

EN BANC

[G.R. No. 205632, June 02, 2020]

BANK OF COMMERCE, PETITIONER, VS. JOAQUIN T. BORROMEO, RESPONDENT.

D E C I S I O N

LEONEN, J.:

The end of litigation, upon the finality of judgment, is essential for the effective and efficient administration of justice. This Court is duty-bound to put an end to any machination, scheme, or measure taken by any party to defeat or frustrate the implementation of its decisions. All litigants are warned that this Court does not tolerate attempts to squander its time rehearing cases that are final and executory.

This is a Petition^[1] filed by Bank of Commerce against Joaquin T. Borromeo (Borromeo), praying that this Court hold Borromeo in indirect contempt of court, pursuant to Section 3(b), (c), and (d)^[2] of Rule 71 of the Rules of Court.

Borromeo was previously declared guilty of constructive contempt by this Court in its February 21, 1995 Resolution in *In Re: Borromeo*.^[3]

From 1978 to 1980, Borromeo obtained several loans from Traders Royal Bank.^[4] Among these was a P45,000.00 loan secured by a real estate mortgage for over two (2) lots in Cebu City covered by Transfer Certificates of Title Nos. 59596 and 59755.^[5] A third Cebu City lot, under Transfer Certificate of Title No. 71509, also secured a loan taken out by Borromeo.^[6] When Borromeo defaulted on his loans with Traders Royal Bank, the bank then foreclosed the mortgages, and eventually, the properties were sold to it. This led to protracted decades-long litigation between Traders Royal Bank and Borromeo, as extensively documented in *In Re: Borromeo*:

A. CIVIL CASES

*1. RTC Case No. R-22506; CA G.R.
CV No. 07015; G.R. No. 83306*

On October 29, 1982 Borromeo filed a complaint in the Cebu City Regional Trial Court for specific performance and damages *against TRB and its local manager, Bias Abril*, docketed as Civil Case No. R-22506. The complaint sought to compel defendants to allow redemption of the foreclosed properties only at their auction price, with stipulated interests and charges, without need of paying the obligation secured by the trust receipt above mentioned. Judgment was rendered in his favor on December 20, 1984 by Branch 23 of the Cebu City RTC; but on defendants' appeal to the Court of Appeals - docketed as CA-G.R. CV No. 07015 - the judgment was reversed, by the decision dated January

27,1988. The Court of Appeals held that the "plaintiff (Borromeo) has lost his right of redemption and can no longer compel defendant to allow redemption of the properties in question."

Borromeo elevated the case to this Court where his appeal was docketed as G.R. No. 83306. By Resolution dated August 15, 1988, this Court's First Division denied his petition for review "for failure. . . to sufficiently show that the respondent Court of Appeals had committed any reversible error in its questioned judgment, it appearing on the contrary that the said decision is supported by substantial evidence and is in accord with the facts and applicable law." Reconsideration was denied, by Resolution dated November 23, 1988. A second motion for reconsideration was denied by Resolution dated January 30, 1989, as was a third such motion, by Resolution dated April 19, 1989. The last resolution also directed entry of judgment and the remand of the case to the court of origin for prompt execution of judgment. Entry of judgment was made on May 12,1989. By Resolution dated August 7, 1989, the Court denied another motion of Borromeo to set aside judgment, and by Resolution dated December 20, 1989, the Court merely noted without action his manifestation and motion praying that the decision of the Court of Appeals be overturned, and declared that "no further motion or pleading . . . shall be entertained[.]"

2. *RTC Case No. CEB 8750;*
CA-G.R. SPNo. 22356

The ink was hardly dry on the resolutions just mentioned before Borromeo initiated another civil action in the same Cebu City Regional Trial Court by which he attempted to litigate the same issues. The action, *against the new TRB Branch Manager, Jacinto Jamero*, was docketed as Civil Case No. CEB-8750. As might have been anticipated, the action was, on motion of the defense, dismissed by Order dated May 18, 1990, on the ground of *res judicata*, the only issue raised in the second action - i.e., Borromeo's right to redeem the lots foreclosed by TRB - having been ventilated in Civil Case No. R-22506 (*Joaquin T. Borromeo vs. Bias C. Abril and Traders Royal Bank*) (*supra*) and, on appeal, decided with finality by the Court of Appeals and the Supreme Court in favor of defendants therein.

The Trial Court's judgment was affirmed by the Court of Appeals in CA-G.R. SP No. 22356.

