

## SECOND DIVISION

[ G.R. NO. 158992, January 26, 2007 ]

**REPUBLIC OF THE PHILIPPINES (REPRESENTED BY THE  
PHILIPPINE ORTHOPEDIC CENTER) AND VICTOR S. CLAVEL,  
PETITIONERS, VS. SPOUSES JOSE AND AMELIA LURIZ,  
RESPONDENTS.**

### DECISION

**VELASCO, JR., J.:**

An appeal is a statutory right that must be exercised only in the manner and in accordance with the provisions of law. Having satisfactorily shown that they have complied with the rules on appeal, petitioners are entitled to the proper and just disposition of their cause.

#### The Case

This Petition for Review on Certiorari under Rule 45 of the Rules of Court seeks the annulment of the July 10, 2003 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 65073. The dispositive portion of the assailed Decision is as follows:

WHEREFORE, the instant appeal is hereby DENIED. The Decision dated December 7, 2000 of the Regional Trial Court of Quezon City, Branch 80 denying the Petitioner-Appellant's Petition for Certiorari, Prohibition and Mandamus is hereby accordingly AFFIRMED.<sup>[2]</sup>

#### The Facts

The instant case arose from an ejectment Complaint filed by respondents at the Quezon City Metropolitan Trial Court (MeTC), Branch 37, against Petitioner Victor S. Clavel, as occupant of Lot Nos. 8 and 10, Block 260, located at No. 68 Maria Clara St., Quezon City. In their complaint docketed as Civil Case No. 37-17388, respondents alleged that they were the owners of the disputed lots on the basis of Transfer Certificate of Title (TCT) No. 1297 issued in the name of Yoichi Urakami and two deeds of sale. The first deed of sale dated February 12, 1948 conveyed the transfer of the contested lots from Yoichi Urakami to Tomas Balingit. The second deed dated January 31, 1975 contained the transfer of the lots from Balingit to Amelia Luriz.

In his Answer, Clavel averred that the lots in question were owned and possessed by the Philippine Orthopedic Center (POC), a government medical facility, which had built four (4) cottages on said lots and had been in possession of the said lots since 1953. He alleged that the POC had authorized its administrative officers, including Clavel, to use the cottages as their residences. He also averred that respondents could not rely upon TCT No. 1297 as the basis of their claim because its original

copy had allegedly been burned during the fire in the office of the Register of Deeds of Quezon City in 1998. He said that said title was deemed non-existent unless reconstituted. Moreover, he stressed that the deeds of sale relied upon by the respondents were not registered and hence, were of questionable character until duly proven. He then prayed that the case be dismissed.

On September 15, 1997, after trial on the merits, the Quezon City MeTC rendered a Decision in favor respondents, thus:

From the foregoing, this Court finds that [respondents'] claim has been duly established by satisfactory evidence, and therefore hereby renders judgment in favor of the [respondents] and against the [petitioner] Victor S. Clavel, ordering him and all persons claiming rights under him, or whoever is found in possession of subject properties;

- a) to immediately vacate Lots 8 and 10 of Block 260 located at No. 68-A Maria Clara Street, Quezon City, and restore peaceful possession thereof to herein [respondents];
- b) to pay [respondents] the sum of P10,000.00 per month as reasonable compensation for the use and occupancy of subject parcels of land to be computed from February 14, 1997 and every month thereafter until subject properties shall have been finally vacated;
- c) to pay respondents the sum of P20,000 for and attorney's fees; and
- d) to pay the costs of suit.

SO ORDERED.<sup>[3]</sup>

Thereafter, on October 9, 1997, respondents moved for the immediate execution of the MeTC Judgment. Further, through the Office of the Solicitor General, Clavel filed a Notice of Appeal on October 13, 1997.

On October 20, 1997, the MeTC granted the motion for execution and ordered the issuance of a writ of execution in favor of respondents. On October 24, 1997, Clavel subsequently filed an Opposition to the Motion for Execution and moved *ad cautelam* for the fixing of the supersedeas bond. On October 27, 1997, he moved for reconsideration and suspension of the implementation of the Writ of Execution.

On October 28, 1997, the MeTC dismissed petitioners' Notice of Appeal for failure to file the required appeal fee and denied their Motion to Fix Supersedeas Bond. Thereafter, on October 29, 1997, the MeTC denied petitioners' Motion for Reconsideration and Motion to Suspend Implementation of Writ of Execution.

On October 30, 1997, Deputy Sheriff Efren P. Luna, accompanied by policemen, took possession of the disputed lots, ejected all POC personnel from these lots, and padlocked the cottages on them.

