

FIRST DIVISION

[G.R. No. 232202, February 28, 2018]

DANIEL A. VILLAREAL, JR. (ON BEHALF OF ORLANDO A. VILLAREAL), PETITIONER, VS. METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, RESPONDENT.

DECISION

TIJAM, J.:

We resolve this petition^[1] under Rule 45 of the Rules of Court, assailing the Decision^[2] dated February 9, 2017 and the Order^[3] dated May 17, 2017 of the Regional Trial Court (RTC) of Quezon City, Branch 215, in Case No. R-QZN-16-03654-CV.

The Antecedent Facts

In a Decision^[4] dated October 30, 2000, the Metropolitan Trial Court (MeTC) of Quezon City, Branch 39, dismissed a case entitled "*Metropolitan Waterworks and Sewerage System v. Orlando A. Villareal and other persons claiming Rights Under Him*" in Civil Case No. 21293 for Unlawful Detainer, for being prematurely filed and for lack of cause of action.

On appeal by respondent Metropolitan Waterworks Sewerage System (MWSS), the RTC-Branch 96 rendered a Decision^[5] on September 27, 2002 in Civil Case Nos. Q-01-42773 and Q-01-42773-B, reversing the MeTC's judgment, and ordered, among others, that:

1. In Civil Case No. Q-01 -42773, [Orlando] and all persons claiming rights under him to vacate the premises located at No. 18, V. Heizer, St., Balara Filters, Quezon City and surrender peacefully the possession thereof to [MWSS]; and to pay the amount of P2,500.00 as reasonable compensation from November 7, 1997 until the possession is restored to [MWSS];

x x x x

SO ORDERED.^[6]

On December 15, 2002, the RTC Clerk of Court issued an Entry of Judgment/Order,^[7] stating that the RTC Decision dated September 27, 2002 has become final and executory.

Within a period of two years or on May 17, 2004, MWSS filed a Motion for Issuance of Writ of Execution^[8] with the MeTC.

On July 2, 2004, Orlando Villareal (Orlando) filed his Comment/Opposition,^[9] praying that the motion be held in abeyance pending compliance by MWSS with the provision of Section 23 of Republic Act (R.A.) No. 7279,^[10] also known as the Urban Development and Housing Act of 1992.

More than 10 years from the filing of MWSS' motion for execution or on July 28, 2014, the MeTC issued an Order^[11] in Civil Case No. 35806, granting the motion.

Ruling of the MeTC

On October 26, 2015, the MeTC issued a Writ of Execution,^[12] for the satisfaction of the RTC Decision dated September 27, 2002. In addressing Orlando's prayer, the MeTC held in its July 28, 2014 Order that R.A. No. 7279 does not find application, since Orlando failed to prove that he falls under the category of "underprivileged and homeless citizens," who are the beneficiaries of the said Act.^[13]

Pursuant to the writ of execution, the MeTC Sheriff III sent on April 19, 2016 a Sheriffs Notice to Vacate and Pay^[14] to Orlando.

On April 20, 2016, Daniel A. Villareal, Jr. (on behalf of Orlando), filed a Petition for *Certiorari*^[15] under Rule 65 with the RTC-Branch 215, challenging the Writ of Execution dated October 26, 2015 and the Sheriffs Notice to Vacate and Pay dated April 19, 2016. He argued that the five-year period under Section 6,^[16] Rule 39 of the Rules was violated since the execution was done more than 10 years from the finality of the RTC decision.

In response, MWSS filed its Comment/Opposition,^[17] and countered among others, that the five-year period under the Rules within which to enforce a judgment by mere motion run only against the judgment obligee and not the court that will resolve/decide it.^[18] MWSS likewise alleged that Orlando's filing of Comment/Opposition dated July 2, 2004 caused the delay in the execution of judgment.

Ruling of the RTC

On February 9, 2017, the RTC, in its Decision^[19] dismissed the petition and affirmed the October 26, 2015 Writ of Execution and the April 19, 2016 Sheriffs Notice to Vacate and Pay.

Petitioner's subsequent motion for reconsideration^[20] was denied in the RTC Order^[21] dated May 17, 2017.

Issue

Hence, this petition, anchored on this sole ground:

WHETHER OR NOT THE [RTC] ERRED IN DISMISSING THE PETITION
BASED ON ERRONEOUS APPLICATION OF RULE 39, SECTION 6 OF THE

Ruling of the Court

The petition is granted.

