

## FIRST DIVISION

[ G.R. No. 158239, January 25, 2012 ]

**PRISCILLA ALMA JOSE, PETITIONER, VS. RAMON C. JAVELLANA,  
ET AL., RESPONDENTS.**

### D E C I S I O N

**BERSAMIN, J.:**

The denial of a motion for reconsideration of an order granting the defending party's motion to dismiss is not an interlocutory but a final order because it puts an end to the particular matter involved, or settles definitely the matter therein disposed of, as to leave nothing for the trial court to do other than to execute the order.<sup>[1]</sup> Accordingly, the claiming party has a fresh period of 15 days from notice of the denial within which to appeal the denial.<sup>[2]</sup>

#### **Antecedents**

On September 8, 1979, Margarita Marquez Alma Jose (Margarita) sold for consideration of P160,000.00 to respondent Ramon Javellana by deed of conditional sale two parcels of land with areas of 3,675 and 20,936 square meters located in Barangay Mallis, Guiguinto, Bulacan. They agreed that Javellana would pay P80,000.00 upon the execution of the deed and the balance of P80,000.00 upon the registration of the parcels of land under the Torrens System (the registration being undertaken by Margarita within a reasonable period of time); and that should Margarita become incapacitated, her son and attorney-in-fact, Juvenal M. Alma Jose (Juvenal), and her daughter, petitioner Priscilla M. Alma Jose, would receive the payment of the balance and proceed with the application for registration.<sup>[3]</sup>

After Margarita died and with Juvenal having predeceased Margarita without issue, the vendor's undertaking fell on the shoulders of Priscilla, being Margarita's sole surviving heir. However, Priscilla did not comply with the undertaking to cause the registration of the properties under the Torrens System, and, instead, began to improve the properties by dumping filling materials therein with the intention of converting the parcels of land into a residential or industrial subdivision.<sup>[4]</sup> Faced with Priscilla's refusal to comply, Javellana commenced on February 10, 1997 an action for specific performance, injunction, and damages against her in the Regional Trial Court in Malolos, Bulacan (RTC), docketed as Civil Case No. 79-M-97 entitled *Ramon C. Javellana, represented by Atty. Guillermo G. Blanco v. Priscilla Alma Jose*.

In Civil Case No. 79-M-97, Javellana averred that upon the execution of the deed of conditional sale, he had paid the initial amount of P80,000.00 and had taken possession of the parcels of land; that he had paid the balance of the purchase price to Juvenal on different dates upon Juvenal's representation that Margarita had needed funds for the expenses of registration and payment of real estate tax; and that in 1996, Priscilla had called to inquire about the mortgage constituted on the

parcels of land; and that he had told her then that the parcels of land had not been mortgaged but had been sold to him.<sup>[5]</sup>

Javellana prayed for the issuance of a temporary restraining order or writ of preliminary injunction to restrain Priscilla from dumping filling materials in the parcels of land; and that Priscilla be ordered to institute registration proceedings and then to execute a final deed of sale in his favor.<sup>[6]</sup>

Priscilla filed a motion to dismiss, stating that the complaint was already barred by prescription; and that the complaint did not state a cause of action.<sup>[7]</sup>

The RTC initially denied Priscilla's motion to dismiss on February 4, 1998.<sup>[8]</sup> However, upon her motion for reconsideration, the RTC reversed itself on June 24, 1999 and granted the motion to dismiss, opining that Javellana had no cause of action against her due to her not being bound to comply with the terms of the deed of conditional sale for not being a party thereto; that there was no evidence showing the payment of the balance; that he had never demanded the registration of the land from Margarita or Juvenal, or brought a suit for specific performance against Margarita or Juvenal; and that his claim of paying the balance was not credible.<sup>[9]</sup>

Javellana moved for reconsideration, contending that the presentation of evidence of full payment was not necessary at that stage of the proceedings; and that in resolving a motion to dismiss on the ground of failure to state a cause of action, the facts alleged in the complaint were hypothetically admitted and only the allegations in the complaint should be considered in resolving the motion.<sup>[10]</sup> Nonetheless, he attached to the motion for reconsideration the receipts showing the payments made to Juvenal.<sup>[11]</sup> Moreover, he maintained that Priscilla could no longer succeed to any rights respecting the parcels of land because he had meanwhile acquired absolute ownership of them; and that the only thing that she, as sole heir, had inherited from Margarita was the obligation to register them under the Torrens System.<sup>[12]</sup>

On June 21, 2000, the RTC denied the motion for reconsideration for lack of any reason to disturb the order of June 24, 1999.<sup>[13]</sup>

Accordingly, Javellana filed a notice of appeal from the June 21, 2000 order,<sup>[14]</sup> which the RTC gave due course to, and the records were elevated to the Court of Appeals (CA).

