

SECOND DIVISION

[G.R. No. 118251, June 29, 2001]

**METROPOLITAN BANK AND TRUST COMPANY, PETITIONER, VS.
HON. REGINO T. VERIDIANO II, PRESIDING JUDGE, RTC–
MANILA, BRANCH 31, AND DOMINADOR ONG, RESPONDENTS.**

D E C I S I O N

DE LEON, JR., J.:

Before us is a Petition for Review on *Certiorari* of the Resolution,^[1] dated July 13, 1994, of the Court of Appeals^[2] which dismissed the petition for *certiorari* of petitioners assailing the validity of the Order^[3] dated June 17, 1994 of the Regional Trial Court of Manila, Branch 4, granting the motion for the issuance of an alias writ of execution of its Decision^[4] in Civil Case No. 91880 and the Break-Open Order^[5] dated July 12, 1994 issued by the said trial court.

The undisputed facts are as follows:

On September 10, 1973, petitioners filed before the Regional Trial Court of Manila, Branch 4, a Complaint for Reconveyance Based on Constructive Trust With Preliminary Injunction, docketed as Civil Case No. 91880, against respondent China Banking Corporation. Respondent Sunday Machine Works, Incorporated (SMWI, for brevity) was subsequently impleaded in the complaint, being the buyer of the subject property of respondent bank. SMWI filed an answer to the complaint with a counterclaim which is in the nature of an ejectment case.

On December 2, 1977, the trial court rendered a decision in favor of the respondents, the dispositive portion of which states:

IN VIEW OF THE FOREGOING CONSIDERATIONS, judgment is hereby rendered as followed:

- (1) Dismissing the plaintiffs' complaint for lack of merit;
- (2) Ordering plaintiffs and/or any and all persons claiming under, to surrender and/or turn over possession of the subject properties to the defendant Sunday Machine Works, Inc. to whom they rightfully belong being the owner thereof;
- (3) To account for, deliver to and turn over all the rentals equivalent to P6,000.00 per annum to China Banking Corporation covering the period from April 6, 1971 to September 5, 1973 up to the time actual possession thereon

is delivered to said defendant, with interests thereon at the legal rate from the aforesaid dates until the full amount shall have been actually delivered to the aforementioned defendant; and

(4) To pay defendant China Banking Corporation and Sunday Machine Works, Inc. the amount of P15,000.00 each by way of attorney's fees it appearing that said defendants were compelled to litigate and secure the services of counsel due to plaintiffs' filing of an unfounded suit.

Defendant Sunday Machine Works, Inc.'s crossclaim against defendant bank is, as it is hereby ordered dismissed for lack of merit.

Likewise, both defendants' counterclaim are, as they are hereby ordered dismissed for insufficiency of evidence.

SO ORDERED. ^[6]

The petitioners and respondent SMWI both filed their notices of appeal from the said decision. Respondent SMWI questioned the decision on the aspect of the monthly rentals to be paid by petitioners to the said respondent.

Upon motion of private respondent SMWI, the trial court issued an Order in Civil Case No. 91880 granting a writ of execution pending appeal in favor of respondents. On the other hand, the petitioners filed in the Court of Appeals Special Civil Action No. 07572 questioning the said Order of the trial court; however, the same was dismissed by the appellate court. The petitioners' motion for reconsideration was denied on November 16, 1978 but they were allowed to file a supersedeas bond inasmuch as the appellate court found that the counterclaim of respondent SMWI in Civil Case No. 91880 was in the nature of an ejectment case.

The trial court required the petitioners to post a supersedeas bond in the amount of P624,000.00. However, the petitioners questioned the amount by filing a motion for reconsideration. On October 18, 1979, the trial court issued an Order granting the *ex-parte* motion for execution of respondent SMWI. Consequently, the petitioners filed a petition for certiorari with the Court of Appeals but the same was dismissed on August 14, 1980 for lack of merit. This decision of the appellate court became final on August 31, 1980, after which an entry of judgment was issued.

The petitioners then filed with this Court a petition for review on certiorari docketed as G.R. No. 55080 of the said final decision of the Court of Appeals. In a Minute Resolution, dated December 7, 1987, we dismissed the said petition on the ground that certiorari is not a substitute for late appeal.

