

## SECOND DIVISION

[ G.R. No. 178366, July 28, 2008 ]

**DOMINADOR A. MOCORRO, JR., PETITIONER, VS. RODITO RAMIREZ, RESPONDENT.**

### D E C I S I O N

**VELASCO JR., J.:**

On January 25, 1990, in PGC Case No. 114, the Philippine Gamefowl Commission (PGC), acting on a petition on the issue of who between petitioner Dominador A. Mocorro, Jr. and Rodolfo Azur is entitled to operate a cockpit in the Municipality of Caibiran, Leyte (now Biliran Province), rendered a decision, the decretal portion of which partly reads:

WHEREFORE, x x x the Commission RESOLVED, as it hereby resolves to:

1. Declare and recognize petitioner Dominador A. Mocorro, Jr. to be the rightful cockpit operator in the Municipal[ity] of Caibiran, Leyte, (now Biliran) for being the prior operator;
2. Cancel and revoke Registration Certificate No. C87-829 issued in the name of respondent Rodolfo Azur;
3. Order the issuance of a Registration Certificate in favor of, and in the name of Petitioner Dominador A. Mocorro, Jr.; x x x

Pursuant to the above decision, the PGC issued in favor of petitioner Registration Certificate No. P90-943 which, as later extended, was to expire on December 31, 1991. Respondent Rodito Ramirez, then Caibiran municipal mayor, also issued Business Permit No. 015 authorizing petitioner to operate his cockpit, the Caibiran (Cockers) Gallera, up to 1991. For its part, the *Sangguniang Bayan* (SB) of Caibiran passed a resolution authorizing petitioner to operate his cockpit for CY 1991.

On January 20, 1992, petitioner applied and paid the fees necessary for the renewal of the registration of his cockpit. Accompanying the application were the requisite local government certificates/permits. For some reason, however, petitioner failed to operate since respondent refused to issue him a business permit, prompting petitioner, through Ricardo Rostata, to address a letter-complaint to the PGC Chairperson questioning respondent's refusal action.

Later developments saw respondent issuing a special permit to one Edwin Rosario for the holding sometime in July 1992 of a *pintakasi* (celebration of cockfighting) in Gallera, Caibiran. This was followed by the issuance of another permit authorizing, starting **August 2, 1992**, and every Sunday thereafter, the holding of cockfights in Azur's cockpit located also in Caibiran.

On August 10, 1992, petitioner filed with the Regional Trial Court (RTC) in Biliran a suit for injunction against respondent and Azur. Docketed as **Civil Case No. B-0837**, the case, entitled *Dominador A. Mocoerro, Jr., represented by Ricardo Rostata v. Mayor Rodito Ramirez and Rodolfo Azur*, was later raffled to Branch 16 of the court.

On March 19, 1993, the RTC issued a writ of preliminary injunction enjoining respondent and Azur from holding any cockfight within Caibiran until further orders of the court. Despite the injunction, cockfights continued to be staged in Caibiran, prompting petitioner to file a motion to cite respondent and Azur in contempt of court.

In their Answer, respondent and Azur drew attention to the cancellation by the SB of petitioner's 1991 business permit for repeated violations of the terms thereof. They also pointed out that Azur, before operating the cockpit, had already complied with all the requirements and secured the necessary business permit.

On November 25, 1993, the RTC issued an Order allowing petitioner to present evidence to support his contempt motion.

In the meantime, Azur continued with, and respondent allowed, the holding of Sunday cockfights in Caibiran.

On **February 17, 1995**, the RTC rendered a Decision,<sup>[1]</sup> the *fallo* of which reads:

WHEREFORE, defendants Mayor Rodolfo Ramirez and Rodolfo Azur are therefore found guilty of indirect contempt for contumacious disobedience of and resistance to the March 19, 1993 writ of preliminary injunction issued by this court and they are fined the sum of P1,000.00. The March 19, 1993 writ of preliminary injunction is hereby made permanent and defendant Rodito Ramirez and Rodolfo Azur are ordered to pay, jointly and severally, plaintiff Dominador Mocoerro, Jr. **actual damages the sum of P2,000.00 every Sunday of each week from August 2, 1992 when defendants started to cause the holding of the cockfight** in Pob. Caibiran, Biliran; plus P10,000 attorney's fees; P5,000.00 litigation expenses; exemplary or corrective damages in the sum of P20,000.00 and [to] pay the costs. (Emphasis added.)

Aggrieved, respondent and Azur interposed an appeal before the Court of Appeals (CA), docketed as **CA-G.R. CV No. 48029**. By a Decision dated **May 31, 2001**, the CA denied the appeal for lack of merit and affirmed the RTC Decision.

