

FIRST DIVISION

[G.R. No. 167140, November 23, 2011]

**COL. FRANCISCO DELA MERCED, SUBSTITUTED BY HIS HEIRS
NAMESLY, LUIS CESAR DELA MERCED, BLANQUITA DELA MERCED
NEE MACATANGAY, AND MARIA OLIVIA M. PAREDES,
PETITIONERS, VS. GOVERNMENT SERVICE INSURANCE SYSTEM
(GSIS) AND SPOUSES VICTOR AND MILAGROS MANLONGAT,
RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

A transferee *pendente lite* of registered land, whose title bears a notice of a pending litigation involving his transferor's title to the said land, is bound by the outcome of the litigation, whether it be for or against his transferor. Given this principle, the modification of the final decision against the transferor in order to include the transferee *pendente lite* does not violate the doctrine of immutability of final judgments. His inclusion does not add to or change the judgment; it is only a legal consequence of the established doctrine that a final judgment binds the privy of a litigating party.

Before the Court is a Petition for Review^[1] assailing the validity of the February 9, 2005 Order^[2] of Branch 160 of the Regional Trial Court (RTC) of Pasig City. The said Order denied petitioners' motion for supplemental writ of execution:^[3]

Conformably with Section 8, Rule 39, 1997 Rules of Civil Procedure, execution in this case can only be implemented as far as what has been decreed in the decision dated September 11, 2001, qualified by the Order of this Court dated January 20, 2003 with respect [to] the payment of attorney's fees.

In view thereof, plaintiffs' motion for supplemental writ of execution is DENIED.

SO ORDERED.^[4]

The September 11, 2001 Decision referred to in the assailed Order was rendered by this Court in G.R. No. 140398, entitled *Col. Francisco Dela Merced, substituted by his heirs, namesly, BLANQUITA E. DELA MERCED, LUIS CESAR DELA MERCED, BLANQUITA E. DELA MERCED (nee MACATANGAY), and MARIA OLIVIA M. PAREDES, v. GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) and SPOUSES VICTOR and MILAGROS MANLONGAT.*^[5] The *fallo* of the said Decision reads:

WHEREFORE, in view of the foregoing, the petition is **GRANTED**. The decision of the Court of Appeals is **REVERSED AND SET ASIDE**. The decision of the Regional Trial Court of Pasig City, Branch 160, in Civil Case Nos. 51410 and 51470, is **REINSTATED**. The foreclosure sale of Lot Nos. 6, 7, 8 and 10 of Block 2 and Lot 8 of Block 8 of the property originally covered by TCT 26105, and the subsequent certificates of titles issued to GSIS as well as TCT No. PT-94007 in the name of Elizabeth Manlongat, are declared **NULL AND VOID**. The Register of Deeds of Pasig City is ordered to **CANCEL** all present certificates of title in the name of GSIS and Elizabeth Manlongat covering the above-mentioned properties, and to **ISSUE** new certificates of title over the same in the name of petitioners as co-owners thereof. Respondents GSIS and spouses Victor and Milagros Manlongat are **ORDERED** to pay, jointly and severally, attorney's fees in the increased amount of P50,000.00, and to pay the costs.

SO ORDERED.^[6]

G.R. No. 140398 has long attained finality^[7] but could not be executed because of the objections raised by the Register of Deeds (RD) and respondent Government Service Insurance System (GSIS). These objections, which the trial court found insurmountable in its assailed February 9, 2005 Order, are now presented to us for resolution.

Factual antecedents

This case involves five registered parcels of land located within the Antonio Subdivision, Pasig City – Lots 6, 7, 8, and 10 of Block 2 and Lot 8 of Block 8 (subject properties). These lots were originally owned by, and titled in the name of, Jose C. Zulueta (Zulueta), as evidenced by Transfer Certificate of Title (TCT) No. 26105.^[8] TCT No. 26105 contains several lots, other than the subject properties, within the Antonio Subdivision.

