

NINETEENTH DIVISION

[CA-G.R. SP. NO. 06793, July 31, 2014]

PEDRO HINOLAN JR., PETITIONER-APPELLANT, VS. INTESTATE ESTATE OF THE LATE JUAN CAMINOS, REPRESENTED BY NOW ADMINISTRATORS, NAMELY: CRISPINA ESPARCIA AND ZEFRED C. SALIMBOT; HEIRS OF AMADO PARREÑO JR. NAMELY: SURVIVING WIFE CHARITO S. PARREÑO AND SON DENNIS MICHAEL PARREÑO AND THE HON. MUNICIPAL TRIAL COURT IN CITIES, ESCALANTE CITY, NEGROS OCCIDENTAL, RESPONDENTS-APPELLEES.

D E C I S I O N

LAGURA-YAP, J.:

This appeal seeks to reverse the Decision^[1] dated December 1, 2011, rendered by the Regional Trial Court (RTC), San Carlos City, Negros Occidental, Branch 59 in SCA No. RTC-1145, the decretal portion whereof, reads:

"WHEREFORE, in view of the foregoing, the **"Petition for Certiorari"** is hereby **DENIED**.

SO ORDERED." (*Bold letters in the original*)

Factual Antecedents

On September 15, 2011, petitioner-appellant Pedro Hinolan, Jr.^[2] filed a Petition for Certiorari^[3] under Rule 65 of the Rules of Court before the RTC against respondents-appellees The Intestate Estate of the Late Juan Caminos, (represented by now Administrators, namely: Crispina Esparcia and Zefred C. Salimbot; the Heirs of Amado Parreño Jr. namely: surviving wife Charito S. Parreño and son Dennis Michael Parreño^[4] and the Hon. Municipal Trial Court in Cities (MTCC), Escalante City, Negros Occidental, seeking to annul or set aside the Orders of the MTCC dated December 14, 2009^[5] and June 15, 2011^[6].

The appellant averred that he is the defendant in an ejectment case (unlawful detainer) filed before the MTCC by the appellees docketed as Civil Case No. 587.^[7]

On December 18, 2001, the MTCC rendered a Decision^[8] against the appellant. Although the appellant appealed the decision to the RTC, he however failed to file a supersedeas bond as required under Sec. 19, Rule 70 of the Rules of Court, to stay the execution of the decision.^[9]

On July 5, 2007, the appellees filed a motion for issuance of writ of execution which was opposed by the appellant. The motion was, however, granted by the MTCC on

November 21, 2007. Accordingly, the Clerk of Court of the MTCC issued a Writ of Execution^[10] dated January 30, 2008.^[11]

The appellant filed a Motion for Suspension/Holding in Abeyance Implementation/Execution of the Court's Decision/Writ of Execution^[12] but it was denied by the MTCC in an Order^[13] dated December 14, 2009, which included the implementation of the Order dated November 21, 2007, the *fallo* whereof reads:

“WHEREFORE, the MOTION FOR SUSPENSION/ HOLDING IN ABEYANCE IMPLEMENTATION/EXECUTION OF THE COURTS DECISION/WRIT OF EXECUTION filed by the defendant is hereby denied. Let the Order of this Court dated November 21, 2007 be implemented.

SO ORDERED.”

The appellant filed a motion for reconsideration^[14] but it was likewise denied by the MTCC in its Order^[15] dated June 15, 2011.

Aggrieved, the appellant filed the subject Petition for Certiorari under Rule 65 of the Rules of Court before the RTC seeking to annul the Order of the MTCC dated December 14, 2009 and June 15, 2011.

In response, the appellees filed their Comment^[16] on October 24, 2011. They alleged that sometime in 2000, they filed an ejectment case before the MTCC against the appellant which was docketed as Civil Case No. 587.^[17]

On December 18, 2011, the MTCC rendered a Decision^[18] against the appellant. Aggrieved, they appealed the adverse decision to the RTC-Branch 58, docketed as Civil Case No RTC-764.^[19]

On December 4, 2002, the RTC-Branch 58 promulgated a Decision^[20] denying the appeal filed by the appellant and affirming *in toto* the decision of the MTCC. They filed a motion for reconsideration but it was also denied by the court.^[21]

Hence, the appellant elevated the case to this Court (Court of Appeals) through a Petition for Review^[22] docketed as CA-G.R. SP No. 83194. As of the filing of the comment the case is still pending before this Court.^[23]

In the meantime, the RTC-Branch 58 acted on a motion for execution pending appeal filed by the appellees in Civil Case No. RTC-764. The court issued an Order^[24] granting the motion and remanded the records of the case to the court of origin for the issuance of a writ of execution.^[25]

Upon receipt by the MTCC of the records, the appellees immediately filed a motion for issuance of a writ of execution which was granted by the MTCC in its Order^[26] dated November 21, 2007. On January 30, 2008, the MTCC issued a writ of execution^[27].

Thus, the appellant filed with the MTCC a Motion for Suspension/Holding in

Abeyance Implementation/Execution of the Court's Decision/Writ of Execution but it was denied by the MTCC in the assailed Order dated December 14, 2009. Appellant filed a motion for reconsideration but it was also denied by the MTCC.

After the appellees filed their comment, the RTC issued the assailed Decision^[28] dated December 1, 2011, dismissing the appellant's petition.

The petitioner filed a Motion for Reconsideration (of Decision dated December 1, 2011)^[29]. He also filed together with it, on even date, a Verified Motion for Approval of Real Property Injunction Bond (With Manifestation)^[30]. Both motions were however denied by the RTC in its Omnibus Order^[31] dated January 24, 2012.

On February 7, 2012, the petitioner filed a motion for leave to file a second motion for reconsideration but it was also denied by the RTC for lack of merit in its Joint Order^[32] dated March 5, 2012.

Hence, this appeal.

Assignment of Errors

I.

THE RTC ERRED IN AFFIRMING THE ORDER OF THE MTCC DATED DECEMBER 14, 2009, WHICH DENIED THE APPELLANT'S MOTION FOR SUSPENSION/HOLDING IN ABEYANCE IMPLEMENTATION OF THE MTCC'S DECISION AND WRIT OF EXECUTION.

II.

THE RTC ERRED IN NOT CONSIDERING THE PROVISIONS OF SECS. 4 & 14, RULE 39 AND SEC. 19, RULE 70 OF THE RULES OF COURT AND THE DECISION OF THE SUPREME COURT IN THE CASE OF TERRY V. PEOPLE (G.R. NO. 136203, SEPT. 16, 1999).

III.

THE RTC COMMITTED ERROR IN RENDERING THE DECISION DATED DECEMBER 1, 2011, WHICH DISMISSED THE PETITION FILED BY THE APPELLANT.

The Ruling of this Court

The appeal is bereft of merit.

As the assigned errors are interrelated, the Court shall resolved these simultaneously.

In essence, the appellant argued that the RTC committed reversible error in rendering its Decision^[33] dated December 1, 2011 which dismissed his petition for certiorari for lack of merit.

Generally, the findings of fact of the lower courts are entitled to great weight and not disturbed except for cogent reasons. Indeed, they should not be changed on appeal in the absence of a clear showing that the trial court overlooked, disregarded, or misinterpreted some facts of weight and significance, which if considered would have altered the result of the case.^[34]

After a judicious examination of the records of this case, together with applicable laws and jurisprudence, We cannot find any compelling reason to depart from the ruling of the RTC. On the contrary, the assailed Decision is in accordance with the Rules of Court and supported with applicable jurisprudence. Thus, We quote the ruling of the RTC with Our imprimatur:

"From an examination of the facts, it is noteworthy to state that: The Writ of Execution was issued pursuant to and conformably with Section 21, Rule 70 of the Rules of Court as a judgment was already rendered by the Regional Trial Court when such motion for the issuance of a writ of execution was filed by plaintiffs (private respondents herein). The said rule is unequivocal in providing that, in ejectment cases, the judgment of the Regional Trial Court, as an appellate court, is immediately executory notwithstanding the filing of a further appeal. This simply means that neither the filing of a further appeal with the Court of Appeals or the Supreme Court nor the posting of a supersedeas bond can stop the execution of the judgment of the Regional Trial Court.

But, while the decision is immediately executory, it does not become final if a further appeal is taken therefrom. In essence, it is akin to an execution pending appeal under Section 2, Rule 39 of the Rules of Court, the main difference being that the execution under Section 21, Rule 70 is mandatory and ministerial upon the Court and not merely discretionary and upon good reasons shown. But while the said execution is ministerial and mandatory, this does not make the decision rendered by the Regional Trial Court final. Hence, this judgment, being merely executory cannot be considered as one under the aegis of Section 6, Rule 39 which refers to "final and executory" judgments and thus, not subject to the five (5) year prescriptive period. As laid down by the Supreme Court:

"The five year period provided for by Sec. 6, Rule 39 of the Rules of Court, within which a party may enforce his right to have a judgment in his favor executed by motion, properly commences from the date said judgment becomes final and executor[y]. Section 6, Rule 39 applies to all types of cases notwithstanding the provisions of Section 8 (now 19) and 10 (now 21) of Rule 70, allowing the immediate execution of judgments in unlawful detainer cases. Rule 70 merely means that, in ejectment cases, execution can be had by mere motion as a matter of right after the rendition of judgment therein and is designed to protect the plaintiff's right against further illegal dispossession by the defendant therein. This departs from the general rule in ordinary cases that execution can be had only when the case has been disposed of with finality. While the plaintiff in an ejectment case has the right to have the judgment executed even pending appeal,