

THIRD DIVISION

[G.R. No. 87110, January 24, 1996]

GIL RUBIO, PETITIONER, VS. THE HON. MUNICIPAL TRIAL COURT IN CITIES, BRANCH 4, CAGAYAN DE ORO CITY, CITY SHERIFF OF CAGAYAN DE ORO CITY, AND SPOUSES LIM LIONG KANG AND LIM PUE KING, RESPONDENTS.

DECISION

PANGANIBAN, J.:

When is a "writ of demolition" equivalent to a writ of execution? When does a motion for reconsideration not suspend the period to appeal? Is the pendency of (and later a final judgment in) a parallel case where ownership is the main issue "a change in the situation of the parties" sufficient to justify a suspension of a final and executory judgment in an action for ejectment? These questions were raised in this Petition for certiorari under Rule 65 of the Revised Rules of Court to set aside and reverse two orders of the Municipal Trial Court in Cities (MTCC), Branch 4, Cagayan de Oro City, as well as the writ which led to the demolition of two buildings of light materials belonging to petitioner and constructed on a parcel of land registered in private respondents' name.

The Facts

In the action for ejectment and damages (Civil Case No. 10077) filed by the spouses Lim Liong Kang and Lim Pue King (private respondents herein) against petitioner with the Municipal Trial Court in Cities (MTCC), Branch 4, Cagayan de Oro City, said court rendered on September 18, 1985 a decision^[1] in favor of private respondents. The MTCC disposed of the case as follows:

"WHEREFORE, judgment is hereby rendered, by preponderance of evidence, ordering defendant:

1. To vacate the premises in question and restore possession unto plaintiff;
2. To pay the plaintiff the sum of P12,800.00 as of June 6, 1985 representing the rentals in arrears with legal rate of interest until the defendant fully paid his accounts.
3. To pay 25% of the amount due as attorney's fees.

"Execution shall issue immediately except on the order to vacate the premises which

shall issue after six (6) months from and after receipt by defendant of this decision, unless an appeal has been perfected and defendant to stay execution file a supersedeas bond in the amount of Twelve Thousand Eight Hundred Pesos (P12,800.00) approved by this Court and executed to the plaintiff to enter the action in the RTC, and to pay the rents, damages, and costs, accruing down (to the) time of judgment appealed from and unless during the pendency of the appeal the defendants (sic) deposit with the appellate court the reasonable value for the use and occupation of the premises for the preceeding (sic) month or period at the rate determined by the judgment in the amount of Two Hundred (P200.00) a month due from to (sic) time on or before the 10th day of each succeeding month."^[2]

Before petitioner could perfect his appeal, private respondents moved for the execution of the decision. A writ of execution was issued by the MTCC on May 22, 1986, under which a KAWAI organ belonging to petitioner was levied upon. No sale thereof was, however, carried out in view of the perfection of petitioner's appeal in the Regional Trial Court (RTC).

On December 20, 1985, the RTC rendered judgment, affirming in all respects the decision of the MTCC. Petitioner sought further relief from the Court of Appeals,^[3] which in its decision dated June 23, 1988, affirmed the judgment of the MTCC with modification as to the amount of rental arrearages that petitioner had to pay private respondents, thus:

"WHEREFORE, the judgments and orders appealed from are affirmed subject to the modification that the petitioner is ordered to pay the private respondents arrears in rentals beginning February 22, 1983 up to June 6, 1985 or a period of 2 years, 3 months and 14 days a total amount of P2,733.00, with interest until fully paid at the legal rate. The temporary restraining order issued previously is dissolved. Costs against petitioner."^[4]

Entry of the CA decision was effected on September 14, 1988, after which the records of the case were remanded to the court of origin. On November 13, 1988, counsel for private respondents filed before the MTCC a Motion for the Issuance of an Order of Demolition, which was set for hearing on December 19, 1988.

After the scheduled hearing on December 19, 1988, MTCC Judge Roque D. Edmilao dictated in open court the first of the herein assailed orders,^[5] as follows:

"O R D E R

"When this case was called this morning, Atty. Roderico Villaroya appeared for the plaintiffs and Atty. Teodulo Tandayag appeared for the defendant. Atty. Villaroya manifested that this case has been appealed to the Regional Trial Court and the decision of this court was affirmed and then again the RTC decision was appealed to the Court of Appeals and which also affirmed the decision of this Court and the RTC. Atty. Tandayag moved that he be given time to file the necessary pleading for the suspension of this case because according to him, Judge Noli Catli of the RTC rendered a decision adverse to the plaintiff and declared a certain Maura So as the owner of the lot in question. However, the court gives the defendant thirty (30) days within which to remove the property in question. Otherwise, demolition will be ordered by the court in order to have the rights of the plaintiffs enforced."