Later, the Zulueta spouses mortgaged^[9] several lots contained in TCT No. 26105 to the GSIS, which eventually foreclosed on the mortgaged properties, including the subject properties. Upon consolidation of GSIS's ownership, TCT No. 26105 in Zulueta's name was cancelled, and TCT No. 23554^[10] was issued in GSIS's name.
^[11]

Upon learning of the foreclosure, petitioners' predecessor, Francisco Dela Merced (Dela Merced) filed a complaint^[12] praying for the nullity of the GSIS foreclosure on the subject properties (Lots 6, 7, 8, and 10 of Block 2 and Lot 8 of Block 8) on the ground that he, not the Zuluetas, was the owner of these lots at the time of the foreclosure. Dela Merced also impleaded Victor and Milagros Manlongat,^[13] who were claiming Lot 6, Block 2 by virtue of a sale executed by the GSIS in their daughter's (Elizabeth Manlongat) favor.^[14] Dela Merced argued that, due to the nullity of GSIS's foreclosure over the subject properties, it had no ownership right that could be transferred to Elizabeth Manlongat.

Dela Merced caused the annotation of *lis pendens*^[15] on GSIS's TCT No. 23554 on September 21, 1984 in order to protect his interests in the subject properties. Dela Merced died in 1988 and was substituted by his heirs, the petitioners in the instant case.

After a protracted litigation, the case reached this Court as G.R. No. 140398. On September 11, 2001, a Decision^[16] was rendered in petitioners' favor. The Court nullified GSIS's foreclosure of the subject properties because these lots were never part of its mortgage agreement with the Zulueta spouses. The dispositive portion of said Decision reads:

WHEREFORE, in view of the foregoing, the petition is **GRANTED**. The decision of the Court of Appeals is **REVERSED AND SET ASIDE**. The decision of the Regional Trial Court of Pasig City, Branch 160, in Civil Case Nos. 51410 and 51470, is **REINSTATED**. The foreclosure sale of Lot Nos. 6, 7, 8 and 10 of Block 2 and Lot 8 of Block 8 of the property originally covered by TCT 26105, and the subsequent certificates of titles issued to GSIS as well as TCT No. PT-94007 in the name of Elizabeth Manlongat, are declared **NULL AND VOID**. The Register of Deeds of Pasig City is ordered to **CANCEL** all present certificates of title in the name of GSIS and Elizabeth Manlongat covering the above-mentioned properties, and to **ISSUE** new certificates of title over the same in the name of petitioners as co-owners thereof. Respondents GSIS and spouses Victor and Milagros Manlongat are **ORDERED** to pay, jointly and severally, attorney's fees in the increased amount of P50,000.00, and to pay the costs.^[17]

Judgment was entered on April 23, 2002.^[18]

Pursuant to the finality of the above Decision, petitioners filed a Motion for Execution^[19] with Branch 160 of the RTC of Pasig City.

***First obstacle:
GSIS's alleged exemption from execution***

GSIS opposed the motion for execution, citing as basis Section 39 of Republic Act No. 8291 (RA 8291), also known as the GSIS Act of 1997. The said provision allegedly exempts GSIS funds and properties from attachment, garnishment, execution, levy and other court processes.^[20]

On January 20, 2003, the trial court granted petitioners' motion for execution; but held in abeyance the execution of the award of attorney's fees, pending clarification before the higher courts of the issue of GSIS's exemption under Section 39 of RA 8291. The said Order is reproduced below:

Acting on the Motion for Execution filed by the plaintiff herein together with the opposition of defendant GSIS, and considering that the judgment has already become final and executory, the same is hereby

Granted.

As prayed for, let a writ of execution issue to enforce the judgment of this court.

However, with respect to the payment of attorney's fees in the increased amount of P50,000.00 which has to be paid jointly and severally by the GSIS and Sps. Manlongat, the same is held in abeyance as far as GSIS is concerned pending clarification by the GSIS before the Supreme Court on the issue of whether its funds and assets are exempt from execution pursuant to Section 39, R.A. 8291, otherwise known as the GSIS Act of 1997.

