

THIRD DIVISION

[G.R. No. 167281, August 28, 2008]

MARY M. BAUSA AND THE LEGAL HEIRS OF THE LATE HONESTO K. BAUSA NAMELY, RODOLFO M. BAUSA, WILHELMINA B. DACANAY, AND HONESTO K. BAUSA, JR., PETITIONERS, VS. HEIRS OF JUAN DINO, NAMELY, ADELINA DINO AYO AND DOMINGO DINO, BLANDINO DINO, HONESTO DINO AND ALL PERSONS CLAIMING UNDER THEM, RESPONDENTS.

D E C I S I O N

YNARES-SATIAGO, J.:

This Petition for Certiorari assails the December 22, 2003 Decision^[1] of the Court of Appeals in CA-G.R. CV No. 67994 holding that the independent action for revival of judgment filed by petitioners was time-barred, thereby reversing and setting aside the May 17, 2000 Decision^[2] of the Regional Trial Court of Sorsogon, Sorsogon, Branch 51, in Civil Case No. 6433; and its January 11, 2005 Resolution^[3] denying the motion for reconsideration.

On June 5, 1978, petitioners filed a complaint for recovery of possession of a 1.2 hectare parcel of land located in Caricaran, Bacon, Sorsogon, covered by Transfer Certificate of Title No. 182 registered in the name of petitioner Mary Manion Bausa. The case was docketed as Civil Case No. 639 and raffled to Branch 52 of the Regional Trial Court of Sorsogon, Sorsogon.

On October 2, 1985, the trial court rendered a Decision^[4] declaring petitioners as owners of the subject property, thus:

WHEREFORE, judgment is hereby rendered: 1) declaring the plaintiffs owners of the property in question (Lot No. 1346-A described in Exhibit "F-2" and entitled to its fruits and peaceful possession; (2) requiring defendant to return the property in question to plaintiff and not to disturb plaintiffs' possession of the same; (3) requiring defendants to pay plaintiffs the sum of One Hundred Fifty (P150.00) Pesos per month from the filing of the case on June 5, 1978 to the time the property shall have been returned and delivered to plaintiffs as rental and for whatever fruits gathered; and (4) for defendant to pay the sum of Three Thousand (P3,000.00) Pesos to plaintiff as attorney's fee and to pay the cost.

SO ORDERED.^[5]

Juan Dino, respondents' predecessor-in-interest, appealed but it was dismissed by the Court of Appeals in a Resolution which became final and executory on January 28, 1987 as shown in the Entry of Judgment.^[6]

On November 19, 1987, petitioners' Motion for Execution^[7] was granted by the trial court for which the corresponding Writ of Execution was issued. However, it was not served to defendant Juan Dino.

Meanwhile, respondents filed a Petition for Certiorari with this Court docketed as G.R. No. 78229 assailing the decision of the Court of Appeals, however, the case was dismissed in a Resolution dated May 20, 1987. The Resolution became final and executory on November 26, 1987 as shown in the Entry of Judgment.^[8]

Considering that the writ of execution was not served to Juan Dino, petitioners filed a motion for the issuance of an alias writ of execution,^[9] which was granted. Thereafter, a Delivery of Possession^[10] was executed by Deputy Sheriff Edito Buban, a copy of which was received by private respondents but they refused to sign it and they remained in the said property.

Hence, petitioners filed a Petition for Demolition^[11] which the court granted. The Writ of Demolition^[12] dated April 10, 1990 was issued but it was not implemented due to respondents' resistance as shown in the Sheriff's Return^[13] dated May 16, 1990.

Unable to execute the October 2, 1985 Decision of Branch 52, Regional Trial Court of Sorsogon, petitioners filed a Complaint for Execution of Decision on January 30, 1998 docketed as Civil Case No. 98-6433 and raffled to Branch 51 of the Regional Trial Court of Sorsogon. Juan Dino died, hence the complaint was filed against his heirs, herein private respondents who filed an Opposition contending that the action was barred by prescription.

On May 17, 2000, the Regional Trial Court of Sorsogon, Branch 51, rendered its Decision^[14] holding that the action to revive the October 2, 1985 Decision was timely filed. The dispositive portion of said decision reads:

WHEREFORE, judgment is hereby rendered:

- 1) Reviving the judgment in the case of Juan Dino versus Court of Appeals, et. al., G.R. No. 78229;
- 2) Ordering the defendants and their privies to vacate the premises in question and to remove their houses; and
- 3) Ordering defendants to pay plaintiffs the amount of money stated in the original, final and executory judgment, and to pay the costs of the suit.

SO ORDERED.^[15]

Respondents appealed to the Court of Appeals, docketed as CA-G.R. CV No. 67994, which reversed the Decision of the trial court and ruled that the action was not timely filed.

Petitioners filed a motion for reconsideration but it was denied in a Resolution dated January 11, 2005, a copy of which was received by petitioners on January 19, 2005.

Hence, they filed the instant Petition for Certiorari^[16] raising the following issues:

PRINCIPAL ISSUE

WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ISSUED ITS DECISION DATED DECEMBER 22, 2003 (ANNEX A) AND THE RESOLUTION DATED JANUARY 11, 2005 (ANNEX B) DENYING PETITIONERS OF THEIR RIGHT TO EXECUTE OR ENFORCE THE DECISION ISSUED IN THEIR FAVOR FOR THE RECOVERY OF THEIR REGISTERED PROPERTY;

I. LEGAL ISSUES

i.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN DISREGARDING THE FILING OF MOTIONS FOR EXECUTION AND DEMOLITION, AND THE SERVICE OF WRITS ENFORCING THE SAME AS ACTS THAT EFFECTIVELY SUSPENDED THE RUNNING OF THE TEN-YEAR PRESCRIPTIVE PERIOD FOR EXECUTION BY INDEPENDENT ACTION;

ii.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN ALLOWING PRESCRIPTION ON EXECUTION BY INDEPENDENT ACTION TO RUN AGAINST THE PETITIONERS SEEKING TO RECOVER POSSESSION OF LAND REGISTERED UNDER THE TORRENS SYSTEM;

II. FACTUAL ISSUES

i.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN RULING THAT THE FILING OF PETITIONERS' VERIFIED COMPLAINT FOR EXECUTION IS ALREADY BARRED BY PRESCRIPTION.

ii.

WHETHER OR NOT THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN RULING THAT THE WRIT OF EXECUTION SERVED AGAINST PRIVATE RESPONDENTS WAS NOT SPECIFIC AS TO WHICH AREA IS CLAIMED BY PETITIONERS.

In their Comment, respondents alleged that a petition for certiorari is erroneous because the same lies only when there is no plain, speedy and adequate remedy in the ordinary course of law; that petitioners' remedy is to file a petition for review on certiorari under Rule 45 of the Rules of Court, the availability of which forecloses the use of certiorari; and that having been filed beyond the 15-day period prescribed by