

SECOND DIVISION

[G.R. No. 163103, February 06, 2009]

**CHARLIE VIOS AND SPS. ROGELIO AND TERESITA ANTONIO,
AND AS NOMINAL PARTY, HON. EMILIO L. LEACHON, PRESIDING
JUDGE, RTC, BR. 224, QUEZON CITY, PETITIONERS, VS. MANUEL
PANTANGCO, JR., RESPONDENT.**

DECISION

BRION, J.:

We resolve the petition for review on *certiorari*^[1] of the Decision of October 10, 2003 of the Court of Appeals (CA)^[2] in *Manuel Pantangco, Jr. v. Hon. Emilio L. Leachon, Presiding Judge of Branch 224, RTC, Quezon City, Charlie Vios and Sps. Rogelio and Teresita Antonio*, docketed as CA-G.R. SP No. 47031, and the Resolution dated April 2, 2004 that denied the motion for reconsideration of the appealed Decision.

ANTECEDENTS

The Ejectment Case at the Metropolitan Trial Court

Respondent Manuel Pantangco, Jr. (*Pantangco*) filed with the Metropolitan Trial Court (MTC), Branch 32, Quezon City a complaint for ejectment and damages against petitioners Charlie Vios (*petitioner Vios*) and the Spouses Rogelio and Teresita Antonio (*Spouses Antonio*) (collectively, the *petitioners*), docketed as Civil Case No. 37-8529. Pantangco alleged in his complaint that: (1) he is a co-owner - by purchase from the former owner - of a residential land located on Sampaguita St., *Barangay* Pasong Tamo, Quezon City registered under TCT No. 76956; (2) prior to his purchase of the property, he inquired from the petitioners whether they were interested in buying the property; when the petitioners responded that they were not, he told them that he would give them one (1) week from his purchase of the property to vacate the premises; he claimed that the petitioners agreed; (3) after the consummation of the sale to him, the petitioners refused to vacate notwithstanding the agreement; and (4) he filed the complaint when no settlement was reached before the *Pangkat Tagapagkasundo*.

The petitioners specifically denied in their Answer the material allegations of the complaint and pleaded the special and affirmative defenses that: (1) the disputed property belongs to the government since it forms part of unclassified public forest; (2) the real previous owner of the property was Alfredo Aquino, from whom they acquired their rights through a document entitled "Waiver"; (3) Pantangco's title is fake as it originated from Original Certificate of Title No. 614 which was nullified in a decision in Civil Case No. 36752 rendered by Judge Reynaldo V. Roura of the Regional Trial Court (RTC), Branch 83, Quezon City; and (4) assuming Pantangco's

title to be valid, the property it covers is different from the premises they (the petitioners) occupy. They asked for the dismissal of the complaint and the payment of damages by way of a counterclaim.

Petitioner Vios was represented at the MTC proceedings by his counsel of record, Atty. Oscar D. Sollano (*Atty. Sollano*), while the petitioners Spouses Antonio were represented by Atty. Manuel C. Genova (*Atty. Genova*).

After appropriate proceedings, the MTC rendered on July 12, 1996 a decision (*MTC decision*) in Pantangco's favor, ordering the petitioners to: (1) immediately vacate the premises; (2) remove all structures and shanties constructed thereon; and (3) pay reasonable compensation for the use and occupancy of the property from February 1, 1994, until they actually vacate the property. Notices and copies of the MTC decision were transmitted on even date to the petitioners through their counsels of record. **Atty. Genova received a copy of the decision on July 18, 1996, while Atty. Sollano received a copy on July 23, 1996.**

On August 5, 1996, the Mauricio Law Office, through Atty. Melanio Mauricio, Jr., filed a Notice of Appearance with Urgent Motion stating that petitioner Vios received an incomplete copy of the decision from his *former* counsel, Atty. Sollano, and is, therefore, requesting the MTC to furnish petitioner Vios with a complete copy of the MTC decision.

Pantangco, on the other hand, filed on August 12, 1996 a Motion for the Issuance of a Writ of Execution, arguing that the decision is already final and executory as no notice of appeal was filed within the reglementary period by any of the petitioners. The MTC granted the motion on August 30, 1996 and the corresponding writ was issued forthwith.

