal with the CA. Moreover, he confirmed that he and his siblings also filed Civil Case No. 655-C, which is a complaint for nullity of mortgage.¹³

Respondent added that the subject property was theirs as it formed part of their mother's estate. He also insisted that he had the legal interest in the matter in litigation and must be allowed to intervene. Consequently, he prayed for the RTC to reconsider the Order dated March 16, 2009 in LRC Case No.

⁶ *Rollo*, p. 26.

⁷ *Id.* at 27.

⁸ *Id.* at 40-41.

⁹ *Id.* at 43-44; penned by Executive Judge Renato D. Muñoz.

¹⁰ *Id.* at 46.

¹¹ *Id.* at 45.

¹² *Id.* at 47-53.

¹³ *Id.* at 47-48.

679-C that granted the application for the issuance of a Writ of Possession and direct the quashal of the issued writ of possession dated May 6, 2009.

Ruling of the RTC

In the Order¹⁴ dated January 8, 2010, the RTC recalled and set aside the writ of possession. The dispositive portion of its order reads:

WHEREFORE, the Order of this Court dated March 16, 2009 and the consequent order dated May 6, 2009 are hereby RECALLED and SET ASIDE and the Motion to Quash Writ of Possession is hereby GRANTED. Let this case therefore be consolidated with Civil Case No. 655-C considering that these actions involve the same issues and parties and in order to avoid unnecessary delay in the hearing of this case and for better understanding.

Furnish copies of this Order to all counsels.

SO ORDERED.¹⁵

The RTC noted that petitioner's application for writ of possession pertained to the same property subject of Civil Case Nos. 255-C and 655-C. In the latter case, the RTC had issued a writ of injunction enjoining the Sheriff, Clerk of Court, and petitioner from consolidating title or ownership over the subject property. According to the RTC, by virtue of the preliminary injunction, there was a legal impediment which prevented petitioner from exercising its right to possess the property. It added that to allow the writ of possession would run counter to the writ of preliminary injunction it already issued in Civil Case No. 655-C.

With the denial of its motion for reconsideration, petitioner filed a petition for *certiorari* with the CA.

Ruling of the CA

On July 3, 2014, the CA denied the petition.¹⁶

The CA ruled that petitioner failed to meet the necessary requirements to make the issuance of a writ of possession a ministerial duty of the court. It

¹⁴ *Id.* at 56-61; penned by Executive Judge Renato D. Muñoz.

¹⁵ *Id.* at 61.

¹⁶ *Id.* at 36

held that petitioner sought for a writ of possession after the period of redemption had lapsed. For which reason, petitioner should have consolidated its ownership and caused the issuance of a new certificate of title. However, according to the CA, petitioner was enjoined from doing so by reason of the writ of preliminary injunction in Civil Case No. 655-C. The CA stressed that petitioner was well aware of the injunction as the latter even mentioned it when it filed its application for writ of possession.¹⁷

The CA further decreed that proof of title is a condition *sine qua non* for the writ of possession to be ministerial. It noted that there being no proof of title here, then the writ of possession had not become an absolute right of petitioner or that it had not yet earned any vested right to be entitled to a writ of possession to be issued as a matter of course.¹⁸

In sum, the CA ruled that the RTC committed no grave abuse of discretion in recalling its order granting petitioner's application for issuance of writ of possession because a writ of preliminary injunction was issued in Civil Case No. 255-C against petitioner and this injunction was issued prior to the issuance of writ of possession in the case.¹⁹

On January 30, 2015, the CA denied petitioner's Motion for Reconsideration.²⁰

Hence, this petition.

Issue

Whether the CA properly ruled that the RTC did not commit grave abuse of discretion in setting aside its Order granting petitioner's application for issuance of writ of possession.

Petitioner's Arguments

Petitioner contends that respondent's filing of a motion to quash writ of possession was improper since the RTC Order granting the issuance of writ of possession had already become final and executory.²¹ It insists that the

¹⁷ *Id.* at 32.

¹⁸ *Id.* at 33.

¹⁹ *Id.* at 35.

²⁰ *CA rollo*, pp. 65-74.

²¹ *Rollo*, p. 12.

issuance of the writ was a ministerial function of the court and the consolidation of its ownership takes effect by operation of law upon the expiration of the period to redeem the property. Given that the redemption period had already lapsed, it already acquired vested right of ownership over the subject property.²²

Respondent's Arguments

Respondent, on his end, argues that the RTC properly recalled the writ of possession because of the prior preliminary injunction issued in another case. He asseverates that there was nothing capricious or whimsical in the exercise of judgment by the RTC because the recall of its order will promote efficient administration of justice.²³ At the same time, he asserts that considering that no new certificate of title was issued in the name of petitioner, then there is no basis for the writ of possession. In fine, according to respondent, in the absence of consolidation and proof of title, petitioner is not entitled to the ministerial issuance of writ of possession over the subject property.²⁴

Our Ruling

The petition is meritorious.