Petitioner moved for a reconsideration of the December 19, 1988 Order, alleging mainly that the same was prematurely issued and without procedural basis as the court a quo had not yet issued a writ for the execution of the final judgment of the Court of Appeals; that the order of demolition was a gross violation of the last paragraph of the dispositive portion of the judgment of the MTCC; and, that the judgment in Civil Case No. 8983 of the RTC of Cagayan de Oro City, Branch 25, which declared private respondents as buyers in bad faith of the land in question constituted a supervening event which had changed the rights and situation of the parties as would justify the suspension of the execution of the judgment in the case.
[6]

Pending resolution of petitioner's motion, private respondents filed a Second Motion for the Issuance of Writ of Demolition.

In its second questioned Order of January 27, 1989, MTCC Judge Edmilao denied petitioner's motion for reconsideration and granted private respondent's second motion for the issuance of a writ of demolition,^[7] thus:

"O R D E R

"Defendant Rubio was not made a party to Civil Case No. 8983. Besides, the matter treated in said case is spicific (sic) performance and/or title to the subject land.

This case treats of possession.

"WHEREFORE, premises considered, Motion for Reconsideration dated January 4, 1989, is not impressed with merit. Denied. Motion for Writ of Demolition dated January 20, 1989 by plaintiff's counsel being well-taken, as prayed for, granted.

"Therefore, let Writ of Demolition issue to enforce the judgment dated September 18, 1985 by this court which was affirmed with modifications by the (C)ourt of (A)ppeals in its decision promulgated on June 23, 1988."

Accordingly, a Writ of Demolition^[8] was issued on February 2, 1989 and enforced on February 20, 1989 with the demolition of petitioner's houses. Turn-over of the possession of the premises to private respondents was made the following day, February 21, 1989.

On March 2, 1989, petitioner instituted the instant petition. This Court took cognizance of the petition notwithstanding the disregard by petitioner of the hierarchy of courts, because remanding the legal issues to the Regional Trial Court or the Court of Appeals would only prolong unduly the execution of the ejectment case.

The Parties' Submissions

Petitioner contends that pursuant to the mandate of the last paragraph of the MTCC decision, the earliest that said decision could be executed was after June 16, 1989 or six months after December 16, 1988 when records of the case were received on remand by the MTCC. Hence, the Orders dated December 19, 1988 and January 27, 1989, the Writ of Demolition dated February 2, 1989 as well as its enforcement on February 20-21, 1989 were all illegal, null and void.

Private respondents, on the other hand, would reckon the six-month period from January 20, 1985, the date of the RTC decision, on the basis of Section 18, Rules of Summary Procedure, which provides that the decision of the RTC in civil cases covered by said Rules shall be immediately executory. At the latest, private respondents would count the six-month period from July 16, 1988, when the CA decision became final and executory. Since, according to private respondents, more than three years and more than six months had elapsed from January 20, 1985 and July 16, 1988, respectively, when the MTCC decision was executed on February 20, 1989, the orders complained of were perfectly legal.

The Court's Ruling

Not entirely their fault, both parties have misread the last paragraph of the dispositive portion of the MTCC decision. To be sure, the said paragraph is not a model of clarity. To recall, said paragraph reads in part:

"Execution shall issue immediately except on the order to vacate the premises which shall issue after six (6) months from and after receipt by defendant of this decision, unless an appeal has been perfected and defendant to stay execution file a supersedeas bond x x x" (*italics supplied*)

There are actually two periods provided in the above-quoted paragraph: a) the period of six months from and after receipt by the defendant of the MTCC decision; and, b) the period covered by the pendency of an appeal. The first period contemplates a situation where the decision becomes executory by the defendant's (herein petitioner's) failure to appeal or to file a supersedeas bond and deposit the rentals that may become due from time to time. By providing that the order to vacate could only be executed six months from and after the defendant's receipt of the decision, what the MTCC actually intended to do was to give petitioner a grace period of six months. The effect of the grace period is that even if the MTCC decision should attain finality within six months from and after receipt thereof by the defendant, and could otherwise be executed immediately thereafter, the execution could not be carried out until after the expiration of the six-month period provided for. In other words, execution of the portion of the MTCC decision dealing with the order to vacate was suspended, so that the earliest that said portion of the decision could be executed was six months from and after receipt thereof by therein defendant, notwithstanding that it may have earlier attained finality.

That six-month period could, however, become moot and academic upon petitioner's perfecting an appeal. This is in consequence of the "unless an appeal has been perfected" provision. The fulfillment of this condition would render inoperative the six-month period because the appeal would in fact extend it indefinitely, as what