On September 9, 1996, petitioner Vios moved to quash the writ asserting that it was null and void because the MTC decision had not become final and executory as he had not been notified of the decision; Atty. Sollano, to whom a copy of the MTC decision was sent, had allegedly withdrawn as his counsel sometime in November 1995.

The Sheriff issued on September 11, 1996 a Notice to Vacate and Demolish the Houses. Petitioner Vios thereupon moved to quash the writ of execution/demolition which Pantangco opposed.

The MTC denied the motion to quash the writs of execution and demolition in its Order dated September 23, 1996; the Sheriff thus implemented the writ of execution by turning over possession of the disputed property to Pantangco.

The Certiorari Case at the RTC

On November 13, 1996, petitioner Vios filed with the RTC, Branch 224, Quezon City a **Petition for Certiorari and Mandamus** with Prayer for a Writ of Preliminary Mandatory Injunction, **assailing both the MTC decision and the writ of execution**. Petitioner Vios assailed the MTC decision for being contrary to the evidence on record; he attacked the propriety of the writ of execution, on the other hand, on the ground that the MTC decision is not yet final because Atty. Sollano, to whom a copy of the decision was sent, had previously withdrawn as petitioner Vios'

counsel. Pantangco initially filed a Motion to Dismiss the petition; *via* a Manifestation, he asked that the motion to dismiss be treated as his Answer to the petition.

On August 4, 1997, the RTC rendered a decision (*RTC decision*) in petitioner Vios' favor. It annulled the MTC decision for being contrary to the evidence; it annulled as well the related writ of execution on the reasoning that the decision it was implementing was not yet final and executory. In annulling the writ, the RTC said:

Since there was lack of notice to the petitioners (referring to the petitioners here), the period for appeal has not expired and the decision has not become final and executory which made the writ of execution subsequently issued as null and void.^[3]

The dispositive portion of the RTC decision reads:

Accordingly, therefore, the Court has to render judgment for the petitioners [referring to petitioners Vios and the Spouses Antonio] as against the public and private respondent [referring to private respondent Pantangco, Jr.] and hereby sets aside the decision of the MTC, Branch 37, Quezon City dated July 12, 1996 and the writ of execution dated August 30, 1996.

The Court likewise orders that the petitioners be restored to their possession of the subject premises and that all fixtures removed from the subject premises as a result of dispossession be restored to petitioners.

The private respondent is hereby directed and ordered to exercise his options under Article 448 of the New Civil Code, that is, either to appropriate the houses of petitioners after payment of the proper indemnity or to require the petitioners to pay the value of the land, except when the value of the land is greater than the value of the building in which case to require each petitioners to pay rent which should be P3,5000.00 per month for the use and occupancy of the land in question effective on turn-over of the subject premises to petitioners.

IT IS SO ORDERED.

On August 18, 1997, petitioner Vios moved for the immediate execution of the RTC decision. Pantangco, on the other hand, moved to reconsider the decision. The RTC denied petitioner Vios' motion for execution in light of Pantangco's timely motion for reconsideration.

On December 2, 1997, the RTC denied Pantangco's motion for reconsideration. Thus, petitioner Vios filed a Second Motion for Immediate Execution. This time, the RTC granted the motion in its Order dated February 10, 1998. The writ was not immediately implemented, leading to the issuance of an *alias* writ of execution which the Sheriff this time implemented by turning possession of the disputed property over to petitioner Vios.

At the Court of Appeals

On March 10, 1998, Pantangco filed with the CA a *Petition for Declaration of Nullity* of the RTC Decision. He essentially asserted in his petition that the RTC decision is void, given that the MTC decision cannot be assailed on *certiorari*; the proper remedy is an ordinary appeal from the MTC decision. He further argued that no remedy is available from the final and executory MTC decision *as the remedy of appeal was lost when the period to appeal expired fifteen (15) days from receipt of petitioner's counsel of record of a copy of the MTC decision*; *certiorari* is not a substitute for the remedy of appeal already lost. The RTC therefore, according to Pantangco, had no jurisdiction to hear and decide the *certiorari* petition and the decision it rendered was null and void. Pantangco additionally argued that the RTC exceeded its jurisdiction when it applied Article 448 of the Civil Code without hearing the parties on the issue of possession in good faith. He argued, too, that a petition for *certiorari* properly covers only grave abuse of discretion amounting to lack or excess of jurisdiction, nothing more and nothing less.