SO ORDERED.^[21]

A writ of execution was issued on July 24, 2003.^[22]

Eventually, GSIS filed with the Court of Appeals (CA) a petition for *certiorari* and prohibition against the trial court's implementation of the writ of execution against it.^[23] The petition, docketed as CA-G.R. SP No. 87821, presented the issue whether the trial judge gravely abused her discretion in ordering execution against GSIS funds and properties despite their alleged express and absolute exemption from execution, garnishment, and other court processes under Section 39 of RA 8291.^[24]

In its October 28, 2005 Decision, the CA dismissed GSIS's petition and held that execution may be enforced against it.^[25] The *ratio* of the appellate court is reproduced in part:

Public respondent court presided by Hon. Amelia A. Fabros did not commit grave abuse of discretion when it issued the Writ of Execution dated 24 July 2003. It must be considered that the properties which (Lots 6, 7, 8, and 10 of Block 2 and Lot 8 of Block 8 of Antonio Subdivision) were the subject of the writ of execution in the instant case are not the properties of petitioner GSIS. In the court a quo's Decision dated October 23, 1987 and reiterated in the Honorable Supreme Court's Decision dated September 11, 2001, it declared *inter alia* that the certificates of title issued to petitioner GSIS pertaining to Lot Nos. 6, 7, 8, and 10 of Block 2 and Lot 8 of Block 8 are null and void and further directed *inter alia* the Register of Deeds of Pasig City to cancel all the present certificates of title in the name of petitioner GSIS. x x x^[26]

x x x x

[P]etitioner GSIS has no interest over the subject properties and x x x had never validly acquired ownership thereof. x x x^[27] Therefore, any and all [rights] that petitioner GSIS may have on the subject properties were non-existent from the very beginning. Verily, the court a quo was right then in issuing the writ of execution dated 24 July 2003 and that

petitioner GSIS' claim that it should be exempted from execution has no basis in fact and in law. [28]

x x x x

We lay stress that the pronouncement made in the abovementioned SC circular and in the case of Commissioner of Public Highways vs. San Diego, cited in the Armovit case find no application in the case at bar. It must be noted that the properties referred to therein are those owned by government which could not be seized under writ of execution to satisfy such judgment because to do so, there is a necessity for the corresponding appropriation of public funds by Congress before the same could be disbursed. In this instant case, it has already been settled that the herein properties involved are not owned by petitioner GSIS; hence, there is no prohibition that the same could be executed and that there is no public funds involved which require the corresponding appropriation thereof. x x x [29]

x x x x

In fine, the execution of the subject properties is proper for to assert otherwise, would be depriving private respondents dela Merced and Paredes of their properties without due process of law as it had been clearly established on record that they really owned the subject properties. To sustain petitioner GSIS' view that it should be exempt from execution would be putting the subject properties beyond the reach of the rightful owners thereof x x x. Likewise, to uphold petitioner GSIS' theory would inevitably lead to a disastrous consequence and lend imprimatur to deprivation of property without due process of law. Additionally, to grant petitioner GSIS' prayer that the subject properties be exempt from execution without any factual and legal basis thereof would resultantly remain the same in the custody or control of petitioner GSIS which unjustly enriches itself at the expense of private respondents dela Merced and Paredes and who the latter could be deprived of the beneficial use/ownership thereof when in the very first place they were able to establish the ownership thereof. Every person who through an act or performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him. [30]

x x x x

WHEREFORE, premises considered, the instant PETITION FOR CERTIORARI and PROHIBITION is hereby **DISMISSED**. Accordingly, the Writ of Execution dated 24 July 2003 and the Order dated 16 September 2004 both rendered by the Regional Trial Court of Pasig City, Branch 160 **stand**.

SO ORDERED. [31]