

SECOND DIVISION

[G.R. NO. 149665, January 25, 2006]

REYNALDO C. TOLENTINO, SPS. FELIXBERTO & HIGINIA FRANCISCO, PETITIONERS, VS. FLORDELIZA RIVERA, * ATTY. RONEY JONE GANDEZA, HON. ANTONIO M. ESTEVES, PRESIDING JUDGE, RTC, BRANCH 5, BAGUIO CITY, EX-OFFICIO SHERIFF AND/OR DEPUTY, IN HIS CAPACITY AS DEPUTY SHERIFF OF THE OFFICE OF THE OFFICE OF THE CLERK OF COURT, THE COURT OF APPEALS, RESPONDENTS.

DECISION

CORONA, J.:

This case which comes to us by way of a petition for certiorari^[1] has had a long, tortured history rife with allegations of duplicity, betrayal and usurpation. It has caused the parties much grief and has actually outlived one of them.

The facts of the case follow.

On March 18, 1992, in order to finance a planned LPG refilling operation, petitioners Francisco spouses (hereafter petitioners-spouses) obtained a P2,000,000.00 loan from respondent Rivera which they secured with a mortgage over a parcel of land covered by Transfer Certificate of Title No. 55711 issued by the Register of Deeds of Baguio City. As security for future loans for their business ventures, petitioners-spouses mortgaged to respondent another parcel of land covered by TCT No. 54728. However, they received no additional loans from respondent on account of lack of funds. Due to business reverses, petitioners-spouses had to abandon their LPG venture and, from 1993 to 1995, incurred further financial losses when some family members had to go abroad for treatment of various ailments.^[2] Meanwhile, they lost track of their pending loan with respondent.

It was not until August 1995 that petitioner Higinia Francisco discovered, while visiting respondent in Bulacan, that their account, initially P2 million, had ballooned to P10 million according to respondent's computations. She also learned that respondent had already foreclosed on their properties (auctioned off by respondent Atty. Roney Jone Gandeza) and that they had only until October 3, 1995 to redeem them.

Petitioners-spouses then requested the assistance of petitioner Tolentino in settling their accountability of P2 million which, at 5% interest per month, came to only P5.9 million per their computation. However, respondent would not accept anything less than P10 million.

On September 28, 1995, petitioners-spouses filed a complaint for "redemption, equity on accounting with prayer for a temporary restraining order and/or a writ of

preliminary injunction" against respondent^[3] in order to redeem the land covered by TCT No. 55711 and to annul the extrajudicial foreclosure of the land covered by TCT No. 54728.

The case was raffled to Branch 7, Baguio City RTC, presided over by Judge Clarence J. Villanueva. It was docketed as Civil Case No. 3256-R.^[4]

Notwithstanding the suit for judicial redemption, respondent executed an affidavit of non-redemption to consolidate her ownership pursuant to Sec. 63 of PD 1529.^[5] She claimed that the one-year period from and after the date of the registration of the sheriff's certificate of sale had expired on October 3, 1995 and that, on October 9, 1995, the Register of Deeds had in fact already issued TCT Nos. 63167 and 63168 to her after cancelling TCT Nos. 55711 and 54728. Petitioners-spouses, however, continued to be in possession of the property.

On October 10, 1995, petitioners-spouses entered into an agreement with petitioner Tolentino giving him 60% of their interest in the subject property in exchange for his help in financing their suit for redemption.^[6]

On October 20, 1995, the trial court issued a temporary restraining order against respondent Rivera.^[7] On November 13, 1995, the trial court granted petitioners-spouses' prayer for preliminary injunction *pendente lite*, enjoining respondent and her agents from taking possession of the property in question upon the posting by petitioners-spouses of a P100,000 bond.^[8]

Later, respondent suggested the possibility of interim financing by a certain Ernesto Aure. As a result, petitioners- spouses agreed to pay respondent P8,000,000 and her counsel P375,000 in lieu of the prayer to recover/redeem TCT Nos. 55711 and 54728. On March 11, 1996, petitioners-spouses and respondent drafted a compromise agreement.^[9] But because Aure's promised financing did not materialize, petitioners-spouses did not submit the agreement to the court.

