

FIRST DIVISION

[G.R. No. 171182, August 23, 2012]

UNIVERSITY OF THE PHILIPPINES, JOSE V. ABUEVA, RAUL P. DE GUZMAN, RUBEN P. ASPIRAS, EMMANUEL P. BELLO, WILFREDO P. DAVID, CASIANO S. ABRIGO, AND JOSEFINA R. LICUANAN, PETITIONERS, VS. HON. AGUSTIN S. DIZON, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 80, STERN BUILDERS, INC., AND SERVILLANO DELA CRUZ, RESPONDENTS.

D E C I S I O N

BERSAMIN, J.:

Trial judges should not immediately issue writs of execution or garnishment against the Government or any of its subdivisions, agencies and instrumentalities to enforce money judgments.^[1] They should bear in mind that the primary jurisdiction to examine, audit and settle all claims of any sort due from the Government or any of its subdivisions, agencies and instrumentalities pertains to the Commission on Audit (COA) pursuant to Presidential Decree No. 1445 (*Government Auditing Code of the Philippines*).

The Case

On appeal by the University of the Philippines and its then incumbent officials (collectively, the UP) is the decision promulgated on September 16, 2005,^[2] whereby the Court of Appeals (CA) upheld the order of the Regional Trial Court (RTC), Branch 80, in Quezon City that directed the garnishment of public funds amounting to P16,370,191.74 belonging to the UP to satisfy the writ of execution issued to enforce the already final and executory judgment against the UP.

Antecedents

On August 30, 1990, the UP, through its then President Jose V. Abueva, entered into a General Construction Agreement with respondent Stern Builders Corporation (Stern Builders), represented by its President and General Manager Servillano dela Cruz, for the construction of the extension building and the renovation of the College of Arts and Sciences Building in the campus of the University of the Philippines in Los Baños (UPLB).^[3]

In the course of the implementation of the contract, Stern Builders submitted three progress billings corresponding to the work accomplished, but the UP paid only two of the billings. The third billing worth P273,729.47 was not paid due to its disallowance by the Commission on Audit (COA). Despite the lifting of the disallowance, the UP failed to pay the billing, prompting Stern Builders and dela Cruz to sue the UP and its correspondent officials to collect the unpaid billing and to

recover various damages. The suit, entitled *Stern Builders Corporation and Servillano R. Dela Cruz v. University of the Philippines Systems, Jose V. Abueva, Raul P. de Guzman, Ruben P. Aspiras, Emmanuel P. Bello, Wilfredo P. David, Casiano S. Abrigo, and Josefina R. Licuanan*, was docketed as Civil Case No. Q-93-14971 of the Regional Trial Court in Quezon City (RTC).^[4]

After trial, on November 28, 2001, the RTC rendered its decision in favor of the plaintiffs,^[5] viz:

Wherefore, in the light of the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the latter to pay plaintiff, jointly and severally, the following, to wit:

1. P503,462.74 amount of the third billing, additional accomplished work and retention money
2. P5,716,729.00 in actual damages
3. P10,000,000.00 in moral damages
4. P150,000.00 and P1,500.00 per appearance as attorney's fees; and
5. Costs of suit.

SO ORDERED.

Following the RTC's denial of its motion for reconsideration on May 7, 2002,^[6] the UP filed a notice of appeal on June 3, 2002.^[7] Stern Builders and dela Cruz opposed the notice of appeal on the ground of its filing being belated, and moved for the execution of the decision. The UP countered that the notice of appeal was filed within the reglementary period because the UP's Office of Legal Affairs (OLS) in Diliman, Quezon City received the order of denial only on May 31, 2002. On September 26, 2002, the RTC denied due course to the notice of appeal for having been filed out of time and granted the private respondents' motion for execution.^[8]

The RTC issued the writ of execution on October 4, 2002,^[9] and the sheriff of the RTC served the writ of execution and notice of demand upon the UP, through its counsel, on October 9, 2002.^[10] The UP filed an urgent motion to reconsider the order dated September 26, 2002, to quash the writ of execution dated October 4, 2002, and to restrain the proceedings.^[11] However, the RTC denied the urgent motion on April 1, 2003.^[12]

On June 24, 2003, the UP assailed the denial of due course to its appeal through a petition for *certiorari* in the Court of Appeals (CA), docketed as CA-G.R. No. 77395.^[13]

On February 24, 2004, the CA dismissed the petition for *certiorari* upon finding that the UP's notice of appeal had been filed late,^[14] stating:

Records clearly show that petitioners received a copy of the Decision dated November 28, 2001 and January 7, 2002, thus, they had until

January 22, 2002 within which to file their appeal. On January 16, 2002 or after the lapse of nine (9) days, petitioners through their counsel Atty. Nolasco filed a Motion for Reconsideration of the aforesaid decision, hence, pursuant to the rules, petitioners still had six (6) remaining days to file their appeal. As admitted by the petitioners in their petition (Rollo, p. 25), Atty. Nolasco received a copy of the Order denying their motion for reconsideration on May 17, 2002, thus, petitioners still has until May 23, 2002 (the remaining six (6) days) within which to file their appeal. Obviously, petitioners were not able to file their Notice of Appeal on May 23, 2002 as it was only filed on June 3, 2002.

In view of the said circumstances, We are of the belief and so holds that the Notice of Appeal filed by the petitioners was really filed out of time, the same having been filed seventeen (17) days late of the reglementary period. By reason of which, the decision dated November 28, 2001 had already become final and executory. "Settled is the rule that the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but jurisdictional, and failure to perfect that appeal renders the challenged judgment final and executory. This is not an empty procedural rule but is grounded on fundamental considerations of public policy and sound practice." (Ram's Studio and Photographic Equipment, Inc. vs. Court of Appeals, 346 SCRA 691, 696). Indeed, Atty. Nolasco received the order of denial of the Motion for Reconsideration on May 17, 2002 but filed a Notice of Appeal only on June 3, 2003. As such, the decision of the lower court *ipso facto* became final when no appeal was perfected after the lapse of the reglementary period. This procedural caveat cannot be trifled with, not even by the High Court.^[15]

The UP sought a reconsideration, but the CA denied the UP's motion for reconsideration on April 19, 2004.^[16]

On May 11, 2004, the UP appealed to the Court by petition for review on *certiorari* (G.R. No. 163501).

On June 23, 2004, the Court denied the petition for review.^[17] The UP moved for the reconsideration of the denial of its petition for review on August 29, 2004,^[18] but the Court denied the motion on October 6, 2004.^[19] The denial became final and executory on November 12, 2004.^[20]

In the meanwhile that the UP was exhausting the available remedies to overturn the denial of due course to the appeal and the issuance of the writ of execution, Stern Builders and dela Cruz filed in the RTC their motions for execution despite their previous motion having already been granted and despite the writ of execution having already issued. On June 11, 2003, the RTC granted another motion for execution filed on May 9, 2003 (although the RTC had already issued the writ of execution on October 4, 2002).^[21]

On June 23, 2003 and July 25, 2003, respectively, the sheriff served notices of garnishment on the UP's depository banks, namely: Land Bank of the Philippines (Buendia Branch) and the Development Bank of the Philippines (DBP),

Commonwealth Branch.^[22] The UP assailed the garnishment through an urgent motion to quash the notices of garnishment;^[23] and a motion to quash the writ of execution dated May 9, 2003.^[24]

On their part, Stern Builders and dela Cruz filed their ex parte motion for issuance of a release order.^[25]

On October 14, 2003, the RTC denied the UP's urgent motion to quash, and granted Stern Builders and dela Cruz's *ex parte* motion for issuance of a release order.^[26]

The UP moved for the reconsideration of the order of October 14, 2003, but the RTC denied the motion on November 7, 2003.^[27]

