

FIRST DIVISION

[G.R. No. 146754, March 21, 2012]

**SPOUSES JESSE CACHOPERO AND BEMA CACHOPERO,
PETITIONERS, VS. RACHEL CELESTIAL, RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is a petition for review on *certiorari*^[1] seeking to vacate and set aside the September 4, 2000 Decision² and January 19, 2001 Resolution^[3] of the Court of Appeals in **CA-G.R. SP No. 52655**.

Petitioner Jesse Cachopero, married to co-petitioner Bema Cachopero (spouses Cachopero), is the younger brother of respondent Rachel Celestial (Celestial). Celestial owned an old residential house (old house) situated on Lot No. 2586-G-28 (LRC) Psd-105462 (hereinafter, "Celestial's lot") at Poblacion 8, Midsayap, Cotabato, Philippines.^[4] A major portion of this house stood on the eastern part of the 344-square meter-lot (subject land) immediately adjoining Celestial's lot. The subject land was formerly part of the Salunayan Creek that became dry as a result of the construction of an irrigation canal by the National Irrigation Administration.^[5]

On July 21, 1989, Celestial filed an Ejectment case, which was docketed as **Civil Case No. 711**, against the spouses Cachopero before the Municipal Trial Court (MTC) of Midsayap.

In her Complaint,^[6] Celestial alleged that the spouses Cachopero had been living in her house for free and out of tolerance since 1973. Celestial claimed that when the condition of the old house had become uninhabitable, she decided to have it demolished. However, the spouses Cachopero refused to vacate the premises.

In the meantime, on August 10, 1989, Celestial and the spouses Cachopero entered into a Compromise Agreement,^[7] the terms and conditions of which are quoted as follows:

That Spouses Jesse Cachopero and Bema Cachopero, defendants in this case, are going to vacate the premises in question and transfer the old house subject of this ejectment case [to] the back of Lot No. 2586-G-28 (LRC) Psd-105462, located at 8, Midsayap, Cotabato, within eight (8) months from today, but not later than April 30, 1990;

That in transferring the old house subject of this suit to the back of Lot No. 2586-G-28 (LRC) Psd-105462 of plaintiff, plaintiff shall shoulder all expenses in dismantling said house and in the reconstruction of said

house, plaintiff binds herself to pay fifty (50%) percent of the costs of labor and expenses in transferring the said house;

That plaintiff is willing to give a two (2) meter wide exit alley on the eastern portion of Lot No. 2586-G-28 (LRC) Psd-105462 and on the southern portion of said lot as roadright-of-way up to the point of the NIA road on the west of Lot No. 2586-G-28 (LRC) Psd-105462;

That defendants hereby promise to remove all their improvements introduced fronting the residence of the plaintiff before August 31, 1989; and the plaintiff shall likewise remove all her existing improvements on the same area;

That the parties are waiving their respective claims for moral damages, as well as attorney's fees as appearing in the Complaint and Counter-Claim appearing in their Answer in order to totally have this case amicably settled.

WHEREFORE, premises considered, it is most respectfully prayed that Judgment be rendered by this Honorable Court base[d] on the terms and conditions of this Compromise Agreement.

Midsayap, Cotabato, August 10, 1989.

On August 10, 1989, the MTC rendered a judgment, approving the Compromise Agreement, to wit:

WHEREFORE, finding the Compromise Agreement to be in accordance with law and equity, the same is hereby approved and judgment is rendered pursuant to, and in accordance with the terms and conditions therein stipulated.^[8]

On July 17, 1990, then Deputy Sheriff Benedicto F. Flauta issued the Sheriffs Return in the above Ejectment case, viz:

Respectfully returned to the Honorable Court, Municipal Trial Court, Midsayap, Cotabato the herein attached original copy of the writ of Execution issued in the above-entitled case with the information that:

1. Defendants Jesse and Bema is (sic) found to be out of the real estate property of the plaintiff;
2. The boundary of the defendants and the plaintiff is distinct; and
3. The improvements introduced by the defendants fronting the residence of the plaintiff is already outside the lot of the plaintiff.

WHEREFORE, the undersigned had nothing to do except to return the said Writ of Execution for whatever the Honorable Court may deem necessary and appropriate for both parties.^[9]

However, as the portion of the house beyond Celestial's lot was not demolished, Celestial filed a Motion for the Issuance of an Alias Writ of Execution, with a prayer to cite the Deputy Sheriff in Contempt for not executing the Writ of Execution issued on May 17, 1990.^[10]

Since the MTC had not yet received the Sheriffs Return, it ordered the Deputy Provincial Sheriff to comment on the Motion and on August 16, 1990, the latter complied. The pertinent portions of said Comment are quoted as follows:

That on May 30, 1990, the undersigned met one of the defendants at the premises of the subject area and three days after, the same met the plaintiff in the same area; the same informations were obtained which are top confidential except that their boundary is distinct;

That the defendants are no longer within the metes and bounds of the plaintiffs property;

That Lot No. 25[8]6-[GJ]-28 is the only base (sic) of this case and no other lots more; and,

That the defendants had complied [with] the Compromise Agreement which was the basis of the Court.