At the outset, let it be underscored that this Petition centers on the issue of the propriety or impropriety of the recall of the writ of possession issued to the petitioner, and not on any matter relating to either the consolidation of the application of the writ of possession with the civil case for nullity of mortgage or on the propriety or impropriety of the restraining order issued against petitioner enjoining it to consolidate its title on the subject property.

On this note, the Court stresses that as a rule, a final judgment is immutable and unalterable. It cannot be disturbed or modified by any court even if the purpose of the alteration is to rectify perceived errors of fact or law. The doctrine of immutability of judgment is for the purpose of avoiding delay in the administration of justice and of putting an end to judicial controversies which cannot drag perpetually. Pursuant to this doctrine, courts have the ministerial duty to enforce judgment that already attained finality. Notably, there are established exceptions to the

²² *Id.* at 14.

²³ *Id.* at 85.

²⁴ *Id.* at 88.

foregoing rule, namely: (i) the correction of clerical errors; (ii) presence of *nunc pro tunc* entries, which cause no prejudice to any party; (iii) void judgment; and, (iv) whenever circumstances transpire after the finality of the judgment which renders the execution unjust and inequitable.²⁵ In this case, none of the foregoing exceptions is applicable. It must be noted that the assailed RTC Order²⁶ dated March 16, 2009 which granted petitioner's application for writ of possession had already become final and executory. The RTC had in fact already issued the corresponding entry of judgment on April 27, 2009.

It is already a settled rule that a buyer in a foreclosure sale becomes the absolute owner of the property purchased if no redemption is made within one year from the registration of the sale.²⁷ Being the absolute owner, he is entitled to all the rights of ownership over the property including the right of possession.²⁸ Indeed, the buyer can demand possession of the land even during the redemption period except that he has to post a bond pursuant to Section 7 of Act No. 3135,²⁹ as amended.³⁰ The bond is no longer required after the redemption period if the property is not redeemed.³¹ To explain, a writ of possession is a writ of execution used to enforce a judgment for the recovery of possession of a land. It instructs the sheriff to enter the subject land and gives its possession to the one entitled to under the judgment. Further, a writ of possession may be issued in favor of the successful buyer in a foreclosure sale of REM either (1) within the one-year redemption period, upon the filing of a bond by the buyer; or (2) after the redemption period, with no bond required.³²

The duty of the court to issue a writ of possession is ministerial and may not be stayed by a pending action for annulment of the mortgage or the foreclosure itself.³³ The only exception is when a third

²⁵ *Mercury Drug Corp., et al. v. Spouses Huang, et al.*, 817 Phil. 434, 445-446 (2017), citing *Social Security System v. Isip*, 549 Phil. 112, 116 (2007) and *FGU Insurance Corp. v. Regional Trial Court of Makati City, Branch 66*, 559 Phil. 117, 123 (2011).

²⁶ *Rollo*, pp. 43-44.

²⁷ *Teves v. Integrated Credit & Corporate Services, Co. (now Carol Aqui)*, G.R. No. 216714, April 4, 2018, 860 SCRA 493, 508 and *Bascara v. Sheriff Javier, et al.*, 760 Phil. 766, 775 (2015), both citing *China Banking Corporation v. Spouses Lozada*, 579 Phil. 454, 472-473 (2008).

²⁸ *Sps. Reyes v. Sps. Chung*, 818 Phil. 225, 236 (2017).

²⁹ An Act to Regulate the Sale of Property Under Special Powers Inserted In or Annexed to Real Estate Mortgages.

³⁰ *Sps. Marquez v. Sps. Alindog*, 725 Phil. 237, 246-247 (2014).

³¹ *Id.*

³² *Gopiao v. Metropolitan Bank & Trust Co.*, 739 Phil. 731, 736 (2014), citing *Sps. Tolosa v. United Coconut Planters Bank*, 708 Phil. 134, 141 (2013).

³³ *LZK Holdings & Dev't. Corp. v. Planters Dev't. Bank*, 725 Phil. 83, 88 (2014).


party is actually holding the property by adverse title or right.³⁴ To be considered in adverse possession, the third party possessor must have done so in his own right and not as a mere successor or transferee of the debtor or mortgagor.³⁵ In this case, respondent, as heir of the mortgagor, is not a third party as contemplated under the exception.

WHEREFORE, the petition is **GRANTED**. The Decision dated July 3, 2014 and Resolution dated January 30, 2015 of the Court of Appeals in CA-G.R. SP No. 05568 are **SET ASIDE**. The Order dated March 16, 2009 and the Writ of Possession dated May 6, 2009 of Branch 60, Regional Trial Court, Cadiz City are **REINSTATED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


³⁴ *Supra* note 30 at 250.

³⁵ *Sps. Gallent v. Velasquez*, 784 Phil. 44, 63 (2016).



ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

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


DIOSDADO M. PERALTA
Chief Justice

