

## SECOND DIVISION

[ G.R. NO. 149125, August 09, 2007 ]

**RESURRECCION OBRA, PETITIONER, VS. SPS. VICTORIANO BADUA & MYRNA BADUA, SPS. JUANITO BALTORES & FLORDELIZA BALTORES, SPS. ISABELO BADUA & PRESCILA BADUA, SPS. JOSE BALANON & SHIRLEY BALANON, SPS. ORLANDO BADUA & MARITA BADUA AND SPS. LEONCIO BADUA & JUVY BADUA, RESPONDENTS.**

### DECISION

**VELASCO, JR., J.:**

An order of execution must conform to the terms of the dispositive portion of the decision. A court that issues an order of execution in contravention of its final judgment exceeds its jurisdiction and renders its order invalid.

#### The Case

The present Petition for Review on Certiorari under Rule 45 seeks the annulment of the March 20, 2001<sup>[1]</sup> and June 20, 2001<sup>[2]</sup> Orders of the San Fernando City, La Union Regional Trial Court (RTC), Branch 29 in Civil Case No. 5033, directing petitioner Obra to demolish the fence she constructed on the southern portion of her property which blocked a portion of respondents' right-of-way.

#### The Facts

The case arose from a Complaint for Easement of Right-of-Way filed by respondents against Anacleto and Resurreccion Obra, Donato and Lucena Bucasas, and Paulino and Crisanta Badua in Civil Case No. 5033 entitled *Sps. Victoriano Badua and Myrna Badua, et al. v. Sps. Anacleto Obra and Resurreccion Obra, et al.* before the RTC. Defendant Anacleto Obra was the husband of petitioner. Respondents alleged that their residential houses, erected on a lot commonly owned by them and covered by Tax Declaration No. 93-01900281 under Cadastral Lot No. 5518 situated in Galongen, Bacnotan, La Union, were located west of the properties of the Obras, Bucasases, and Baduas. Their only access to the national highway was a pathway traversing the northern portion of petitioner's property and the southern portion of the properties of the Bucasases and Baduas. The pathway was more than one meter wide and sixteen meters long. They claimed that this pathway had been established as early as 1955. In 1995, however, petitioner Obra constructed a fence on the northern boundary of their property; thus, blocking respondents' access to the national highway. Respondents demanded the demolition of the fence, but petitioner refused.

In her Answer, petitioner averred that respondents had not established any easement of right-of-way either by law or agreement. She claimed that respondents

failed to satisfy the requisites provided in Articles 649 and 650 of the Civil Code in order to establish an easement of right-of-way on the northern portion of her property. Moreover, she alleged that respondents had another access as ingress and egress to the public road other than the one traversing her property.

The spouses Badua and Bucasas failed to file an answer; consequently, they were declared in default.

On July 7, 2000, after trial, the RTC rendered a Decision<sup>[3]</sup> dismissing the complaint. It held that respondents "were not able to satisfy all the requisites needed for their claim of an easement of right of way."<sup>[4]</sup> It observed that when petitioner fenced the northern portion of her property, respondents were able to use another pathway as ingress and egress to the highway. It stated further that "the new pathway is more than adequate"<sup>[5]</sup> for respondents' use. Thus, the applied easement of right-of-way on the northern portion of petitioner's property was not allowed. The said Decision became final and executory.

It must be noted that the "new" pathway used by respondents, however, traversed the southern portion of petitioner's property. Sometime in 2001, petitioner constructed a fence on this portion of her lot, which again restricted the use of respondents' "new" pathway. Aggrieved and prejudiced by petitioner's action, respondents filed on March 6, 2001 a Motion to Enforce<sup>[6]</sup> the July 7, 2000 Decision of the RTC. They alleged that the Decision of the RTC dismissing the case was based on the existence of a new pathway which they had been using since 1995. Thus, they asserted that petitioner was prohibited from closing said passage.

On March 20, 2001, the RTC granted the said motion. Petitioner filed a Motion for Reconsideration, but it was rejected in the trial court's June 20, 2001 Order.

Clarifying its July 7, 2000 Decision, the trial court, in its March 20, 2001 Order, held that the dismissal of the complaint depended on petitioner's representation that she was allowing respondents to use the southern portion of her property as an alternative pathway. Since the southern portion was an "agreed pathway,"<sup>[7]</sup> petitioner could not reduce its width; thus, the trial court ordered petitioner to remove the fence blocking the passage.

Hence, we have this petition.

### **The Issue**

Petitioner assigns a lone issue for the consideration of the Court:

Whether or not the Court can *motu proprio* declare a compulsory right of way on a property not the subject of a pending case (particularly Civil Case No. 5033).<sup>[8]</sup>

Essentially, petitioner questions the propriety of the trial court's issuance of an order clarifying its final and executory decision and effectively establishing an easement on petitioner's property without proper adjudication.

### **The Court's Ruling**

The petition is impressed with merit.

### **Dispositive Portion of a Decision Controlling**

The controversy of this petition stemmed from the alleged conflict between the body of the trial court's July 7, 2000 Decision and its dispositive portion. Respondents aver that notwithstanding the dismissal of Civil Case No. 5033, the body of the Decision evidently established an easement on the southern portion of petitioner's property. On the other hand, petitioner maintains that the trial court's reference to the "new" pathway was merely a declaration of its existence and not necessarily a creation of an easement of right-of-way.

We agree with petitioner's postulation.

The resolution of the court in a given issue embodied in the *fallo* or dispositive part of a decision or order is the controlling factor as to settlement of rights of the parties.<sup>[9]</sup> Thus, where there is a conflict between the *fallo* and the *ratio decidendi* or body of the decision, the *fallo* controls. This rule rests on the theory that the *fallo* is the final order while the opinion in the body is merely a statement ordering nothing.<sup>[10]</sup> The rule applies when the dispositive part of a final decision or order is definite, clear, and unequivocal, and can wholly be given effect without need of interpretation or construction.<sup>[11]</sup>

In the case at bench, the decretal portion of the July 7, 2000 Decision is plain and clear - "[w]herefore, in view of the foregoing, this case is hereby dismissed." When a court rules that the case or complaint is dismissed, then it is concluded that the cause of action embodied in the allegations of the initiatory pleading has no merit or basis, and the prayer is consequently denied.

The amended complaint filed by respondents in Civil Case No. 5033 revealed that their cause of action was the recognition of their easement of right-of-way of "more than one (1) meter wide and more than sixteen (16) meters in length [which] traversed the **northern portion** of the property of defendants spouses Anacleto Obra and Resurreccion Obra."<sup>[12]</sup> As prayer, respondents asked for the demolition of the concrete fence constructed by petitioner and her spouse, Anacleto, that closed the pathway on the northern portion of Obra's lot; the declaration of right-of-way over said area in favor of respondents; and the payment of damages and attorney's fees. When the RTC dismissed the case in its July 7, 2000 Decision, it ruled that respondents had no cause of action against petitioner and her husband, Anacleto, because they failed to satisfy one of the four requisites for the entitlement of a right-of-way, namely-that the dominant estate is surrounded by other immovables and is without adequate outlet to a public highway. The trial court took note of the fact that the new pathway which incidentally traversed the southern portion of petitioner's lot is an adequate outlet to a public highway. While its body mentioned the existence of an alternative pathway located south of petitioner's lot, such was made only to emphasize that respondents failed to satisfy the requirements for an easement of right-of-way. As held by the trial court:

The insistence of the plaintiffs to open up the old pathway is therefore without basis considering that there is another outlet adequate enough