

FIRST DIVISION

[G.R. No. 160786, June 17, 2013]

**SIMPLICIA O. ABRIGO AND DEMETRIO ABRIGO, PETITIONERS,
VS. JIMMY F. FLORES, EDNA F. FLORES, DANILO FLORES,
BELINDA FLORES, HECTOR FLORES, MARITES FLORES, HEIRS OF
MARIA F. FLORES, JACINTO FAYLONA, ELISA FAYLONA
MAGPANTAY, MARIETTA FAYLONA CARTACIANO, AND HEIRS OF
TOMASA BANZUELA VDA. DE FAYLONA, RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

Once a judgment becomes immutable and unalterable by virtue of its finality, its execution should follow as a matter of course. A supervening event, to be sufficient to stay or stop the execution, must alter or modify the situation of the parties under the decision as to render the execution inequitable, impossible, or unfair. The supervening event cannot rest on unproved or uncertain facts.

In this appeal, petitioners seek to reverse the decision in CA-G.R. SP No. 48033 promulgated on September 25, 2002,^[1] whereby the Court of Appeals (CA) directed the Regional Trial Court, Branch 30, in San Pablo City (RTC) to issue a special order of demolition to implement the immutable and unalterable judgment of the RTC rendered on November 20, 1989.

This case emanated from the judicial partition involving a parcel of residential land with an area of 402 square meters situated in the Municipality of Alaminos, Laguna (property *in litis*) that siblings Francisco Faylona and Gaudencia Faylona had inherited from their parents. Under the immutable and unalterable judgment rendered on November 20, 1989, the heirs and successors-in-interest of Francisco Faylona, respondents herein, would have the western portion of the property *in litis*, while the heirs and successors-in-interest of Gaudencia Faylona its eastern half.

For an understanding of the case, we adopt the following rendition by the CA in its assailed decision of the factual and procedural antecedents, *viz*:

Involved in the suit is a lot with an area of 402 square meters situated in the Municipality of Alaminos, Laguna and inherited by both Francisco (Faylona) and Gaudencia (Faylona) from their deceased parents. The lot is declared for taxation purposes under Tax Declaration No. 7378 which Gaudencia managed to secure in her name alone to the exclusion of Francisco and the latter's widow and children. It appears that after Francisco's death, his widow and Gaudencia entered into an extrajudicial partition whereby the **western half** of the same lot was assigned to Francisco's heirs while the **eastern half** thereof to Gaudencia. There was, however, no actual ground partition of the lot up to and after

Gaudencia's death. It thus result that both the heirs of Francisco and Gaudencia owned in common the land in dispute, which co-ownership was recognized by Gaudencia herself during her lifetime, whose heirs, being in actual possession of the entire area, encroached and built improvements on portions of the **western half**. In the case of the petitioners, a small portion of their residence, their garage and poultry pens extended to the western half.

Such was the state of things when, on July 22 1988, in the Regional Trial Court at San Pablo City, the heirs and successors-in-interest of Francisco Faylona, among whom are the private respondents, desiring to terminate their co-ownership with the heirs of Gaudencia, filed their complaint for judicial partition in this case, which complaint was docketed *a quo* as Civil Case No. SP-3048.

In a **decision dated November 20, 1989**, the trial court rendered judgment for the private respondents by ordering the partition of the land in dispute in such a way that the western half thereof shall pertain to the heirs of Francisco while the eastern half, to the heirs of Gaudencia whose heirs were further required to pay rentals to the plaintiffs for their use and occupancy of portions on the western half. More specifically, the decision dispositively reads:

"WHEREFORE, premises considered, the Court hereby renders judgment in favor of plaintiffs and against defendants ordering:

The partition of the parcel of land described in paragraph 5 of the complaint the western half portion belonging to the plaintiffs and the other half eastern portion thereof to the defendants, the expenses for such partition, subdivision and in securing the approval of the Bureau of Lands shall be equally shouldered by them;

To pay plaintiffs the sum of P500.00 per month as rental from July 22, 1988 until the entire Western half portion of the land is in the complete possession of plaintiffs;

Defendants to pay the costs of these proceedings.

SO ORDERED."

From the aforementioned decision, the heirs of Gaudencia, petitioners included, went on appeal to this Court in **CA-G.R. CV No. 25347**. And, in a **decision promulgated on December 28, 1995**, this Court, thru its former Third Division, affirmed the appealed judgment of the respondent court, minus the award for rentals, thus:

"WHEREFORE, appealed decision is hereby AFFIRMED, except the amount of rental awarded which is hereby DELETED.