On **June 22, 2001**, the CA's May 31, 2001 Decision became final and executory as evidenced by the corresponding Entry of Judgment.<sup>[2]</sup>

Subsequently, petitioner moved for the issuance of a writ of execution. On April 2, 2002, the RTC granted the motion and issued, on May 27, 2002, the corresponding writ,<sup>[3]</sup> to wit:

WHEREFORE, you are hereby commanded that of the goods and chattels of the defendants, Mayor Rodito Ramirez and Rodolfo Azur, you cause to be made the sum of THIRTY EIGHT THOUSAND PESOS (P38,000.00) plus

2,000 every Sunday of each week from August 2, 1992[,] when defendants started to cause the holding of the cockfight, together with your lawful fees for service of execution, all in Philippine currencies, and to likewise, return this writ together with your proceedings within the period provided for under the Rules.

But if sufficient personal properties cannot be found whereof t[o] satisfy this execution and lawful fees thereon, then you are commanded that of the lands and buildings of said defendants, you cause to be made the said sum of money in the manner required by law and the Rules of Court.

Sheriff Ludenilo S. Ador's computation of the amount collectibles to implement the issued writ of execution contained the following entries and breakdowns:

SHERIFF'S

COMPUTATION<sup>[4]</sup>

CORRECTIVE DAMAGES----- -----	20,000.00
LITIGATION EXPENSES----- -----	5,000.00
ATTORNEY'S FEES----- -----	10,000.00
Plus P2,000.00 every Sunday of each week	
From August 2, 1992 when defendant started	
To cause the holding of cockfight	
(August 2, 1992 to June 22, 2001 finality of judgment)	
August to December 1992-----=21 weeks	
January to December 1993-----=52	
January to December 1994-----=52	
January to December 1995-----=52	
1996-----=52	
1997-----=52	
1998-----=52	
1999-----=52	
2000-----=52	
January to June 22, 2001-----=22	
458	
WEEKS	
x	
2,000.00	
P916,000.00	
TOTAL	P951,000.00
Expenses and publication on notice of sale	8,000.00
TOTAL COLLECTIBLES	959,000.00
LUDENILO S.	(Sgd.)

ADOR	
Sheriff	
IV	
NOTED:	
ENRIQUE C. ASIS (Sgd.)	
Executive Judge	

On June 11, 2002, the sheriff issued a Notice of Attachment,<sup>[5]</sup> therein apprising the Register of Deeds of Biliran of the levy on execution made over the rights and participation of respondent on the two parcels of land indicated in the notice, to wit:

ARP No. 04-002-00128

Agricultural land situated at Palenke, Caibiran, Biliran, with survey no. 1224, having an area of 3619.20, with unit value of 195,000.00; market value of 70,575.00; and assessed value at 11,295.00 PhP. Declared in the name of Rodito Ramirez, more particularly bounded as follows: x x x

ARP No. 04-003-00209

Residential lot located at Bgy. Victory, Caibiran, with an area of 112.05, with unit value of 250.00; market value of 28,013.00, under survey no. 1806-P, with PIN-074-04-003-04-071, assessed at 2,802.00, declared in the name of Rodito Ramirez, more particularly bounded as follows: x x x

On October 23, 2002, the sheriff issued a Notice of Sale on Execution of Real Properties<sup>[6]</sup> and set a date for public auction.

Meanwhile, on August 7, 2002, respondent, joined by his wife, Gloria, filed a Petition to Exclude Properties from Execution<sup>[7]</sup> before the RTC against the sheriff and petitioner. The petition yielded the following reasons for the desired exclusion: (1) the two parcels of land do not belong to respondent; and (2) the persons liable under the RTC's decision are Azur and the Municipality of Caibiran, Biliran, not respondent, who was impleaded in the suit in his capacity as municipal mayor.

By Order of November 18, 2002, the RTC denied the petition.<sup>[8]</sup>

Taking a different tack, respondent filed, on January 9, 2003, an Omnibus Motion to Quash Writ of Execution and to Set Aside Sheriff's Computation,<sup>[9]</sup> therein alleging that the writ of execution attempts to enforce an incomplete judgment and, in the process, substantially modifies the decision of the RTC; and that the same writ seeks to enforce and execute a void judgment. Respondent argued that the *fallo* of the RTC's decision, while indicating a day, i.e., August 2, 1992, whence his liability shall commence to run, failed to state a terminal date. And in a bid to cure this substantive defect in the *fallo*, Sheriff Ador considered June 22, 2001 as the termination date of payments, a move which respondent viewed as amounting to a modification of an incomplete judgment. Moreover, respondent maintained that the *fallo* of the RTC decision disposed that he and Azur are liable to pay petitioner PhP 10,000 for attorney's fees, PhP 5,000 for litigation expenses, and PhP 20,000 for exemplary damages, but the body of the decision never discussed petitioner's entitlement to the said awards.