

SECOND DIVISION

[G.R. No. 167237, April 23, 2010]

ASSOCIATED ANGLO-AMERICAN TOBACCO CORPORATION AND FLORANTE DY, PETITIONERS, VS. HON. COURT OF APPEALS, HON. CRISPIN C. LARON, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, REGION 1, BRANCH 44, DAGUPAN CITY, SHERIFF VIRGILIO F. VILLAR, OFFICE OF THE EX-OFFICIO SHERIFF OF PASAY CITY, REGISTER OF DEEDS OF LINGAYEN, PANGASINAN AND SPOUSES PAUL PELAEZ, JR. AND ROCELI MAMISAY PELAEZ, RESPONDENTS.

DECISION

DEL CASTILLO, J.:

The appeal of a final order substantially amending only some matters in a previously rendered Decision is also an appeal of the other intimately interwoven matters passed upon in the original decision.

In the present Petition for *Certiorari* and Prohibition, petitioners assail the May 31, 2004 Decision^[1] and the January 17, 2005^[2] Resolution of the Court of Appeals (CA) in CA-G.R. SP. No. 75347. The CA dismissed the Petition for *Certiorari* filed before it assailing the Decision and several Orders of the Regional Trial Court (RTC) of Dagupan City, Branch 44 in Civil Case No. D-8732.

Factual Antecedents

Spouses Paul Pelaez, Jr. (Paul) and Roceli Mamisay Pelaez (Roceli) were employees of petitioner Associated Anglo-American Tobacco Corporation (the Corporation). Paul worked as Sales Supervisor and later as Senior Salesman while Roceli worked as secretary.

As salesman, Paul was required, on April 17, 1986, by the Corporation to post a bond to answer for any amount which he might fail to turnover to the Corporation. He complied by executing a mortgage bond over his family's house and lot in favor of the Corporation. The mortgaged real estate was covered by Transfer Certificate of Title (TCT) No. 155994 of the Registry of Deeds of Pangasinan.

Upon its determination that Paul had defaulted in remitting the sales proceeds, the Corporation initiated the extrajudicial foreclosure of the mortgage bond.

To stop the extrajudicial sale, Paul and Roceli filed on August 21, 1987, a Complaint against the Corporation, Dy and the Sheriff Virgilio S. Villar (Sheriff) before the RTC.

Ruling of the Regional Trial Court

The RTC issued a restraining order and, subsequently, a writ of preliminary injunction to stop the extrajudicial sale. Then, on September 14, 2000, after due hearing, Judge Crispin C. Laron, issued a Decision in favor of the spouses Pelaez, the *fallo* of which reads:

WHEREFORE, judgment is rendered in favor of the plaintiffs and against the defendants, as follows:

1. The defendants Associated Anglo-American Tobacco Corporation and Florante C. Dy are ordered to jointly and severally pay plaintiffs the amount of P23,820.16 representing the overage and the account of Plaintiff Paul Pelaez, Jr. and to release the mortgage on the parcel of land covered by, and release to plaintiffs, Transfer Certificate of Title No. 155994;
2. The defendants Associated Anglo-American Tobacco Corporation and Florante C. Dy are ordered to pay the plaintiffs moral, exemplary damages, attorney's fees and litigation expenses in the amount of P50,000.00;
3. The injunction is made permanent.

With costs against defendants.

SO ORDERED.^[3]

Upon motion of the spouses Pelaez, the RTC amended its Decision in its February 7, 2001 Order, to wit:

WHEREFORE, the Motion for Partial Reconsideration is granted and the dispositive portion of the Decision dated September 14, 2000 is hereby modified as follows:

The defendants Associated Anglo-American Tobacco Corp. and Florante C. Dy are ordered to jointly and severally pay plaintiffs the amount of P843,383.11 representing the overage and the amount of award of moral and exemplary damages and attorney's fees is increased from P50,000.00 to P2,000,000.00.

Furnish copies of this Order to Atty. Efren Moncupa and Atty. Da Vinci Crisostomo.

