Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SIMPLICIA O. ABRIGO and DEMETRIO ABRIGO, Petitioners,	**G.R. No. 160786**
	Present:
- versus -	
	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, VILLARAMA, JR, and REYES, *JJ.*
JIMMY F. FLORES, EDNA F. FLORES, DANILO FLORES, BELINDA FLORES, HECTOR FLORES, MARITES FLORES, HEIRS OF MARIA F. FLORES, JACINTO FAYLONA, ELISA FAYLONA MAGPANTAY, MARIETTA FAYLONA CARTACIANO, and HEIRS of TOMASA BANZUELA VDA. DE FAYLONA, Respondents.	Promulgated: JUN 17 2013

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D E C I S I O N

BERSAMIN, *J.*:

Once a judgment becomes immutable and unalterable by virtue of its finality, its execution should follow as a matter of course. A supervening event, to be sufficient to stay or stop the execution, must alter or modify the situation of the parties under the decision as to render the execution inequitable, impossible, or unfair. The supervening event cannot rest on unproved or uncertain facts.

In this appeal, petitioners seek to reverse the decision in CA-G.R. SP No. 48033 promulgated on September 25, 2002,[1] whereby the Court of

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[1] *Rollo*, pp. 16-27; penned by Associate Justice Cancio C. Garcia (later Presiding Justice and Member of the Court, now retired), with the concurrence of Associate Justice Bernardo P. Abesamis (retired) and Associate Justice Rebecca De Guia-Salvador.

Appeals (CA) directed the Regional Trial Court, Branch 30, in San Pablo City (RTC) to issue a special order of demolition to implement the immutable and unalterable judgment of the RTC rendered on November 20, 1989.

This case emanated from the judicial partition involving a parcel of residential land with an area of 402 square meters situated in the Municipality of Alaminos, Laguna (property *in litis*) that siblings Francisco Faylona and Gaudencia Faylona had inherited from their parents. Under the immutable and unalterable judgment rendered on November 20, 1989, the heirs and successors-in-interest of Francisco Faylona, respondents herein, would have the western portion of the property *in litis*, while the heirs and successors-in-interest of Gaudencia Faylona its eastern half.

For an understanding of the case, we adopt the following rendition by the CA in its assailed decision of the factual and procedural antecedents, *viz*:

> Involved in the suit is a lot with an area of 402 square meters situated in the Municipality of Alaminos, Laguna and inherited by both Francisco (Faylona) and Gaudencia (Faylona) from their deceased parents. The lot is declared for taxation purposes under Tax Declaration No. 7378 which Gaudencia managed to secure in her name alone to the exclusion of Francisco and the latter's widow and children. It appears that after Francisco's death, his widow and Gaudencia entered into an extrajudicial partition whereby the **western half** of the same lot was assigned to Francisco's heirs while the **eastern half** thereof to Gaudencia. There was, however, no actual ground partition of the lot up to and after Gaudencia's death. It thus result that both the heirs of Francisco and Gaudencia owned in common the land in dispute, which co-ownership was recognized by Gaudencia herself during her lifetime, whose heirs, being in actual possession of the entire area, encroached and built improvements on portions of the **western half**. In the case of the petitioners, a small portion of their residence, their garage and poultry pens extended to the western half.
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> Such was the state of things when, on July 22 1988, in the Regional Trial Court at San Pablo City, the heirs and successors-in-interest of Francisco Faylona, among whom are the private respondents, desiring to terminate their co-ownership with the heirs of Gaudencia, filed their complaint for judicial partition in this case, which complaint was docketed *a quo* as Civil Case No. SP-3048.
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> In a **decision dated November 20, 1989,** the trial court rendered judgment for the private respondents by ordering the partition of the land in dispute in such a way that the western half thereof shall pertain to the heirs of Francisco while the eastern half, to the heirs of Gaudencia whose heirs were further required to pay rentals to the plaintiffs for their use and occupancy of portions on the western half. More specifically, the decision dispositively reads:

> *"WHEREFORE, premises considered, the Court hereby renders judgment in favor of plaintiffs and against defendants ordering:*
>
> *1. The partition of the parcel of land described in paragraph 5 of the complaint the western half portion belonging to the plaintiffs and the other half eastern portion thereof to the defendants, the expenses for such partition, subdivision and in securing the approval of the Bureau of Lands shall be equally shouldered by them;*
>
> *2. To pay plaintiffs the sum of ₱500.00 per month as rental from July 22, 1988 until the entire Western half portion of the land is in the complete possession of plaintiffs;*
>
> *3. Defendants to pay the costs of these proceedings.*
>
> *SO ORDERED."*

From the aforementioned decision, the heirs of Gaudencia, petitioners included, went on appeal to this Court in **CA-G.R. CV No. 25347**. And, in a **decision promulgated on December 28, 1995**, this Court, thru its former Third Division, affirmed the appealed judgment of the respondent court, minus the award for rentals, thus:

> *"WHEREFORE, appealed decision is hereby AFFIRMED, except the amount of rental awarded which is hereby DELETED.*
>
> *SO ORDERED."*

With no further appellate proceedings having been taken by the petitioners and their other co-heirs, an **Entry of Judgment** was issued by this Court on **June 3, 1996.**

Thereafter, the heirs of Francisco filed with the court *a quo* a motion for execution to enforce and implement its decision of November 20, 1989, as modified by this Court in its decision in CA-G.R. CV No. 25347, *supra.* Pending action thereon and pursuant to the parties' agreement to engage the services of a geodetic engineer to survey and subdivide the land in question, the respondent court issued an order appointing Engr. Domingo Donato *"to cause the survey and subdivision of the land in question and to make his report thereon within thirty (30) days from receipt hereof."*

In an order dated November 19, 1997, the respondent court took note of the report submitted by Engr. Donato. In the same order, however, the court likewise directed the defendants, more specifically the herein petitioners, to remove, within the period specified therein, all their improvements which encroached on the **western half**, *viz*

> *"As prayed for by the defendants, they are given 2 months from today or up to January 19, 1998 within which to remove their garage, a small portion of their residence which was extended to a portion of the property of the plaintiffs as well as*

the chicken pens thereon and to show proof of compliance herewith."

To forestall compliance with the above, petitioners, as defendants below, again prayed the respondent court for a final extension of sixty (60) days from January 19, 1998 within which to comply with the order. To make their motion palatable, petitioners alleged that they *"are about to conclude an arrangement with the plaintiffs and just need ample time to finalize the same."* To the motion, private respondents interposed an opposition, therein stating that the alleged arrangement alluded to by the petitioners did not yield any positive result.

Eventually, in an order dated January 28, 1998, the respondent court denied petitioners' motion for extension of time to remove their improvements. Thereafter, or on **February 6, 1998**, the same court issued a **writ of execution**.

On February 12, 1998, Sheriff Baliwag served the writ on the petitioners, giving the latter a period twenty (20) days from notice or until **March 4, 1998** within which to remove their structures which occupied portions of private respondents' property. On March 6, 1998, the implementing sheriff returned the writ *"PARTIALLY SATISFIED"*, with the information that petitioners failed to remove that portion of their residence as well as their garage and poultry fence on the western half of the property.

On account of the sheriff's return, private respondents then filed with the court *a quo* on March 11, 1998 a **Motion for Issuance of Special Order of Demolition**.

On March 19, 1998, or even before the respondent court could act on private respondents' aforementioned motion for demolition, petitioners filed a **Motion to Defer Resolution on Motion for Demolition**, this time alleging that they have become one of the co-owners of the western half to the extent of 53.75 square meters thereof, purportedly because one of the successors-in-interest of Francisco Faylona – Jimmy Flores – who was co-plaintiff of the private respondents in the case, sold to them his share in the western half. We quote the pertinent portions of petitioners' motion to defer:

"That after the finality of the decision and on this stage of execution thereof, there was an event and circumstance which took place between the defendants and one of the groups of plaintiffs (Floreses)[which] would render the enforcement of the execution unjust.