At the outset, it should be pointed out that petitioner resorted to a petition for review on *certiorari* under Rule 45, and not a special civil action for *certiorari* under Rule 65. The principle of hierarchy of courts does not find any application in this case.^[23]

In *Ysidoro v. Justice Leonardo De Castro, et al.*,^[24] this Court differentiated the nature of the remedies provided under Rules 45 and 65 of the Rules of Court in this manner:

[A] review on *certiorari* under a Rule 45 petition is generally limited to the review of legal issues; the Court only resolves questions of law which have been properly raised by the parties during the appeal and in the petition. Under this mode, the Court determines whether a proper application of the law was made in a given set of facts. A Rule 65 review, on the other hand, is strictly confined to the determination of the propriety of the trial court's jurisdiction — whether it has jurisdiction over the case and if so, whether the exercise of its jurisdiction has or has not been attended by grave abuse of discretion amounting to lack or excess of jurisdiction.^[25]

Corollary, under Section 2(c), Rule 41 of the Rules, it is provided that in all cases where only questions of law are raised, the appeal from a decision or order of the RTC shall be to the Supreme Court by petition for review on *certiorari* in accordance with Section 1 of Rule 45 of which provides:

Sec. 1. Filing of petition with Supreme Court. - A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

Here, it is patently clear that petitioner does not question whether the RTC has jurisdiction or authority to resolve his petition for *certiorari* under Rule 65. Rather, he assails the wisdom of the RTC's very judgment and appreciation in upholding the MeTC's issuance of the writ of execution in MWSS' favor. The error relates to a mistake in the application of law and jurisprudence regarding Section 6 of Rule 39, and not to an error of jurisdiction or grave abuse of discretion amounting to excess of jurisdiction. This, obviously, is a question of law; consequently, direct resort to this Court is proper.

Execution may be either through motion or an independent action. The two modes of execution under the Rules are available, depending on the timing when the prevailing party invoked his right to enforce the court's judgment. Section 6, Rule 39 of the Rules, states thus:

Sec. 6. *Execution by motion or by independent action.* - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

"Execution by motion is only available if the enforcement of the judgment was sought within five (5) years from the date of its entry."^[26] This is a matter of right.^[27] "On the other hand, execution by independent action is mandatory if the five-year prescriptive period for execution by motion had already elapsed."^[28] "[T]he said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court."^[29] "[T]he action must be filed before it is barred by the statute of limitations which, under the Civil Code, is ten (10) years from the finality of the judgment."^[30] Corollary, "[a] final and executory judgment may be executed by motion within five years or by action for revival of judgment within ten years reckoned from the *date of entry of judgment*."^[31] The date of entry, in turn, is the same as the date of finality of judgment.^[32]

By jurisprudence, for execution by motion to be valid, the judgment creditor must ensure the accomplishment of two acts within the five-year prescriptive period, as follows: (a) the filing of the motion for the issuance of the writ of execution; and (b) the court's actual issuance of the writ.^[33]

Here, the RTC Decision dated September 27, 2002 became final and executory on December 15, 2002. By operation of law, December 15, 2002 is likewise the date of entry of judgment. Consequently, the five-year prescriptive period for the execution of the RTC decision by mere motion must be reckoned from December 15, 2002.

MWSS filed a Motion for Issuance of Writ of Execution of the RTC Decision on May 17, 2004. This is within five years from December 15, 2002 - the date when the decision became final and executory. Thus, the first act was accomplished.

There is, however, non-compliance with the second act.

We held in *Olongapo City v. Subic Water and Sewerage Co., Inc.*^[34] that:

In *Arambulo v. Court of First Instance of Laguna*, we explained the rule that ***the jurisdiction of a court to issue a writ of execution by motion is only effective within the five-year period from the entry of judgment. Outside this five-year period, any writ of execution issued pursuant to a motion filed by the judgment creditor, is null and void. If no writ of execution was issued by the court within the five-year period, even a motion filed within such prescriptive period would not suffice. A writ issued by the court after the lapse of the five-year period is already null and void. The judgment creditor's only recourse then is to file an independent action, which must also be within the prescriptive period set by law for the enforcement of judgments.***