The CA rendered its assailed decision on October 10, 2003. The pertinent portion of which reads:

Now to the issue of whether respondent Vios had been notified of the MTC Decision, through his former counsel of record, Atty. Oscar D. Sollano. This Court painstakingly examined the voluminous records of the case, particularly the MTC Record, which, by mandate of this Court, was elevated for our consideration, and found the same barren of any notice, filed by Atty. Oscar D. Sollano either before or after the promulgation of the MTC Decision, signifying his withdrawal as counsel for respondent Vios. Neither is there in the record any notice coming from respondent Vios himself informing the court of the withdrawal of Atty. Oscar D. Sollano as his counsel of record. Consequently, the MTC cannot be faulted for furnishing a copy of its Decision to respondent Vios, through Atty. Oscar D. Sollano.

Having been validly notified of the MTC Decision through his counsel of record, respondent Vios had fifteen (15) days within which to appeal the aforesaid Decision. More specifically, he had until 07 August 1997, reckoned from 23 June 1997 when Atty. Oscar D. Sollano received a copy of the MTC Decision in his behalf, within which to interpose an appeal. Since the MTC Decision furnished to him by Atty. Oscar D. Sollano was allegedly incomplete, private respondent Charlie Vios filed an Urgent Motion to be furnished a complete copy of the aforesaid Decision on 05 August 1997 [sic, should be 1996], through the Mauricio Law Office that likewise entered its appearance his new counsel of record. The Court, however, did not act on the motion. On the theory that its decision had long become final and executory, it instead granted petitioner's Motion for Execution and, forthwith, issued the writ of execution prayed for.

To our mind, the MTC had been rather precipitate in issuing the writ of execution to enforce its Decision even before it could act on private respondent Charlie Vios' motion to be furnished a copy of the Court's decision filed two (2) days before it became final and executory. It is on this basis that we are unable to accord the mantle of finality to the MTC Decision. To do so would deprive respondent Vios' of his right to due process, particularly his right

to be notified fully of the MTC Decision against him and to elevate the same on appeal to a higher court. Since, the MTC Decision has not attained finality, the writ of execution issued pursuant thereto, is consequently, invalid and improper.

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In the instant case, it cannot be gainsaid that the RTC went beyond the ambit of its jurisdiction when it nullified the MTC Decision in an original action for certiorari and mandamus. While it was correct in its ruling that grave abuse of discretion attended the issuance of the writ of execution, it went too far when it ruled on the insufficiency of the evidence adduced by petitioner to establish his claim of rightful possession over the subject property. Not only that. The RTC made a determination as well on the rights of the parties to the improvements built on the subject property under the pertinent provisions of the New Civil Code, which it is not permitted to do in an original action for certiorari and mandamus. Not even the assailed MTC Decision, which contains no disposition regarding the parties' rights to the improvements but limited itself to a resolution of who between petitioner and private respondents have a better right of possession over the subject property, warrants such a determination. It follows, therefore, that the RTC Decision, except in so far as it nullified the writ of execution issued by the MTC in the ejectment proceedings, is itself null and void for lack of jurisdiction.

Finally, it must be stressed that only respondent Vios instituted the special civil action assailing the MTC decision before the RTC. Private respondents Spouses Gregorio [sic, should be Rogelio] and Teresita Antonio were never a party thereto. Yet, in its Decision, the RTC found not only for respondent Vios, but as well for Spouses Gregorio and Teresita Antonio. In fact, the RTC Decision, in its entirety, considered respondents Spouses Antonio a party to the proceedings before it, when actually they were not, to the manifest prejudice of petitioner, as the Antonio's neither appealed the MTC Decision nor questioned the corresponding writ of execution issued pursuant thereto.

The CA denied, *via* the Resolution also assailed in this petition, the motion for reconsideration petitioner Vios subsequently filed.

THE PETITION

The petitioners' lone cited error states:

The Honorable Court of Appeals committed an error in entertaining the petition to declare the nullity of the decision of the RTC even if the available remedy was an ordinary appeal and therefore the RTC decision which set aside the MTC decision and restoring the petitioners to their possession of the subject premises has attained the stage of finality.

This assigned error actually consists of two (2) component arguments, namely: