

SIXTEENTH DIVISION

[CA-G.R. SP NO. 129489, November 19, 2014]

CARMELITA DELA CRUZ, PETITIONER, VS. HON. GLORIA BUTAY AGLUGUB, AS THE PRESIDING JUDGE OF REGIONAL TRIAL COURT, LAS PIÑAS CITY, BRANCH 254, THE REGISTER OF DEEDS OF LAS PIÑAS CITY AND EFREN DEL ROSARIO, RESPONDENTS.

DECISION

ZALAMEDA, R.V., J.:

This is a Petition for Certiorari (With Prayer for Preliminary Injunction and Temporary Restraining Order)^[1] under Rule 65 of the Rules of Court,^[2] assailing on the ground of grave abuse of discretion, the Order^[3] dated 21 September 2012 and Order^[4] dated 10 January 2013, both issued by Presiding Judge Gloria Butay Aglugub^[5] of Branch 254, Regional Trial Court of Las Piñas City,^[6] in Civil Case No. LP-98-0145, entitled "Carmelita Dela Cruz, Plaintiff, versus Spouses Efren L. Del Rosario and Luzviminda Del Rosario and the Register of Deeds of Las Piñas City."

The aforesaid case before the RTC is one for annulment of sale, cancellation and reconveyance of title with damages, filed by petitioner Carmelita dela Cruz^[7] against Spouses Efren and Luzviminda Del Rosario^[8] and the Register of Deeds^[9] of Las Piñas. After trial, the RTC issued a Decision^[10] dated 03 August 2009 dismissing the case, the dispositive portion of which reads –

"X x x

WHEREFORE, premised on the foregoing, herein complaint for annulment of the deed of sale and cancellation of TCT No. T-62507 covering the lot located at 405 Real St., Talon, Las Piñas City issued in the name of herein defendants-spouses, Efren and Luzviminda del Rosario, is hereby DENIED for lack of merit and accordingly, the same complaint is DISMISSED.

However, considering that defendants-spouses still owed plaintiff the amount of Php 122,385.00, they are hereby ORDERED to pay plaintiff, said amount of (Php 122,385.00) with legal interest computed from the date of the demand therefor until fully paid.

Additional filing fee therefor shall constitute a lien on the judgment and in respect of which, the Clerk of Court, RTC, is hereby DIRECTED to enforce said lien and assess and collect the same.

Costs against the defendants-spouses.

SO ORDERED.

X x x"^[11]

Petitioner sought a reconsideration^[12] but was denied,^[13] thus an appeal was made to this Court.^[14]

While the appeal was pending before the Special 14th Division of this Court, private respondent filed a Motion to Allow Defendant-Appellee to File a Verified Application for Appointment of a Receiver Before the Trial Court,^[15] which was acted upon favorably by this Court^[16] and the subsequent reconsideration thereof denied.^[17] Thereafter, private respondent filed the subject Motion for Appointment of a Receiver^[18] before the RTC.

The twin issuances of the respondent Judge, sought to be annulled in this Petition, refer to the act of setting for hearing private respondent's application for the appointment of a receiver. Initially, respondent Judge denied the application on technicality, but upon reconsideration, the court made the following ruling, thus –

"X x x

In his *Motion for Reconsideration* filed thru counsel on July 26, 2012 defendant Efren del Rosario, seeks reconsideration of the Order dated June 5, 2012, denying his Motion to Allow Appointment of a Receiver.

In his motion, defendant alleged that the motion was verified by movant Efren del Rosario and that it should be given due course.

The Court finds the motion to be meritorious. The Order dated June 5, 2012 is hereby reconsidered and set aside.

The Motion being sufficient in form and substance, let the same be set for hearing on November 21, 2012, at 8:30 in the morning.

SO ORDERED.

X x x"^[19] [Emphasis supplied]

and after a Motion to Set Aside Order dated 21 September 2012^[20] was filed by the petitioner, the RTC likewise ruled –

"X x x

Moreover, the *Motion to Set Aside Order dated September 21, 2012* are mere repetitions of matters already raised and fully considered by the court and no substantial arguments (sic) was presented to warrant its reversal.

In view thereof, the *Motion to Set Aside Order dated September 21, 2012* is hereby DENIED.

The hearing of the motion to allow appointment of a receiver shall proceed as scheduled on March 6, 2013, at 8:30 in the morning.

SO ORDERED.

X x x"^[21] [Emphasis supplied]

It comes as a surprise that petitioner immediately sought relief from this Court, jumping the gun so to speak, not waiting for the RTC to exercise its judicial discretion on the appointment of a receiver –

"X x x

4.10 Petitioner respectfully submits that the grounds relied upon by Private respondent are not applicable to the present case so as to entitle him to the appointment of a receiver due to the reasons specifically discussed below.

X x x"^[22]

with petitioner raising the following issues herein:

A.

PUBLIC RESPONDENT HONORABLE AGLUGUB GRAVELY ABUSED HER DISCRETION AND ACTED IN EXCESS OF JURISDICTION WHEN SHE ISSUED THE ORDERS DATED 21 SEPTEMBER 2012 AND 10 JANUARY 2013, WHICH ESSENTIALLY GRANTS THE APPOINTMENT OF A RECEIVER TO RECEIVE THE RENTAL PAYMENTS IN THIS CASE, DESPITE THE FACT THAT THE RENTS ARE NOT COVERED BY THE COMPLAINT SO AS TO BE CONSIDERED AS THE PROPERTY OR FUND IN LITIGATION.^[23]

B.

PUBLIC RESPONDENT HONORABLE AGLUGUB GRAVELY ABUSED HER DISCRETION AND ACTED IN EXCESS OF JURISDICTION WHEN SHE ISSUED THE ORDERS DATED 21 SEPTEMBER 2012 AND 10 JANUARY 2013, WHICH ESSENTIALLY GRANTS THE APPOINTMENT OF A RECEIVER TO PRESERVE THE IMPROVEMENTS AND RECEIVE THE RENTAL PAYMENTS IN THIS CASE, DESPITE THE FAILURE OF PRIVATE RESPONDENT TO ADVANCE ANY GROUND TO SUPPORT THE APPOINTMENT PURSUANT TO RULE 59, SECTION 1 OF THE RULES OF COURT.^[24]