

FIRST DIVISION

[G.R. No. 173616, June 25, 2014]

AIR TRANSPORTATION OFFICE (ATO), PETITIONER, VS. HON. COURT OF APPEALS (NINETEENTH DIVISION) AND BERNIE G. MIAQUE, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This petition for *certiorari* and prohibition of the Air Transportation Office (ATO) seeks the nullification of the Court of Appeals' Resolution^[1] dated March 29, 2006 and Resolution^[2] dated May 30, 2006 in CA-G.R. CEB-SP No. 01603. The Resolution dated March 29, 2006 granted the application for temporary restraining order (TRO) of Bernie G. Miaque, while the Resolution dated May 30, 2006 issued a writ of preliminary injunction enjoining the implementation of the writ of execution issued by the Regional Trial Court (RTC) of Iloilo despite Miaque's alleged continued failure and refusal to make current the supersedeas bond and to pay to the ATO the rental and concession privilege fees.

The proceedings on the main case of ejectment

MTCC of Iloilo City: Civil Case No. 01 (38)

In May 2001, the ATO filed a complaint for unlawful detainer against Miaque in the Municipal Trial Court in Cities (MTCC) of Iloilo City, Branch 3. It was docketed as Civil Case No. 01 (38). The ATO sought the following, among others:

(1) That Miaque be ordered to permanently vacate and peacefully return to the ATO possession of:

(a) the 800-square meter Refreshment Parlor fronting the New Terminal Building-Iloilo Airport;

(b) the 310-square meter Restaurant/Gift Shop inside the Iloilo Airport Terminal; and

(c) all areas occupied or otherwise utilized by Miaque incident to his operation of the Porterage Service within the Iloilo Airport; and

(2) That Miaque be ordered to immediately pay the ATO the amount of not less than P1,296,103.10, representing unpaid space rental and concessionaire privilege fees as of October 15, 2000 plus interest and additional rental and fees which may be proven during the trial.^[3]

The MTCC subsequently rendered a Decision^[4] dated May 27, 2002 the dispositive part of which reads:

WHEREFORE, judgment is rendered finding [Miaque] to be unlawfully detaining the following premises and orders [him], his men and privies to:

a. vacate the 800[-]square meter Refreshment Parlor fronting the New Terminal Building-Iloilo Airport. [Miaque] is further ordered to pay [the ATO] the rental and concessionaire privilege fee[s] accruing from November 1986 to October 2000, totaling P460,060.70, plus differential billings from January 1990 to July 1993 for P4,652.60 and interest charges from January 2000 to October 2000 for P2,678.38 or a total amount of P467,397.68 as of October 2000, less the payments made by [Miaque] under Official Receipt No. 4317842 dated December 1998, and the monthly current lease/concession privilege fee from November 2000 until [Miaque] shall have vacated the premises;

(b) vacate the 310[-]square meter Restaurant/Gift Shop inside the Iloilo Terminal Building which was reduced to a total of 183 square meters in 1998 (51.56 square meters inside the pre-departure area and 126.72 square meters outside the pre-departure area). [Miaque] is also ordered to pay [the ATO] rentals/concessionaire's privilege fee[s] from January 16, 1992 to October 15, 2000 in the total amount of P719,708.43 and from October 16, 2000, to pay the current monthly lease/concessionaire privilege fees until [Miaque] shall have vacated the premises; and

(c) vacate the area occupied or used by [Miaque] incident to his operation of the Porterage Service within the Iloilo Airport. [Miaque] is further ordered to pay Tender Offer Fee due from March 1992 to October 2000 in the total amount of P108,997.07. [Miaque] is further ordered to pay the current monthly concession privilege fee from October 2000 until such time that [Miaque] shall have vacated the premises.