In his appeal (C.A.-G.R. CV No. 68259), Javellana submitted the following as errors of the RTC,<sup>[15]</sup> to wit:

## I

THE TRIAL COURT GRIEVOUSLY ERRED IN NOT CONSIDERING THE FACT THAT PLAINTIFF-APELLANT HAD LONG COMPLIED WITH THE FULL PAYMENT OF THE CONSIDERATION OF THE SALE OF THE SUBJECT PROPERTY AND HAD IMMEDIATELY TAKEN ACTUAL AND PHYSICAL POSSESSION OF SAID PROPERTY UPON THE SIGNING OF THE

CONDITIONAL DEED OF SALE;

II

THE TRIAL COURT OBVIOUSLY ERRED IN MAKING TWO CONFLICTING INTERPRETATIONS OF THE PROVISION OF THE CIVIL [CODE], PARTICULARLY ARTICLE 1911, IN THE LIGHT OF THE TERMS OF THE CONDITIONAL DEED OF SALE;

III

THE TRIAL COURT ERRED IN HOLDING THAT DEFENDANT-APPELLEE BEING NOT A PARTY TO THE CONDITIONAL DEED OF SALE EXECUTED BY HER MOTHER IN FAVOR OF PLAINTIFF-APPELLANT IS NOT BOUND THEREBY AND CAN NOT BE COMPELLED TO DO THE ACT REQUIRED IN THE SAID DEED OF CONDITIONAL SALE;

IV

THE TRIAL COURT ERRED IN DISMISSING THE AMENDED COMPLAINT WITHOUT HEARING THE CASE ON THE MERITS.

Priscilla countered that the June 21, 2000 order was not appealable; that the appeal was not perfected on time; and that Javellana was guilty of forum shopping.<sup>[16]</sup>

It appears that pending the appeal, Javellana also filed a petition for *certiorari* in the CA to assail the June 24, 1999 and June 21, 2000 orders dismissing his complaint (C.A.-G.R. SP No. 60455). On August 6, 2001, however, the CA dismissed the petition for *certiorari*,<sup>[17]</sup> finding that the RTC did not commit grave abuse of discretion in issuing the orders, and holding that it only committed, at most, an error of judgment correctible by appeal in issuing the challenged orders.

On November 20, 2002, the CA promulgated its decision in C.A.-G.R. CV No. 68259,<sup>[18]</sup> reversing and setting aside the dismissal of Civil Case No. 79-M-97, and remanding the records to the RTC "for further proceedings in accordance with law."<sup>[19]</sup> The CA explained that the complaint sufficiently stated a cause of action; that Priscilla, as sole heir, succeeded to the rights and obligations of Margarita with respect to the parcels of land; that Margarita's undertaking under the contract was not a purely personal obligation but was transmissible to Priscilla, who was consequently bound to comply with the obligation; that the action had not yet prescribed due to its being actually one for quieting of title that was imprescriptible brought by Javellana who had actual possession of the properties; and that based on the complaint, Javellana had been in actual possession since 1979, and the cloud on his title had come about only when Priscilla had started dumping filling materials on the premises.<sup>[20]</sup>

On May 9, 2003, the CA denied the motion for reconsideration,<sup>[21]</sup> stating that it decided to give due course to the appeal even if filed out of time because Javellana had no intention to delay the proceedings, as in fact he did not even seek an extension of time to file his appellant's brief; that current jurisprudence afforded

litigants the amplest opportunity to present their cases free from the constraints of technicalities, such that even if an appeal was filed out of time, the appellate court was given the discretion to nonetheless allow the appeal for justifiable reasons.