3. *RTC Case No. CEB-9485;*
CA-G.R. SPNo. 28221

In the meantime, and during the pendency of Civil Case No. R-22506, TRB consolidated its ownership over the foreclosed immovables. Contending that that act of consolidation amounted to a criminal offense, Borromeo filed complaints in the Office of the City Prosecutor of Cebu against the bank officers and lawyers. These complaints were however, and quite correctly, given short shrift by that Office. Borromeo then filed suit in the Cebu City RTC, this time not only *against the TRB, TRB officers*

Jacinto Jamero and Arceli Bustamante, but also against City Prosecutor Jufelinito Pareja and his assistants, Enriqueta Belarmino and Eva A. Igot, and the TRB lawyers, Mario Ortiz and the law firm, HERSINLAW. The action was docketed as Civil Case No. CEB-9485. The complaint charged Prosecutors Pareja, Belarmino and Igot with manifest partiality and bias for dismissing the criminal cases just mentioned; and faulted TRB and its manager, Jamero, as well as its lawyers, for consolidating the titles to the foreclosed properties in favor of the bank despite the pendency of Case No. R-22506. This action also failed. On defendants' motion, it was dismissed on February 19, 1992 by the RTC (Branch 22) on the ground of *res judicata* (being identical with Civil Case Nos. R-22506 and CEB-8750, already decided with finality in favor of TRB), and lack of cause of action (as to defendants Pareja, Belarmino and Igot).

Borrromeo's *certiorari* petition to the Court of Appeals (CA G.R. SP No. 28221) was dismissed by that Court's 16th Division on October 6, 1992, for the reason that the proper remedy was appeal.

4. *RTC Case No. CEB-10368;*
CA-G.R.SPNo. 27100

Before Case No. CEB-9845 was finally decided, Borrromeo filed, on May 30, 1991, still another civil action for the same cause *against TRB, its manager, Jacinto Jamero, and its lawyers, Atty. Mario Ortiz and the HERSINLAW law office.* This action was docketed as Civil Case No. CEB-10368, and was described as one for "Recovery of Sums of Money, Annulment of Titles with Damages." The case met the same fate as the others. It was, on defendants' motion, dismissed on September 9, 1991 by the RTC (Branch 14) on the ground of *litis pendentia*.

The RTC ruled that -

"Civil Case No. CEB-9485 will readily show that the defendants therein, namely the Honorable Jufelinito Pareja, Enriqueta Belarmino, Eva Igot, Traders Royal Bank, Arceli Bustamante, Jacinto Jamero, Mario Ortiz and HERSINLAW are the same persons or nearly all of them who are impleaded as defendants in the present Civil Case No. CEB-10368, namely, the Traders Royal Bank, Jacinto Jamero, Mario Ortiz and HERSINLAW. The only difference is that more defendants were impleaded in Civil Case No. CEB-9485, namely, City Prosecutor Jufelinito Pareja and his assistants, Enriqueta Belarmino and Eva Igot. The inclusion of the City Prosecutor and his two assistants in Civil Case No. CEB-9485 was however merely incidental as apparently they had nothing to do with the questioned transaction in said case[.]"

The Court likewise found that the reliefs prayed for were the same as those sought in Civil Case No. CEB-9485, and the factual bases of the two cases were essentially the same - the alleged fraudulent foreclosure and consolidation of the three properties mortgaged years earlier by Borrromeo to TRB.

For some reason, the Order of September 9, 1991 was set aside by an Order rendered by another Judge on November 11, 1991 - the Judge who previously heard the case having inhibited himself; but this Order of November 11, 1991 was, in turn, nullified by the Court of Appeals (9th Division), by Decision promulgated on March 31, 1992 in CA-G.R. SP No. 27100 (*Traders Royal Bank vs. Hon. Celso M. Gimenez, etc. and Joaquin T. Borromeo*), which decision also directed dismissal of Borromeo's complaint.

5. RTC Case No. CEB-6452

When a new branch manager, Ronald Sy, was appointed for TRB, Cebu City, Borromeo forthwith made that event the occasion for another new action, *against TRB, Ronald Sy, and the banks' attorneys - Mario Ortiz, Honorato Hermosisima, Jr., Wilfredo Navarro and HERSINLAW firm*. This action was docketed as Civil Case No. CEB-6452, and described as one for "Annulment of Title with Damages." The complaint, dated October 20, 1987, again involved the foreclosure of the three (3) immovable above mentioned, and was anchored on the alleged malicious, deceitful, and premature consolidation of titles in TRB's favor despite the pendency of Civil Case No. 22506. On defendants' motion, the trial court dismissed the case on the ground of prematurity, holding that "(a)t this point... plaintiffs right to seek annulment of defendant Traders Royal Bank's title will only accrue if and when plaintiff will ultimately and finally win Civil Case No. R-22506."