Costs against [Miaque].^[5]

RTC of Iloilo City: Civil Case No. 02-27292

Miaque appealed the MTCC Decision to the RTC of Iloilo City, Branch 24. It was docketed as Civil Case No. 02-27292. The RTC, in its Decision^[6] dated June 7, 2003, affirmed the MTCC Decision in its entirety. Miaque's motion for reconsideration was denied.^[7]

Court of Appeals: CA-G.R. SP No. 79439

Miaque questioned the RTC Decision in the Court of Appeals by filing a petition for review, docketed as CA-G.R. SP No. 79439, on September 25, 2003. In a Decision^[8] dated April 29, 2005, the Court of Appeals dismissed the petition and affirmed the RTC Decision. Miaque moved for reconsideration but it was denied in a Resolution dated January 5, 2006.^[9]

Supreme Court: G.R. No. 171099

Miaque brought the case to this Court in a petition for review, docketed as G.R. No. 171099. In a Resolution^[10] dated February 22, 2006, the petition was denied as no reversible error in the Court of Appeals Decision was sufficiently shown. The motion for reconsideration of Miaque was denied with finality.^[11]

The proceedings on execution

As an incident of CA-G.R. SP No. 79439, the Court of Appeals issued on February 27, 2004 a temporary restraining order (TRO) effective for a period of 60 days and required Miaque to post a bond in the amount of P100,000.00.^[12] After the lapse of the TRO, the ATO filed an urgent motion for the execution of the RTC Decision pursuant to Section 21, Rule 70 of the Rules of Court. This was opposed by Miaque.^[13]

In an Order^[14] dated August 2, 2004, the RTC granted the ATO's motion:

Wherefore, in view of the above consideration, the court finds merit [i]n the reasons given in the motion of [the ATO] and hereby Grants the issuance of a Writ of Execution.

Pursuant to Section 21, Rule 70 of the 1997 Rules of Civil Procedure, which mandates that the judgment of this Court being immediately executory in cases of this nature, let a writ of execution shall issue, ordering the sheriff of this Court to effect its Decision dated June 7, 2003, affirming the Decision of the MTCC, Branch 3, Iloilo City.

Furnish copies of this order to the Asst. Solicitor Almira Tomamos of the Office of the Solicitor General and Atty. Rex Rico, counsel for [Miaque].^[15]

Miaque sought reconsideration of the above Order but the RTC denied the motion in an Order^[16] dated August 13, 2004. Thereafter, the RTC issued a Writ of Execution dated August 16, 2004.^[17]

However, the Court of Appeals issued a Resolution^[18] dated August 18, 2004 ordering the issuance of a writ of preliminary injunction and enjoining the ATO and all persons acting in its behalf from enforcing the respective Decisions of the MTCC and the RTC while CA-G.R. SP No. 79439 is pending. Thus, after the dismissal of Miaque's petition for review in CA-G.R. SP No. 79439, the ATO filed another urgent motion for execution of the RTC Decision. In its motion, the ATO pointed out that the supersedeas bond filed by Miaque had lapsed and was not renewed and that the rental and concessionaire privilege fees have not been paid at all in violation of Section 8, Rule 70 of the Rules of Court.^[19] Miaque again opposed the ATO's urgent motion for execution,^[20] while the ATO filed a supplemental urgent motion for execution stating that Miaque's appeal in the Court of Appeals had been dismissed.^[21]

In an Order^[22] dated June 1, 2005, the RTC granted the ATO's urgent motion for

execution and issued a Writ of Execution^[23] dated June 2, 2005. On the basis of the said writ, a notice to vacate was given to Miaque.^[24] On June 3, 2005, Miaque filed a motion for reconsideration of the Order dated June 1, 2005, with prayer to set aside the writ of execution and notice to vacate.^[25] At the same time, he filed a motion in CA-G.R. SP No. 79439 praying that the Court of Appeals order the RTC judge and the concerned sheriffs to desist from implementing the writ of execution.^[26] Thereafter, the Court of Appeals issued a Resolution^[27] dated June 14, 2005 ordering the sheriffs to desist from executing the Decisions of the MTCC and the RTC while CA-G.R. SP No. 79439 is still pending. However, on June 15, 2005, before the concerned sheriffs received a copy of the Resolution dated June 14, 2005, the said sheriffs implemented the writ of execution and delivered the possession of the following premises to the ATO:

- (a) the Restaurant/Gift Shop inside the Iloilo Terminal Building in the reduced area of 183 square meters; and
- (b) the area which Miaque occupied or used incident to his operation of the Porterage Service within the Iloilo Airport.