On March 4, 1998, the Floreses, one of the plaintiffs as co-owners of the property-in-question in the Western portion, sold their one-fourth (1/4) undivided portion in the co-ownership of the plaintiffs to defendant Simplicia O. Abrigo, as can be seen in a xerox copy of the deed x x x.

x x x x

Defendant Simplicia O. Abrigo is now one of the four co-owners of a ¼ portion, pro-indiviso of the property of the

> *plaintiffs. Thus, until and unless a partition of this property is made, the enforcement of the execution and/or demolition of the improvement would be unjust x x x. This sale took place after the finality".*
>
> In the herein **first assailed order dated May 13, 1998**, the respondent court **denied** petitioners' motion to defer resolution of private respondents' motion for a special order of demolition and directed the issuance of an alias writ of execution, thus:
>
> *"WHEREFORE, let an alias writ of execution issue for the satisfaction of the Court's judgment. Defendants' Motion to Defer Resolution of the Motion for a Writ of Demolition is hereby DENIED.*
>
> *SO ORDERED."*
>
> x x x x
>
> On May 20, 1998, petitioners filed a **Motion for Reconsideration**, thereunder insisting that being now one of the co-owners of the **western half**, there is need to defer action of the motion for demolition until the parties in the co-ownership of said half shall have decided in a formal partition which portion thereof belongs to each of them.
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> A timely **opposition** to the motion for reconsideration was filed by the private respondents, thereunder arguing that the alleged Deed of Sale dated March 4, 1998 and supposedly executed by Jimmy Flores was merely falsified by the latter because one of the Floreses, Marites Flores, did not actually participate in the execution thereof, adding that the same document which seeks to bind them (private respondents) as non-participating third parties, cannot be used as evidence against them for the reason that the deed is not registered.
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> Pursuant to the aforequoted order of May 13, 1998, an alias writ of execution was again issued. As before, Sheriff Baliwag served the alias writ to the petitioners on June 16, 1998, giving them until June 23, 1998 within which to remove their structures which encroached on the **western half**. Again, petitioners failed and refused to comply, as borne by the sheriff's amended return.[2] (citations omitted)

In order to stave off the impending demolition of their improvements encroaching the western half of the property *in litis* pursuant to the special order to demolish being sought by respondents, petitioners instituted a special civil action for *certiorari* in the CA against respondents and the RTC (C.A.-G.R. SP No. 48033), alleging that the RTC had gravely abused its discretion amounting to lack or in excess of jurisdiction in issuing the order of May 13, 1998 (denying their motion to defer resolution on the motion for demolition), and the order dated June 10, 1998 (denying their motion for reconsideration).

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[2] Id. at 17-23.

In support of their petition, petitioners contended that the sale to them by respondent Jimmy Flores, one of the successors-in-interest of Francisco Faylona, of his 1/4 share in the western portion of the 402-square meter lot (under the deed of sale dated March 4, 1998) had meanwhile made them co-owners of the western portion, and constituted a supervening event occurring after the finality of the November 20, 1989 decision that rendered the execution inequitable as to them.[3]

On September 25, 2002, however, the CA dismissed the petition for *certiorari* upon finding that the RTC did not gravely abuse its discretion, disposing thusly:

> WHEREFORE, the instant petition is hereby DENIED and is accordingly DISMISSED. The respondent court is directed to issue a special order of demolition to implement its final and executory decision of November 20, 1989, as modified by this Court in CA-G.R. CV No. 25347.
>
> SO ORDERED.[4]

Petitioners moved for the reconsideration of the dismissal of their petition, but the CA denied their motion on October 6, 2003.[5]

Issues

In this appeal, petitioners submit in their petition for review that:

> I
>
> THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT, COMMITTED REVERSIBLE ERROR WHEN IT AFFIRMED THE DENIAL OF THE RTC OF ITS ENFORCEMENT OF THE DECISION DESPITE THE OBVIOUS SUPERVENING EVENT THAT WOULD JUSTIFY MATERIAL CHANGE IN THE SITUATION OF THE PARTIES AND WHICH MAKES EXECUTION INEQUITABLE OR UNJUST.
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> II
>
> THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT, COMMITTED REVERSIBLE ERROR WHEN IT FOUND THAT THERE WAS NO ABUSE OF DISCRETION IN THE QUESTIONED ORDERS OF THE RTC.[6]

The legal issue is whether or not the sale by respondent Jimmy Flores of his 1/4 share in the western portion of the 402-square meter lot constituted

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3 Id. at 11-12.
4 Id. at 26.
5 Id. at. 29.
6 Id. at 10.

a supervening event that rendered the execution of the final judgment against petitioners inequitable.