WHEREFORE, in view of the foregoing, the undersigned respectfully submit, that he has fully complied with the Writ of Execution issued by the Honorable Court in this case.^[11]

Based on the above, the MTC denied the Motion for the Issuance of an Alias Writ of Execution on August 30, 1990. The MTC likewise denied Celestial's Motion for Reconsideration on November 20, 1990, and highlighted the fact that the agreement was for the spouses Cachopero to vacate Celestial's lot, which was the land subject of the Ejectment case. The MTC further said that it had no jurisdiction or power to decide a question not in issue.^[12]

Celestial filed a petition for *mandamus* before the Regional Trial Court (RTC), Branch 18, of Midsayap, Cotabato, praying that the MTC be ordered to issue an Alias Writ of Execution in the Ejectment case and that the Sheriff be directed to enforce such Alias Writ of Execution. Celestial furthermore prayed for the RTC to order the spouses Cachopero to pay her damages, attorney's fees, litigation expenses, and costs of suit. This was docketed as **Special Civil Case No. 051**.^[13]

In response, MTC Judge Nestor Flauta said that the old house constructed on Celestial's lot had already been demolished. Whatever remained undemolished were owned by the spouses Cachopero, and were not put in issue in the Ejectment case.

Thus, Judge Flauta averred, "to order the demolition of the undemolished improvements outside of the property of [Celestial] would be tantamount to lack of jurisdiction and/or grave abuse of discretion on the part of the [MTC]."^[14]

On July 27, 1992, the RTC conducted an ocular inspection to determine whether or not the Compromise Agreement was executed in accordance with its terms.^[15]

On March 20, 1997, the RTC issued an **Order**^[16] dismissing the petition for *mandamus* for lack of merit. The RTC ratiocinated in this wise:

Mandamus does not lie where there was no right of petitioner which was excluded from exercising and there is no duty on the part of respondent Judge to perform (*Villa Rey Transit, Inc. vs. Bello*, 10 SCRA 238).

The law concedes to judges and courts the right to decide questions according to their judgment and their understanding of the law and if their decision in that regard is not correct or contrary to law, appeal, not Mandamus, is the remedy. (*Santiago Labor Union vs. Tabique*, 17 SCRA 286.)^[17]

Acting on Celestial's Motion for Reconsideration, the RTC on September 1, 1997, rendered an Order granting such motion, and setting aside its earlier Order of March 20, 1997.^[18]

Meanwhile Jesse Cachopero had already instituted a petition, docketed as Special Civil Case No. 070, for *certiorari*, prohibition, and *mandamus* with preliminary injunction and temporary restraining order, assailing the orders of the Department of Environment and Natural resources (DENR), which denied his Miscellaneous Sales Application (MSA) over a portion of the subject land. This petition and Jesse Cachopero's subsequent Motion for Reconsideration, were denied by the RTC for lack of merit and non-exhaustion of administrative remedies. Undaunted, Jesse Cachopero assailed the above orders in a petition for *certiorari*, prohibition, and *mandamus*, filed before the Court of Appeals. This was docketed as **CA-G.R. No. 45927**.^[19]

On February 3, 1999, the RTC rendered a Resolution,^[20] again dismissing Celestial's petition for *mandamus*, but on the ground that the issuance of an Alias Writ of Execution in Civil Case No. 711 depended on the outcome of Special Civil Case No. 070, which involved the subject land that Jesse Cachopero had applied for.^[21] The RTC said that the foregoing "circumstance is a supervening cause necessitating refusal to issue an alias writ of execution."

Celestial brought this matter to the Court of Appeals and claimed that the RTC itself found that part of the old house, subject of the compromise agreement, was still standing or undemolished. Thus, she posited the following issues for the Court of Appeals' resolution:

1. Can the Honorable Regional Trial Court set a condition - other than that provided in the Judgment itself —for the implementation and execution of the said judgment in Civil Case No. 711?
2. Was it legal, lawful and proper and did the Honorable Regional Trial Court act without or in excess and/or grave abuse of discretion when it ordered and directed the execution of the Judgment in Civil Case No. 711, subject to the outcome of Special Civil Case No. 070, which is never a condition in the said judgment sought to be executed in full? or
3. Did the Honorable Regional Trial Court, act without and in excess or abuse of discretion and against the law and jurisprudence, in dismissing the petition for Mandamus and making the issuance of a Writ of Execution subjected to the outcome of Special Civil Case No. 070, which is never a condition made in said Judgment sought to be executed?^[23]

On September 4, 2000, the Court of Appeals came out with its Decision in favor of Celestial. The *fallo* reads:

IN VIEW WHEREOF, the resolution in Special Civil Case No. 051 dated February 3, 1999 is hereby set aside. As prayed for by petitioner, respondent Judge is hereby directed to issue an alias Writ of Execution in Ejectment Case No. 711 ordering the full and complete implementation of the judicially approved compromise judgment.^[24]

In finding merit in Celestial's appeal, the Court of Appeals said that a compromise judgment is immediately executory and once judicially approved, has the force of *res judicata* between the parties, which should not be disturbed except for the vices of consent or perjury. More importantly, the Court of Appeals held:

What is involved in Ejectment Case No. 711 is only the material possession of the lot litigated therein. In Special Civil Case No. 070, what is involved is the issue of who between the parties therein has a better right to purchase the lot of the public domain the pendency of which may not abate the execution of the compromise judgment in Ejectment Case No. 711.^[25]

Resolving the spouses Cachopero's Motion for Reconsideration, the Court of Appeals reiterated its position in its Resolution of January 19, 2001 and said:

Movants may not be allowed to renege from their express undertaking "to vacate the premises and transfer the old house at the back of lot 2586-[G]-28" and/or "to remove all of their improvements" from the premises in dispute embodied in the judicially approved compromise in Ejectment Case No. 111. Reiterated here, for emphasis, is the Court's previous holding that the pendency of Civil Case No. 070 (on appeal in