On October 28, 1991, or almost four (4) years thereafter, and upon motion of the respondents, the trial court issued an Order granting an alias writ of execution of its decision in Civil Case No. 91880. The motion for reconsideration filed by the petitioners from the said Order was denied by the trial court. In an apparent bid to delay the execution, the petitioners filed another petition for *certiorari* with the

Court of Appeals which likewise dismissed the same on April 14, 1993. The pertinent portion of the Decision^[7] of the appellate court reads:

Technicalities cannot be countenanced to defeat the execution of a judgment for execution is the fruit and end of the suit and is the life of the law. A judgment cannot be rendered nugatory by the unreasonable application of a strict rule of procedure. A perusal of the records of the case reveals that the decision sought to be executed was rendered on December 2, 1977 but was not executed due to the numerous petitions filed by the petitioners before this Court and the Honorable Supreme Court. Significantly, the decision sought to be executed was upheld by the Supreme Court and *which decision has become final and executory*. Litigation must end sometime and somewhere. An effective and efficient administration of justice requires that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must, therefore, guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them. (italics supplied)^[8]

Meanwhile, on May 22, 1992, and before the dismissal of the said petition, the respective appeals filed by both petitioners and respondent SMWI from the Decision of the trial court, dated December 2, 1977 in Civil Case No. 91880 were approved. The records, however, could not be elevated for the reason that there were stenographic notes that remained untranscribed.

On February 10, 1994, the private respondents moved for the issuance of an alias writ of execution for the third time on the ground that the legality of the issuance thereof was upheld by the Court of Appeals in its Decision in CA-G.R. SP No. 27197, dated April 14, 1993. On June 17, 1994, the trial court issued the assailed Order granting the said motion, a portion of which reads:

x x x

The court resolves to grant the herein motion as it finds merit in the same.

It should be noted that the Court of Appeals in its decision dated April 14, 1993, declared that:

"A perusal of the records of the case reveals that the decision sought to be executed was rendered on December 2, 1977 but was not executed due to the numerous petitions filed by the petitioners before this court and the honorable Supreme Court. Significantly, the decision sought to be executed was upheld by the Supreme Court and which decision has become final and executory."^[9]

The above-quoted decision of the Court of Appeals has become final and executory as evidenced by an Entry of Judgment dated October 14, 1993.

Furthermore, as early as December 7, 1987, the Supreme Court in its resolution (p. 763 of records) ruled that:

"xxx Certiorari cannot be a substitute for a late appeal xxx."

WHEREFORE, in view of the foregoing, the herein motion is hereby granted.

Let a writ of execution issue against the plaintiffs in this case, the same to be executed by the Deputy Sheriff of this branch, Cezar Javier.

SO ORDERED.^[10]

On July 12, 1994, the trial court issued the assailed Break-Open Order^[11] in the same case, stating that:

WHEREFORE, the sheriff of this Court Cezar C. Javier is hereby ordered to use necessary force or to break open any gates/doors that cause the delay in the implementation of the writ of execution issued by this Court.

SO ORDERED.

On the following day, July 13, 1994, petitioner Joseph Cochingyan, Jr. filed with the Court of Appeals a Petition for *Certiorari* with Preliminary Injunction and a Temporary Restraining Order, docketed as CA-G.R. SP No. 34488, seeking to restrain the respondent Judge and the sheriff from implementing the Order of June 17, 1994 and the Break-Open Order of July 12, 1994. In a Resolution^[12] dated July 13, 1994, the Court of Appeals dismissed the petition for being insufficient in form and substance inasmuch as eighteen (18) of the pleadings and documents mentioned in the petition, which appear to be pertinent to the resolution of the same, have not been attached thereto.

Hence, the instant petition.

The petitioners raised the following assignment of errors:

I

THE RTC ERRED IN ISSUING IN THE MAIN CASE (CIVIL CASE NO. 91880) THE JUNE 17, 1994 ORDER FOR WRIT OF EXECUTION AND THE JULY 12, 1994 BREAK-OPEN ORDER BECAUSE (1) ITS DECEMBER 2, 1977 DECISION IN THE MAIN CASE IS STILL PENDING APPEAL; (2) PETITIONERS STAYED EXECUTION OF THAT JUDGMENT UNDER SECTION 8, RULE 70, RULES OF COURT (A) BY PERFECTING APPEAL FROM SAID DECISION, (B) BY POSTING SUPERSEDEAS BOND, AND (C) BY RELIGIOUSLY MAKING PERIODIC RENTAL PAYMENTS; AND (3) THE RTC UPON THE PERFECTION OF THE APPEAL HAD ALREADY LOST