SO ORDERED.^[4]

On February 20, 2001, petitioners received their copy of the February 7, 2001 Order and on March 6, 2001, they filed a Notice of Appeal of the September 14, 2000 Decision and the February 7, 2001 Order of the RTC. The spouses Pelaez, on the

other hand, filed a "Motion to Dismiss the Appeal and Motion for Partial Execution" dated August 22, 2001.

Ruling on the motion, the RTC in its May 9, 2002 Order, found that the petitioners' Notice of Appeal was filed timely "only insofar as the Order of the Court dated February 7, 2001 is concerned." Hence, it disposed as follows:

WHEREFORE, the appeal insofar as to all matters not raised in the plaintiffs' Motion for Partial Reconsideration is DISMISSED.

Let a writ of execution issue for the release of the mortgage on the parcel of land covered by, and release to plaintiffs Transfer Certificate of Title No. 155994 and that the injunction is made permanent.

Furnish copies of this Order to Atty. Rafael Declaro, Jr., Atty. Da Vinci Crisostomo and Mr. Sancho Esquillo.

SO ORDERED.^[5]

On June 7, 2002, a Writ of Execution in favor of the spouses Pelaez was issued and on December 12, 2002, the RTC issued two Orders, one denying petitioners' motion for reconsideration of the May 9, 2002 Order; and the other mandating the release of the mortgage under TCT No. 155994 and causing the issuance of a new title in the name of spouses Pelaez free from any liens or encumbrances.

Ruling of the Court of Appeals

Petitioners then filed a Petition for *Certiorari* with the CA. The CA found that the September 14, 2000 Decision of the RTC had become final and executory. It found no cogent reason to disturb the RTC's Decision and its subsequent amendment as embodied in the February 7, 2001 Order. The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the petition is DISMISSED for lack of merit.

SO ORDERED.^[6]

After the denial by the CA of their motion for reconsideration, petitioners filed the present Petition for *Certiorari* and Prohibition.

Issues

Petitioners raise the following issues:

Whether or not the Court of Appeals committed grave abuse of discretion tantamount to lack of jurisdiction in holding the trial court's decision to be final and executory notwithstanding that said decision had been

modified, superseded and substituted by a subsequent order upon which petitioner had duly perfected an appeal?

Whether or not the Court of Appeals gravely abused its discretion in holding that the petition for certiorari is not the right judicial remedy but ordinary appeal notwithstanding the latter course of action had already been availed of to no avail?

Whether or not the Court of Appeals committed grave abuse of discretion when in dismissing the petition for certiorari it validated in effect the trial court's order to release the mortgage and declaring the injunction permanent notwithstanding the loss of jurisdiction due to the perfection of an appeal?^[7]

Petitioners' Arguments

Petitioners contend that their petition for certiorari is the proper remedy and that it was filed on time within 60 days from their receipt of the CA's assailed Resolution.

They contend that the CA gravely abused its discretion when it regarded the September 14, 2000 Decision of the trial court as final and executory even if said Decision was already modified, superseded, vacated and substituted by the subsequent February 7, 2001 Order.

They also contend that it is grossly erroneous for the CA to conclude that the Petition for *Certiorari* and Prohibition is not the right judicial remedy but ordinary appeal, when the latter action had already been taken and perfected by petitioners but the trial court simply refused to elevate the records to the CA.

Respondents' Arguments

Respondents on the other hand contend that petitioners failed to demonstrate patent and gross abuse of discretion on the part of the CA and since all they say is that the CA erred in dismissing their petition, the CA Resolution can only be assailed by means of a petition for review, not an original petition for *certiorari*. They also contend that the availability of the remedy of filing a petition for review foreclosed the filing of this original petition for *certiorari* and justifies its dismissal.

Respondents also submit that the February 7, 2001 RTC Order granting the spouses Pelaez' Partial Motion for Reconsideration by increasing the monetary awards only, did not amend the RTC Decision but merely supplemented it. Thus, they contend that the finality of the Decision was therefore not affected.

Our Ruling

The petition has merit.

Mode of Appeal

Petitioners are questioning a final decision of the CA by resorting to Rule 65, when their remedy should be based on Rule 45. This case would normally have been