On January 12, 2004, Stern Builders and dela Cruz again sought the release of the garnished funds.^[28] Despite the UP's opposition,^[29] the RTC granted the motion to release the garnished funds on March 16, 2004.^[30] On April 20, 2004, however, the RTC held in abeyance the enforcement of the writs of execution issued on October 4, 2002 and June 3, 2003 and all the ensuing notices of garnishment, citing Section 4, Rule 52, Rules of Court, which provided that the pendency of a timely motion for reconsideration stayed the execution of the judgment.^[31]

On December 21, 2004, the RTC, through respondent Judge Agustin S. Dizon, authorized the release of the garnished funds of the UP,^[32] to wit:

WHEREFORE, premises considered, there being no more legal impediment for the release of the garnished amount in satisfaction of the judgment award in the instant case, let the amount garnished be immediately released by the Development Bank of the Philippines, Commonwealth Branch, Quezon City in favor of the plaintiff.

SO ORDERED.

The UP was served on January 3, 2005 with the order of December 21, 2004 directing DBP to release the garnished funds.^[33]

On January 6, 2005, Stern Builders and dela Cruz moved to cite DBP in direct contempt of court for its non-compliance with the order of release.^[34]

Thereupon, on January 10, 2005, the UP brought a petition for certiorari in the CA to challenge the jurisdiction of the RTC in issuing the order of December 21, 2004 (CA-G.R. CV No. 88125).^[35] Aside from raising the denial of due process, the UP averred that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that there was no longer any legal impediment to the release of the garnished funds. The UP argued that government funds and properties could not be seized by virtue of writs of execution or garnishment, as held in *Department of Agriculture v. National Labor Relations Commission*,^[36] and citing Section 84 of Presidential Decree No. 1445 to the effect that "[r]evenue funds shall not be paid out of any public treasury or depository except in pursuance of an appropriation law

or other specific statutory authority;" and that the order of garnishment clashed with the ruling in *University of the Philippines Board of Regents v. Ligot-Telan*^[37] to the effect that the funds belonging to the UP were public funds.

On January 19, 2005, the CA issued a temporary restraining order (TRO) upon application by the UP.^[38]

On March 22, 2005, Stern Builders and dela Cruz filed in the RTC their amended motion for sheriff's assistance to implement the release order dated December 21, 2004, stating that the 60-day period of the TRO of the CA had already lapsed.^[39] The UP opposed the amended motion and countered that the implementation of the release order be suspended.^[40]

On May 3, 2005, the RTC granted the amended motion for sheriff's assistance and directed the sheriff to proceed to the DBP to receive the check in satisfaction of the judgment.^[41]

The UP sought the reconsideration of the order of May 3, 2005.^[42]

On May 16, 2005, DBP filed a motion to consign the check representing the judgment award and to dismiss the motion to cite its officials in contempt of court.^[43]

On May 23, 2005, the UP presented a motion to withhold the release of the payment of the judgment award.^[44]

On July 8, 2005, the RTC resolved all the pending matters,^[45] noting that the DBP had already delivered to the sheriff Manager's Check No. 811941 for P16,370,191.74 representing the garnished funds payable to the order of Stern Builders and dela Cruz as its compliance with the RTC's order dated December 21, 2004.^[46] However, the RTC directed in the same order that Stern Builders and dela Cruz should not encash the check or withdraw its amount pending the final resolution of the UP's petition for *certiorari*, to wit:^[47]

To enable the money represented in the check in question (No. 00008119411) to earn interest during the pendency of the defendant University of the Philippines application for a writ of injunction with the Court of Appeals the same may now be deposited by the plaintiff at the garnishee Bank (Development Bank of the Philippines), the disposition of the amount represented therein being subject to the final outcome of them case of the University of the Philippines et al., vs. Hon. Agustin S. Dizon et al., (CA G.R. 88125) before the Court of Appeals.

Let it be stated herein that the plaintiff is not authorized to encash and withdraw the amount represented in the check in question and enjoy the same in the fashion of an owner during the pendency of the case between the parties before the Court of Appeals which may or may not be resolved in plaintiff's favor.