### **Issues**

Priscilla then brought this appeal, averring that the CA thereby erred in not outrightly dismissing Javellana's appeal because: (a) the June 21, 2000 RTC order was not appealable; (b) the notice of appeal had been filed belatedly by three days; and (c) Javellana was guilty of forum shopping for filing in the CA a petition for *certiorari* to assail the orders of the RTC that were the subject matter of his appeal pending in the CA. She posited that, even if the CA's decision to entertain the appeal was affirmed, the RTC's dismissal of the complaint should nonetheless be upheld because the complaint stated no cause of action, and the action had already prescribed.

On his part, Javellana countered that the errors being assigned by Priscilla involved questions of fact not proper for the Court to review through petition for review on *certiorari*; that the June 21, 2000 RTC order, being a final order, was appealable; that his appeal was perfected on time; and that he was not guilty of forum shopping because at the time he filed the petition for *certiorari* the CA had not yet rendered a decision in C.A.-G.R.

CV No. 68259, and because the issue of ownership raised in C.A.-G.R. CV No. 68259 was different from the issue of grave abuse of discretion raised in C.A.-G.R. SP No. 60455.

### **Ruling**

The petition for review has no merit.

#### **I**

#### **Denial of the motion for reconsideration of the order of dismissal was a final order and appealable**

Priscilla submits that the order of June 21, 2000 was not the proper subject of an appeal considering that Section 1 of Rule 41 of the *Rules of Court* provides that no appeal may be taken from an order denying a motion for reconsideration.

Priscilla's submission is erroneous and cannot be sustained.

First of all, the denial of Javellana's motion for reconsideration left nothing more to be done by the RTC because it confirmed the dismissal of Civil Case No. 79-M-97. It was clearly a final order, not an interlocutory one. The Court has distinguished between final and interlocutory orders in *Pahila-Garrido v. Tortogo*,<sup>[22]</sup> thuswise:

The distinction between a final order and an interlocutory order is well known. The first disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing more to be done except to enforce by execution what the court has determined, but the latter does not completely dispose of the case but leaves something

else to be decided upon. An interlocutory order deals with preliminary matters and the trial on the merits is yet to be held and the judgment rendered. The test to ascertain whether or not an order or a judgment is interlocutory or final is: *does the order or judgment leave something to be done in the trial court with respect to the merits of the case?* If it does, the order or judgment is interlocutory; otherwise, it is final.

And, secondly, whether an order is final or interlocutory determines whether appeal is the correct remedy or not. A final order is appealable, to accord with the *final judgment rule* enunciated in Section 1, Rule 41 of the *Rules of Court* to the effect that "appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable;"<sup>[23]</sup> but the remedy from an interlocutory one is not an appeal but a special civil action for *certiorari*. The explanation for the differentiation of remedies given in *Pahila-Garrido v. Tortogo* is apt:

xxx The reason for disallowing an appeal from an interlocutory order is to avoid multiplicity of appeals in a single action, which necessarily suspends the hearing and decision on the merits of the action during the pendency of the appeals. Permitting multiple appeals will necessarily delay the trial on the merits of the case for a considerable length of time, and will compel the adverse party to incur unnecessary expenses, for one of the parties may interpose as many appeals as there are incidental questions raised by him and as there are interlocutory orders rendered or issued by the lower court. An interlocutory order may be the subject of an appeal, but only after a judgment has been rendered, with the ground for appealing the order being included in the appeal of the judgment itself.

The remedy against an interlocutory order not subject of an appeal is an appropriate special civil action under Rule 65, provided that the interlocutory order is rendered without or in excess of jurisdiction or with grave abuse of discretion. Then is *certiorari* under Rule 65 allowed to be resorted to.

Indeed, the Court has held that an appeal from an order denying a motion for reconsideration of a final order or judgment is effectively an appeal from the final order or judgment itself; and has expressly clarified that the prohibition against appealing an order denying a motion for reconsideration referred only to a denial of a motion for reconsideration of an interlocutory order.<sup>[24]</sup>

## II

### **Appeal was made on time pursuant to *Neypes v. CA***

Priscilla insists that Javellana filed his notice of appeal out of time. She points out that he received a copy of the June 24, 1999 order on July 9, 1999, and filed his motion for reconsideration on July 21, 1999 (or after the lapse of 12 days); that the RTC denied his motion for reconsideration through the order of June 21, 2000, a