On November 5, 1997, Clavel filed another Motion for Reconsideration questioning the dismissal of his Notice of Appeal, but the motion was consequently denied on November 11, 1997.

On November 13, 1997, Clavel filed with the Quezon City Regional Trial Court (RTC) a special civil action for certiorari, mandamus, and prohibition, docketed as Civil

Case No. Q-97-32370, to annul the Order and Writ of Execution and subsequent orders of the MeTC.

On November 21, 1997, petitioner Republic filed its Motion for Intervention with the trial court, alleging ownership of the disputed lots by virtue of Proclamation Nos. 438 (series of 1953) and 732 (series of 1961) praying that it be allowed to adopt Clavel's petition as its petition-in-intervention, and for the issuance of a temporary restraining order to enjoin respondents from disposing, alienating, or encumbering the properties in question.

On December 7, 2000, the RTC denied the petition for certiorari, mandamus, and prohibition for lack of factual and legal basis; and petitioners eventually appealed the RTC Decision to the CA on December 22, 2000.

### **The Ruling of the Court of Appeals**

Affirming the December 7, 2000 RTC Decision, the CA held that petitioners belatedly filed the appeal fees. It noted that petitioners admitted to have received the September 15, 1997 Decision of the MeTC on October 10, 1997. However, they paid the appeal fee only on October 28, 1997 or three (3) days beyond the reglementary period for filing an appeal. Thus, the appeal was not perfected and the assailed MeTC Decision had become final and executory. Consequently, it was ministerial upon the MeTC judge to issue a writ of execution.

Moreover, the CA observed that petitioners erred when they failed to oppose respondents' motion for execution. Agreeing with the RTC, it sanctioned petitioners for not attending the hearing for the Motion for Execution although they were notified a day before the hearing. Also, it observed that the writ of execution could not be stayed because petitioners failed to post the required supersedeas bond.

### **The Issues**

Petitioners submit the following issues for our consideration:

#### **I**

Whether or not the issuance by the [MeTC] Quezon City, Branch 37 of the following:

- (1) Order dated October 20, 1997 (Granting the Motion for Immediate Execution);
- (2) Writ of Execution dated October 20, 1997;
- (3) Order dated October 28, 1997 (dismissing the notice of appeal filed by petitioner Clavel);
- (4) Order dated October 29, 1997 (denying the "Motion for Reconsideration [of the October 20, 1997 Order] and Motion to Suspend Implementation of Writ of Execution") and
- (5) Order dated November 11, 1997 (denying the Motion for Reconsideration [of the October 28, 1997 Order] filed by Petitioner Clavel) were erroneous and improper and in grave abuse of the [MeTC] Judge's discretion amounting to lack or excess of jurisdiction; and

Whether or not the Court of Appeals acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it rendered the Decision dated July 10, 2003 (denying petitioners' appeal and affirming the Decision of the RTC-Quezon City, Branch 80 (which denied petitioners' Petition for Certiorari, Mandamus and Prohibition)).<sup>[4]</sup>

In gist, the petition revolves on the following issues: (1) the timeliness of the payment of the docket fees; and (2) the propriety of the issuance of the Writ of Execution.

### **The Ruling of the Court**

The petition has merit.

#### **Timeliness of the Payment of Docket Fees**

Appeal is an essential part of our judicial process. As such, courts should proceed with caution so as not to deprive a party of the right to appeal,<sup>[5]</sup> particularly if the appeal is meritorious. However, the right to appeal is merely a statutory right. For this reason, it should be exercised only in the manner and in accordance with the provisions of the law.<sup>[6]</sup>

In an appeal from a judgment or final order of a municipal trial court to the regional trial court, Rule 40 of the Rules of Court provides:

Sec. 2. *When to appeal.*—An appeal may be taken within fifteen (15) days after notice to the appellant of the judgment or final order appealed from. x x x

x x x x

Sec. 3. *How to appeal.*—The appeal is taken by filing a notice of appeal with the court that rendered the judgment or final order appealed from. x x x

x x x x

Sec. 5. *Appellate court docket and other lawful fees.*—Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from the full amount of the appellate court docket and other lawful fees. Proof of payment thereof shall be transmitted to the appellate court together with the original record or the record on appeal, as the case may be.

Accordingly, in order to perfect an appeal, the following must be complied with:

*first*, a notice of appeal must be filed within 15 days from the notice of final judgment or final order appealed from; *second*, such notice of appeal must be filed with the court which rendered the judgment or final order, and served upon the adverse party; *third*, within the same period, payment of the full amount of appellate court docket and other legal fees to the clerk of the court which rendered