Ruling

We deny the petition for review, and rule that the CA correctly dismissed the petition for *certiorari*. Indeed, the RTC did not abuse its discretion, least of all gravely, in issuing its order of May 13, 1998 denying petitioners' motion to defer resolution on the motion for demolition, and its order dated June 10, 1998 denying petitioners' motion for reconsideration.

The dispositive portion of the November 20, 1989 decision directed the partition of the 402-square meter parcel of land between the heirs and successors-in-interest of Francisco Faylona and Gaudencia Faylona, with the former getting the western half and the latter the eastern half; and ordered the latter to remove their improvements encroaching the western portion adjudicated to the former. The decision became final after its affirmance by the CA through its decision promulgated on December 28, 1995 in C.A.-G.R. CV No. 25347 modifying the decision only by deleting the award of rentals. There being no further appellate proceedings after the affirmance with modification, the CA issued its entry of judgment on June 3, 1996.

Thereafter, the RTC issued several writs of execution to enforce the judgment. The execution of the November 20, 1989 decision, as modified by the CA, followed as a matter of course, because the prevailing parties were entitled to its execution as a matter of right, and a writ of execution should issue to enforce the dispositions therein.[7]

The contention of petitioners that the sale by Jimmy Flores to them of his 1/4 share in the western portion of the 402-square meter lot under the deed of sale dated March 4, 1998 was a supervening event that rendered the execution inequitable is devoid of merit.

Although it is true that there are recognized exceptions to the execution as a matter of right of a final and immutable judgment, one of which is a supervening event, such circumstance did not obtain herein. To accept their contention would be to reopen the final and immutable judgment in order to further partition the western portion thereby adjudicated to the heirs and successors-in-interest of Francisco Faylona for the purpose of segregating the ¼ portion supposedly subject of the sale by Jimmy Flores. The reopening would be legally impermissible, considering that the November 20, 1989 decision, as modified by the CA, could no longer be altered, amended or modified, even if the alteration, amendment or

[7] Section 1, Rule 39, *Rules of Court*; *Buenaventura v. Garcia and Garcia*, 78 Phil. 759, 762 (1947).

modification was meant to correct what was perceived to be an erroneous conclusion of fact or of law and regardless of what court, be it the highest Court of the land, rendered it.[8] This is pursuant to the doctrine of immutability of a final judgment, which may be relaxed only to serve the ends of substantial justice in order to consider certain circumstances like: (*a*) matters of life, liberty, honor or property; (*b*) the existence of special or compelling circumstances; (*c*) the merits of the case; (*d*) the cause not being entirely attributable to the fault or negligence of the party favored by the suspension of the doctrine; (*e*) the lack of any showing that the review sought is merely frivolous and dilatory; or (*f*) the other party will not be unjustly prejudiced by the suspension.[9]

Verily, petitioners could not import into the action for partition of the property *in litis* their demand for the segregration of the ¼ share of Jimmy Flores. Instead, their correct course of action was to initiate in the proper court a proceeding for partition of the western portion based on the supposed sale to them by Jimmy Flores.

We deem it highly relevant to point out that a supervening event is an exception to the execution as a matter of right of a final and immutable judgment rule, only if it directly affects the matter already litigated and settled, or substantially changes the rights or relations of the parties therein as to render the execution unjust, impossible or inequitable.[10] A supervening event consists of facts that transpire *after* the judgment became final and executory, or of new circumstances that develop *after* the judgment attained finality, including matters that the parties were not aware of prior to or during the trial because such matters were not yet in existence at that time.[11] In that event, the interested party may properly seek the stay of execution or the quashal of the writ of execution,[12] or he may move the court to modify or alter the judgment in order to harmonize it with justice and the supervening event.[13] The party who alleges a supervening event to stay the execution should necessarily establish the facts by competent evidence; otherwise, it would become all too easy to frustrate the conclusive effects of a final and immutable judgment.

