

SECOND DIVISION

[G.R. No. 217095, February 12, 2020]

**HH & CO. AGRICULTURAL CORPORATION, PETITIONER, VS.
ADRIANO PERLAS, RESPONDENT.**

R E S O L U T I O N

INTING, J.:

This resolves the Petition^[1] for *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[2] 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 Resolution^[4] 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 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 finalities 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 Possession^[8] dated December 5, 2008 docketed as LRC Case No. 679-C. In the Order^[9] dated March 16, 2009, the RTC granted the application. Accordingly, a Writ of Possession was thereby issued.^[10] Thereafter the corresponding Entry of Final Judgment^[11] 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. 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 Order^[14] 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 tiled 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 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 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.