The sheriffs who implemented the writ then filed a return of service^[28] and issued reports of partial delivery of possession.^[29] However, Miaque subsequently regained possession of the said premises on the strength of the Court of Appeals' Resolution dated June 14, 2005.^[30]

On February 9, 2006, after the Court of Appeals issued its Resolution dated January 5, 2006 denying Miaque's motion for reconsideration of the Decision dated April 29, 2005 in CA-G.R. SP No. 79439, the ATO filed with the RTC a motion for the revival of the writs of execution dated August 16, 2004 and June 2, 2005.^[31] This was opposed by Miaque.^[32] After the RTC heard the parties, it issued an Order^[33] dated March 20, 2006 granting the ATO's motion and revived the writs of execution dated August 16, 2004 and June 2, 2005. Miaque filed a motion for reconsideration but the RTC denied it.^[34]

A new case in the Court of Appeals: CA-G.R. CEB-SP No. 01603

On March 28, 2006, Miaque filed a petition^[35] for *certiorari* (with prayer for issuance of TRO and/or writ of preliminary injunction) in the Court of Appeals, docketed as CA-G.R. CEB-SP No. 01603, where he assailed the RTC's Order dated March 20, 2006. He prayed, among others, that the implementation of the writs of execution be enjoined. It is here where the Court of Appeals issued the Resolutions being challenged in this case, namely, the Resolution dated March 29, 2006 issuing a TRO effective for 60 days, and Resolution dated May 30, 2006 issuing a writ of preliminary injunction enjoining the implementation of the writs of execution dated August 16, 2004 and June 2, 2005. In particular, the Resolution dated May 30, 2006 reads:

Before us for resolution is [Miaque]'s application for the issuance of a writ of preliminary injunction that would restrain the respondent judge, Sheriffs Marcial B. Lambuso, Winston T. Eguia, Camilo I. Divinagracia, Jr. and Eric George S. Luntao and all other persons acting for and in their behalves, from enforcing the orders issued by the respondent judge on

March 20, 2006 and March 24, 2006, including the writ[s] of execution issued pursuant thereto, while the petition in the case at bench is still pending with us.

After examining judiciously the record in this case, together with the submissions and contentions of the parties, we have come up with a finding and so hold that there is a sufficient showing by [Miaque] that the grounds for the issuance of a writ of preliminary injunction enumerated in Section 3 of Rule 58 of the 1997 Revised Rules of Court exist. We find that [Miaque] has a right *in esse* to be protected and the acts against which the injunction is sought to be directed are violative of said right. To our mind, [Miaque] appears to have a clear legal right to hold on to the premises leased by him from ATO at least until such time when he shall have been duly ejected therefrom by a writ of execution of judgment caused to be issued by the MTCC in Iloilo City, which is the court of origin of the decision promulgated by this Court in CA-G.R. SP No. 79439 on April 29, 2005. Under the attendant circumstances, it appears that the respondent judge or the RTC in Iloilo City has no jurisdiction to order the issuance of such writ of execution because we gave due course to the petition for review filed with us in CA-G.R. SP No. 79439 and, in fact, rendered a decision on the merit in said case, thereby divesting the RTC in Iloilo City of jurisdiction over the case as provided for in the third paragraph of Section 8(a) of Rule 42 of the 1997 Revised Rules of Court. In *City of Manila vs. Court of Appeals*, 204 SCRA 362, as cited in *Mocles vs. Maravilla*, 239 SCRA 188, the Supreme Court held as follows:

“The rule is that, if the judgment of the metropolitan trial court is appealed to the RTC and the decision of the latter itself is elevated to the CA whose decision thereafter became final, the case should be remanded through the RTC to the metropolitan trial court for execution.”

WHEREFORE, in view of the foregoing premises, a **WRIT OF PRELIMINARY INJUNCTION** is hereby ordered or caused to be issued by us enjoining the respondent judge, Sheriffs Marcial B. Lambuso, Winston T. Eguia, Camilo I. Divinagracia, Jr. and Eric George S. Luntao and all other persons acting for and in their behalves, from enforcing the orders issued by the respondent judge on March 20, 2006 and March 24, 2006, including the writ[s] of execution issued pursuant thereto, while the petition in the case at bench is still pending with us.

This is subject to the petitioner’s putting up of a bond in the sum of **ONE HUNDRED THOUSAND PESOS (P100,000.00)** to the effect that he will pay to the respondent ATO all damages which said office may sustain by reason of the injunctive writ if we should finally decide that [Miaque] is not entitled thereto.^[36]

The present petition

The ATO claims that the Court of Appeals acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the TRO and the subsequent writ of preliminary injunction through the Order dated March 29, 2006 and the