6. RTC Case No. CEB-8236

Having thus far failed in his many efforts to demonstrate to the courts the "merit" of his cause against TRB and its officers and lawyers, Borromeo now took a different tack by also suing (and thus also venting his ire on) the members of the appellate courts who had ruled adversely to him. He filed in the Cebu City RTC, Civil Case No. CEB-8236, *impleading as defendants not only the same parties he had theretofore been suing - TRB and its officers and lawyers (HERSINLAW Mario Ortiz) - but also the Chairman and Members of the First Division of the Supreme Court who had repeatedly rebuffed him in G.R. No. 83306 (SEE sub-head I, A, 1, supra), as well as the Members of the 8th, 9th and 10th Divisions of the Court of Appeals who had likewise made dispositions unfavorable to him*. His complaint, dated August 22, 1989, aimed to recover damages from the defendant Justices for -

". . . maliciously and deliberately stating blatant falsehoods and disregarding evidence and pertinent laws, rendering manifestly unjust and biased resolutions and decisions bereft of signatures, facts or laws in support thereof, depriving plaintiff of his cardinal rights to due process and against deprivation of property without said process, tolerating, approving and legitimizing the patently illegal, fraudulent, and contemptuous acts of defendant TRB, (which) constitute a) GRAVE DERELICTION OF DUTY AND ABUSE OF POWER

emanating from the people, b) FLAGRANT VIOLATIONS OF THE CONSTITUTION, CARDINAL PRIMARY RIGHTS, DUE PROCESS, ART. 27, 32, CIVIL CODE, Art. 208, REV. PENAL CODE, and R.A. 3019, for which defendants must be held liable under said laws."

The complaint also prayed for reconveyance of the "fake titles obtained fraudulently by TRB/HERSINLAW," and recovery of "P100,000.00 moral damages; 30,000.00 exemplary damages; and P5,000.00 litigation expenses." This action, too, met a quick and unceremonious demise. On motion of defendants TRB and HERSINLAW, the trial court, by Order dated November 7, 1989, dismissed the case.

7. RTC Case No. CEB-13069

It appears that Borromeo filed still another case to litigate the same cause subject of two (2) prior actions instituted by him. This was RTC Case No. CEB-13069, *against TRB and the latter's lawyers, Wilfredo Navarro and Mario Ortiz*. The action was dismissed in an Order dated October 4, 1993, on the ground of res judicata - the subject matter being the same as that in Civil Case No. R-22506, decision in which was affirmed by the Court of Appeals in CA-G.R. CV No. 07015 as well as by this Court in G.R. No. 83306 - and litis pendentia - the subject matter being also the same as that in Civil Case No. CEB-8750, decision in which was affirmed by the Court of Appeals in CA G.R. SP No. 22356.

8. RTC Criminal Case No. CBU-19344; CA-G.R. SPNo. 28275; G.R. No. 112928

On April 17, 1990 the City Prosecutor of Cebu City filed an information with the RTC of Cebu (Branch 22) against Borromeo charging him with a violation of the Trust Receipts Law. This case was docketed as Criminal Case No. CBU-19344. After a while, Borromeo moved to dismiss the case on the ground of denial of his right to a speedy trial. His motion was denied by Order of Judge Pampio A. Abarintos dated April 10, 1992. In the same order, His Honor set an early date for Borromeo's arraignment and placed the case "under a continuous trial system on the dates as may be agreed by the defense and prosecution." Borromeo moved for reconsideration. When his motion was again found without merit, by Order dated May 21, 1992, he betook himself to the Court of Appeals on a special civil action of *certiorari*, to nullify these adverse orders, his action being docketed as CA-G.R. SP No. 28275.

Here again, Borromeo failed. The Court of Appeals declared that the facts did not show that there had been unreasonable delay in the criminal action against him, and denied his petition for being without merit.

Borromeo then filed a petition for review with this Court (G.R. No. 112928), but by resolution dated January 31, 1994, the same was dismissed for failure of Borromeo to comply with the requisites of Circulars Numbered 1-88 and 19-91. His motion for reconsideration was