SO ORDERED."

With no further appellate proceedings having been taken by the petitioners and their other co-heirs, an **Entry of Judgment** was issued by this Court on **June 3, 1996**.

Thereafter, the heirs of Francisco filed with the court *a quo* a motion for execution to enforce and implement its decision of November 20, 1989, as modified by this Court in its decision in CA-G.R. CV No. 25347, *supra*. Pending action thereon and pursuant to the parties' agreement to engage the services of a geodetic engineer to survey and subdivide the land in question, the respondent court issued an order appointing Engr. Domingo Donato *"to cause the survey and subdivision of the land in question and to make his report thereon within thirty (30) days from receipt hereof."*

In an order dated November 19, 1997, the respondent court took note of the report submitted by Engr. Donato. In the same order, however, the court likewise directed the defendants, more specifically the herein petitioners, to remove, within the period specified therein, all their improvements which encroached on the **western half**, *viz*

"As prayed for by the defendants, they are given 2 months from today or up to January 19, 1998 within which to remove their garage, a small portion of their residence which was extended to a portion of the property of the plaintiffs as well as the chicken pens thereon and to show proof of compliance herewith."

To forestall compliance with the above, petitioners, as defendants below, again prayed the respondent court for a final extension of sixty (60) days from January 19, 1998 within which to comply with the order. To make their motion palatable, petitioners alleged that they *"are about to conclude an arrangement with the plaintiffs and just need ample time to finalize the same."* To the motion, private respondents interposed an opposition, therein stating that the alleged arrangement alluded to by the petitioners did not yield any positive result.

Eventually, in an order dated January 28, 1998, the respondent court denied petitioners' motion for extension of time to remove their improvements. Thereafter, or on **February 6, 1998**, the same court issued a **writ of execution**.

On February 12, 1998, Sheriff Baliwag served the writ on the petitioners, giving the latter a period twenty (20) days from notice or until **March 4, 1998** within which to remove their structures which occupied portions of private respondents' property. On March 6, 1998, the implementing sheriff returned the writ *"PARTIALLY SATISFIED"*, with the information that petitioners failed to remove that portion of their residence as well as their garage and poultry fence on the western half of the property.

On account of the sheriff's return, private respondents then filed with the court *a quo* on March 11, 1998 a **Motion for Issuance of Special Order of Demolition**.

On March 19, 1998, or even before the respondent court could act on private respondents' aforementioned motion for demolition, petitioners filed a **Motion to Defer Resolution on Motion for Demolition**, this time alleging that they have become one of the co-owners of the western half to the extent of 53.75 square meters thereof, purportedly because one of the successors-in-interest of Francisco Faylona – Jimmy Flores – who was co-plaintiff of the private respondents in the case, sold to them his share in the western half. We quote the pertinent portions of petitioners' motion to defer:

"That after the finality of the decision and on this stage of execution thereof, there was an event and circumstance which took place between the defendants and one of the groups of plaintiffs (Floreses)[which] would render the enforcement of the execution unjust.

On March 4, 1998, the Floreses, one of the plaintiffs as co-owners of the property-in-question in the Western portion, sold their one-fourth (1/4) undivided portion in the co-ownership of the plaintiffs to defendant Simplicia O. Abrigo, as can be seen in a xerox copy of the deed x x x.

x x x x

Defendant Simplicia O. Abrigo is now one of the four co-owners of a ¼ portion, pro-indiviso of the property of the plaintiffs. Thus, until and unless a partition of this property is made, the enforcement of the execution and/or demolition of the improvement would be unjust x x x. This sale took place after the finality".

In the herein **first assailed order dated May 13, 1998**, the respondent court **denied** petitioners' motion to defer resolution of private respondents' motion for a special order of demolition and directed the issuance of an alias writ of execution, thus:

"WHEREFORE, let an alias writ of execution issue for the satisfaction of the Court's judgment. Defendants' Motion to Defer Resolution of the Motion for a Writ of Demolition is hereby DENIED.

SO ORDERED."

x x x x

On May 20, 1998, petitioners filed a **Motion for Reconsideration**, thereunder insisting that being now one of the co-owners of the **westernhalf**, there is need to defer action of the motion for demolition until the parties in the co-ownership of said half shall have decided in a formal partition which portion thereof belongs to each of them.

A timely **opposition** to the motion for reconsideration was filed by the private respondents, thereunder arguing that the alleged Deed of Sale