

## THIRD DIVISION

[ G.R. No. 233489, March 07, 2018 ]

**SPOUSES LARRY AND FLORA DAVIS, PETITIONERS, V. SPOUSES FLORENCIO AND LUCRESIA DAVIS, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

Challenged in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court are the Court of Appeals (CA) Resolutions dated May 22, 2017<sup>[1]</sup> and August 10, 2017<sup>[2]</sup> in CA-G.R. SP No. 150626, which dismissed outright on purely procedural grounds the Petition for *Certiorari* of the herein petitioners Spouses Larry and Flora Davis and subsequently denied their motion for reconsideration thereof.

The antecedents are:

On January 29, 1991, the petitioners, as vendees, and the herein respondents Spouses Florencio and Lucrecia Davis, as vendors, entered into a Contract to Sell over a 500-square meter lot in Banga, Meycauayan, Bulacan, covered by Transfer Certificate of Title (TCT) No. T-226201 (M) (subject property) for a consideration of P500,000. As agreed upon, the petitioners gave the respondents the sum of P200,000 as downpayment while the remaining balance of P300,000 was made payable in 12 equal monthly installments. The respondents agreed to execute the corresponding Deed of Absolute Sale upon full payment of the purchase price. After full payment thereof and despite repeated demands, however, the respondents failed and refused to execute the Deed of Absolute Sale to the petitioners. This prompted the latter to initiate a **Complaint for Specific Performance and Damages** (with prayer for a writ of preliminary injunction and temporary restraining order) against the former **before Branch 78 (Br. 78) of the Regional Trial Court of Malolos, Bulacan (RTC Malolos)**, docketed as Civil Case No. 581-M-95. A notice of *lis pendens* was then annotated at the back of TCT No. T-226201 (M). In their Answer, the respondents admitted receipt of the P200,000 downpayment but denied receipt of the balance of P300,000. They also insisted that the petitioners have no cause of action against them.<sup>[3]</sup>

In a **Decision**<sup>[4]</sup> dated **February 13, 1998, the RTC Malolos (Br. 78) ruled in favor of the petitioners.** The dispositive portion reads:

WHEREFORE, the foregoing considered, this Court resolves the instant case in favor of plaintiffs Larry and Flora Davis and against defendants Florencio and Lucrecia Davis ordering the aforesaid defendants to:

1. Execute the Deed of Absolute Sale in favor of herein plaintiffs covering the 500-square meter land covered by Transfer Certificate of Title No. T-226201, and cause the necessary registration thereof to the Register of Deeds of Meycauayan;

2. Pay, jointly and severally, the plaintiffs the following amounts, to wit:

- a. P50,000.00 as moral damages;
- b. P30,000.00 as exemplary damages; and
- c. P40,000.00 as attorney's fees and litigation expenses;

3. Pay, jointly and severally, the costs of suit.

SO ORDERED.<sup>[5]</sup>

On appeal, the CA affirmed *in toto* the aforesaid ruling in its Decision<sup>[6]</sup> dated August 31, 2004, which became final and executory on October 2, 2004.<sup>[7]</sup>

Accordingly, on May 11, 2005, the petitioners moved for the execution of the February 13, 1998 Decision of the RTC Malolos (Br. 78), which was granted. A writ of execution was subsequently issued.<sup>[8]</sup> Unfortunately, this writ was not implemented primarily because the respondents already sold the subject property to Carmina Erana, Spouses Hector and Maria Victoria Erana, Efren Erana, and Spouses Ma. Lourdes and Romie Aquino, who were issued new TCT No. 421671 (M). But the notice of *lis pendens* was still carried over to the new title. The petitioners moved for the cancellation of TCT No. 421671 (M) and for the Register of Deeds of Bulacan to issue a new certificate of title in their favor but this was denied on the ground that the new registered owners of the subject property were not privies to the case.<sup>[9]</sup>

The petitioners were, thus, compelled to file **an action for annulment of title and document against the new registered owners** of the subject property **before Br. 15, RTC Malolos**, docketed as Civil Case No. 768-M- 08. In a **Decision<sup>[10]</sup> dated March 18, 2011, the RTC Malolos (Br. 15) ruled in favor of the petitioners** and declared TCT No. 421671 (M) as null and void and restored TCT No. T-226201 (M). This Decision became final and executory on July 23, 2012;<sup>[11]</sup> thus, the petitioners moved for its execution, which was granted. TCT No. 421671 (M) in the names of Carmina Erana, Spouses Hector and Maria Victoria Erana, Efren Erana, and Spouses Ma. Lourdes and Romie Aquino was cancelled and TCT No. T-226201 (M) in the names of the respondents was restored.<sup>[12]</sup>

With this in view, the **petitioners filed an Urgent Ex-Parte Manifestation and Motion on July 13, 2016<sup>[13]</sup>** for the implementation of the February 13, 1998 Decision of the RTC Malolos (Br. 78) by issuing a writ of execution to direct the respondents to execute a Deed of Absolute Sale in their favor, or in the absence of the former, to appoint the clerk of court to execute the same pursuant to Section 10 (a), Rule 39 of the Rules of Court. In their Comment, the respondents opposed arguing that the said Decision cannot be enforced by a mere motion or by an action for revival of judgment since 10 years had already lapsed from the time it became final.<sup>[14]</sup> In their Reply, the petitioners insisted that the period within which to move for the execution of the aforesaid Decision was deemed suspended with their filing of an action for annulment of title and document involving the subject property before the RTC Malolos (Br. 15) to enable a complete and effective relief in their favor.<sup>[15]</sup>

In an **Order<sup>[16]</sup> dated February 7, 2017, the RTC Malolos (Br. 78) denied the petitioners' Urgent Ex-Parte Manifestation and Motion** explaining that the consequent filing of annulment of title involving the subject property before Br. 15

does not toll the running of the period. The writ of execution dated June 17, 2005 was not served on the respondents; thus, the February 13, 1998 Decision of Br. 78 remained unimplemented/unexecuted. This is the reason why there is a need for its revival unless barred by the statute of limitations.<sup>[17]</sup>

On *certiorari* to the CA, the latter, in its **first assailed Resolution dated May 22, 2017, dismissed the petition outright** as it suffered from serious infirmities, to wit: (1) petitioners failed to file a Motion for Reconsideration of the RTC Order dated February 7, 2017 pursuant to Section 1, Rule 65 of the Rules of Court; and (2) except for RTC Order dated February 7, 2017, only photocopies of the pertinent pleadings and documents accompanied the petition, as required by the aforesaid rule. The CA held that a Motion for Reconsideration is a plain, speedy, and adequate remedy available to the petitioners to assail the said Order and it is a condition *sine qua non* before a Petition for *Certiorari* may be given due course. The subsequent **motion for reconsideration thereof was denied for lack of merit in the second assailed Resolution dated August 10, 2017.**

Aggrieved by the aforesaid rulings of the CA, the petitioners filed the present Petition for Review on *Certiorari* with this Court, raising the allegation that the appellate court committed a grave and reversible error in dismissing their Petition for *Certiorari* notwithstanding that the presiding judge of the RTC Malolos (Br. 78) was guilty of grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its Order dated February 7, 2017.<sup>[18]</sup>

There is merit in the instant petition.

Before delving into the merits of the case, it is imperative to first resolve a procedural issue.

While it is true that a motion for reconsideration is a condition *sine qua non* for the filing of a Petition for *Certiorari*, the purpose of which is to grant an opportunity for the court to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case,<sup>[19]</sup> it is not, however, an ironclad rule as it admits well-defined exceptions. One of these exceptions is **where the questions raised in the *certiorari* proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court.**<sup>[20]</sup> This exception is applicable in the instant case.

To note, in the petitioners' Urgent *Ex-Parte* Manifestation and Motion for the implementation of the February 13, 1998 Decision of the RTC Malolos (Br. 78), as well as in their Reply, they vehemently insisted that the period within which to file a motion for execution of the said Decision was deemed suspended with their filing of an action for annulment of title and document involving the subject property before Br. 15 to enable a complete and effective relief in their favor. But Br. 78 denied the said Urgent *Ex-Parte* Manifestation and Motion reasoning that the petitioners' filing of another case involving the subject property before Br. 15 does not toll the running of the period to file a motion for execution. It is clear therefrom that any motion for reconsideration would then be superfluous, as Br. 78 had already passed upon and resolved the very same issue raised in the Petition for *Certiorari* before the CA. It is, therefore, a reversible error on the part of the CA to outrightly dismiss the petitioners' petition based on that procedural ground.

Turning now to the merits of the present petition, this Court rules for the petitioners.