Here, however, the sale by Jimmy Flores of his supposed ¼ share in the western portion of the property *in litis*, assuming it to be true, did not modify or alter the judgment regarding the partition of the property *in litis*. It

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[8] *Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division)*, G.R. No. 172149, February 8, 2010, 612 SCRA 10, 19-20.

[9] *Meneses v. Secretary of Agrarian Reform*, G.R. No. 156304, October 23, 2006, 505 SCRA 90, 97; *Barnes v. Padilla*, G.R. No. 160753, September 30, 2004, 439 SCRA 675, 686-687.

[10] *Javier v. Court of Appeals*, G.R. No. 96086, July 21, 1993, 224 SCRA 704, 712.

[11] *Natalia Realty, Inc. v. Court of Appeals*, G.R. No. 126462, November 12, 2002, 391 SCRA 370, 387.

[12] *Dee Ping Wee v. Lee Hiong Wee*, G.R. No. 169345, August 25, 2010, 629 SCRA 145, 168; *Ramirez v. Court of Appeals*, G.R. No. 85469, March 18, 1992, 207 SCRA 287, 292; *Chua Lee A.H. v. Mapa*, 51 Phil. 624, 628 (1928); *Li Kim Tho v. Go Siu Kao*, 82 Phil. 776, 778 (1949).

[13] *Serrano v. Court of Appeals*, G.R. No. 133883, December 10, 2003, 417 SCRA 415, 424-425; *Limpin, Jr. v. Intermediate Appellate Court*, No. L-70987, January 30, 1987, 147 SCRA 516, 522-523.

was also regarded with suspicion by the CA because petitioners had not adduced evidence of the transaction in the face of respondents, including Jimmy Flores, having denied the genuineness and due execution of the deed of sale itself.

The issuance of the special order of demolition would also not constitute an abuse of discretion, least of all grave. Such issuance would certainly be the necessary and logical consequence of the execution of the final and immutable decision. According to Section 10(d) of Rule 39, *Rules of Court*, when the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court issued upon motion of the judgment obligee after due hearing and after the judgment obligor or his agent has failed to remove the improvements within a reasonable time fixed by the court. With the special order being designed to carry out the final judgment of the RTC for the delivery of the western portion of the property *in litis* to their respective owners, the CA's dismissal of the petition for *certiorari* could only be upheld.

It irritates the Court to know that petitioners have delayed for nearly 17 years now the full implementation of the final and immutable decision of November 20, 1989, as modified by the CA. It is high time, then, that the Court puts a firm stop to the long delay in order to finally enable the heirs and successors-in-interest of Francisco Faylona as the winning parties to deservedly enjoy the fruits of the judgment in their favor.[14]

WHEREFORE, the Court **DENIES** the petition for review; **AFFIRMS** the decision promulgated on September 25, 2002 in C.A.-G.R. SP No. 48033; **DIRECTS** the Regional Trial Court, Branch 30, in San Pablo City to issue forthwith the special order of demolition to implement its final and executory decision of November 20, 1989, as modified by the Court of Appeals in C.A.-G.R. CV No. 25347; **DECLARES** this decision to be immediately executory; and **ORDERS** petitioners to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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[14] *Anama v. Court of Appeals*, G.R. No. 187021, January 25, 2012, 664 SCRA 293, 308; *De Leon v. Public Estates Authority*, G.R. No. 181970, August 3, 2010, 626 SCRA 547, 565-566; *Lee v. Regional Trial Court of Quezon City, Br. 85*, G.R. No. 146006, April 22, 2005, 456 SCRA 538, 554; *Beautifont, Inc. v. Court of Appeals*, No. L-50141, January 29, 1988, 157 SCRA 481, 494.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice