

## FIRST DIVISION

[ G.R. No. 203022, December 03, 2014 ]

**ANTONIO MARTINEZ, PETITIONER, VS. HON. RONALDO B. MARTIN, PRESIDING JUDGE AND ROLANDO PALMARES, DEPUTY SHERIFF, BOTH OF THE REGIONAL TRIAL COURT OF ANTIPOLO CITY, BRANCH 73, AND NATALIA REALTY, INC., RESPONDENTS.**

### R E S O L U T I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> filed by petitioner Antonio Martinez (petitioner) are the Decision<sup>[2]</sup> dated April 30, 2012 and the Resolution<sup>[3]</sup> dated July 25, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 105092, which denied petitioner's petition for *mandamus* for lack of merit.

#### The Facts

In compliance with the Court's Decision in the case entitled *Natalia Realty, Inc. v. CA*<sup>[4]</sup> (*Natalia v. CA*), the Regional Trial Court of Antipolo City, Branch 73 (RTC) issued an *alias* writ of execution<sup>[5]</sup> dated February 20, 2004 (February 20, 2004 *Alias* Writ) granting in favor of petitioner Antonio Martinez (petitioner), among others, possession of portions of two (2) parcels of land located in Sitio Banabas, Antipolo City, covered by Transfer Certificates of Title (TCT) Nos. 31527 and 31528 (now both covered by TCT No.N-67845) (subject lots). On March 30, 2004, respondent Deputy Sheriff Rolando Palmares (Deputy Sheriff) of the same court executed a Certificate of Delivery of Possession,<sup>[6]</sup> attesting that the 86.26-hectare portion of the subject lots covered by TCT No. N-67845 was already delivered to petitioner and his co-parties in Civil Case No. 359-A.<sup>[7]</sup>

Subsequently, in an Order<sup>[8]</sup> dated July 27, 2004, the RTC directed its Sheriff-in-Charge to ensure that private respondent Natalia Realty Inc.'s (private respondent) guards and developers who may still be found at the premises of the subject lots are ousted therefrom pursuant to the Court's ruling in *Natalia v. CA* and the February 20, 2004 *Alias* Writ. In response, the Deputy Sheriff submitted a report dated August 23, 2004 informing the RTC that the aforesaid *alias* writ of execution had already been returned, duly served, implemented, and fully satisfied; thus, there was no longer a need to enforce it again.<sup>[9]</sup>

More than two (2) years later, or on October 17, 2006, petitioner filed a motion for the issuance of another *alias* writ of execution before the RTC, arguing that such issuance was necessary in view of private respondent's refusal to comply with the February 20, 2004 *Alias* Writ.<sup>[10]</sup>

In an Omnibus Order<sup>[11]</sup> dated September 10, 2007, the RTC denied petitioner's motion. It found no need to issue another *alias* writ of execution since the February 20, 2004 *Alias* Writ had already been duly served, implemented, and fully satisfied.  
<sup>[12]</sup>

Aggrieved, petitioner moved for reconsideration. Acting on the belief that the RTC would deny the motion or might take a long time to resolve the same, petitioner then filed a petition for *mandamus* before the Court to compel the RTC to issue another *alias* writ of execution against private respondent and for such *alias* writ to be immediately executed and fully implemented after its issuance. In a Resolution<sup>[13]</sup> dated July 21, 2008, the Court remanded the petition to the CA,<sup>[14]</sup> docketed as CA-G.R. SP No. 105092.

### **The CA Ruling**

In a Decision<sup>[15]</sup> dated April 30, 2012, the CA denied the petition for *mandamus* for lack of merit.<sup>[16]</sup> It held that petitioner's resort to an action for *mandamus* is premature, considering that the RTC has yet to resolve the motion pending before it. It further ratiocinated that petitioner's remedy for private respondent's alleged refusal to comply with the February 20, 2004 *Alias* Writ is to initiate contempt proceedings against the latter, and not to compel the RTC to issue another *alias* writ of execution through *mandamus*.<sup>[17]</sup>

Dissatisfied, petitioner moved for reconsideration<sup>[18]</sup> which was, however, denied in a Resolution<sup>[19]</sup> dated July 25, 2012, hence, this petition.

### **The Issue Before the Court**

The primordial issue for the Court's resolution is whether or not the CA correctly dismissed the petition for *mandamus* for lack of merit.

### **The Court's Ruling**

The petition lacks merit.

As case law defines, a writ of *mandamus* is a command issuing from a court of law of competent jurisdiction, in the name of the state or sovereign, directed to an inferior court, tribunal, or board, or to some corporation or person, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed, or from operation of law. It is employed to compel the performance, when refused, of a ministerial duty which, as opposed to a discretionary one, is that which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his or its own judgment upon the propriety or impropriety of the act done.<sup>[20]</sup> Being an extraordinary remedy, *mandamus* is available only when there is no other plain, speedy, and adequate remedy in the ordinary course of law, such as a motion for reconsideration.<sup>[21]</sup>

A judicious review of the records of this case reveals that petitioner still had a motion for reconsideration pending resolution before the RTC when he filed a