However, on June 28, 1996, respondent filed a motion to submit the case for decision^[10] based on her retained copy of the agreement. On July 28, 1996, she filed a motion for a writ of possession.^[11] Petitioners-spouses opposed both principally because the proposed financing never pushed through. However, the court tried to get the parties to settle their dispute and, after getting the parties to agree to amend the compromise agreement during the hearing of the motion on September 6, 1996, the court ordered the parties to submit their amendments.

On September 30, 1996, the trial court denied respondent's motion for a writ of possession,^[12] prompting her to file a motion for reconsideration.^[13]

On October 24, 1996, the parties filed a joint motion to admit amendments to the compromise agreement, ^[14] one of which was for the agreement to be implemented only after August 31, 1997.

On October 30, 1996, the trial court issued an order granting the motion and approving the amended agreement.^[15]

On November 14, 1996, the trial court reconsidered its September 30, 1996 order and directed the issuance of a writ of possession in favor of respondent.^[16] On December 11, 1996, the branch clerk of court issued the writ which petitioners-spouses opposed for being premature.^[17]

On January 30, 1997, the trial court recalled the writ of possession and at the same time ordered the issuance of a writ of execution, the enforcement of which was to be suspended until after August 31, 1997.^[18] Respondent contested this order through a special civil action for certiorari in the Court of Appeals.^[19] However, the CA dismissed the petition for late filing.^[20] Initially contesting the dismissal, respondent eventually withdrew her petition.^[21]

On May 27, 1997, petitioner Tolentino filed a motion for leave to intervene,^[22] claiming that the attorneys who signed on behalf of the parties were not authorized to do so under their respective special powers of attorney to compromise the case.

The trial court heard the motion on August 22, 1997 at which time petitioner Higinia Francisco, who did not sign the amendments to the agreement, signified her refusal to conform to the amended compromise agreement.^[23]

Consequently, on August 26, 1997, the trial court issued an order granting petitioner Tolentino's motion for leave to intervene and nullifying its October 30, 1996 order approving the amended agreement.^[24] Respondent moved for the reconsideration of this order.^[25]

On September 2, 1997, respondent filed a motion for execution^[26] based on the compromise agreement. An exchange of responsive pleadings followed. Due to insinuations of bias in respondent's "reply-comment"^[27] to petitioners-spouses' "opposition," Judge Villanueva voluntarily inhibited himself on November 19, 1997.^[28] The case was then re-raffled to Branch 60, presided over by Judge Edilberto T. Claravall, who, in an order dated July 20, 1998,^[29] finally denied respondent's motion for execution.

However, Judge Claravall heard respondent's motion for reconsideration of the August 26, 1997 order and, on February 26, 1999, issued an order^[30] setting it aside, thereby reinstating the order approving the amended compromise agreement. Given the finality of the compromise agreement, the court found petitioner Tolentino's complaint-in-intervention to be moot and academic and dismissed it in the same order.

On March 15, 1999, respondent filed a motion for execution and writ of possession.^[31] On July 20, 1999, the trial court granted respondent's motion for execution but denied her prayer for a writ of possession as well as petitioner's motion for reconsideration.^[32]

Two days later, the clerk of court issued a writ of execution.^[33] Respondent filed a motion for reconsideration^[34] of the order insofar as it denied her prayer for a writ

of possession.

On August 23, 1999, petitioner Tolentino filed a petition for certiorari with a prayer for preliminary injunction in the Court of Appeals^[35] assailing the February 26, 1999 order. The case was docketed as CA G.R. SP No. 54489. On July 24, 2000, the CA issued a resolution holding in abeyance petitioner Tolentino's application for a writ of preliminary injunction, reasoning that "the issue of preliminary injunction (was) intricately connected with the merits of the case."^[36] The petition is still languishing in the Court of Appeals.

Meanwhile, respondent, without the assistance of counsel, filed several motions for execution and/or issuance of writ of possession based on the compromise agreement.^[37]

On February 14, 2000, the Court of Appeals issued a temporary restraining order^[38] against respondent. This lapsed on April 15, 2000.

On July 24, 2000, Atty. Francisco Chavez entered his appearance as respondent's new counsel.^[39] At the same time, he filed a motion with the Court of Appeals for the speedy resolution of CA-G.R. SP No. 54489.^[40]

On August 30, 2000, respondent filed an omnibus motion praying for a writ of possession.^[41]

Judge Claravall also inhibited himself, allegedly because he was Chavez's classmate,^[42] and the case was again re-raffled to RTC Branch 5, Baguio City, presided over by public respondent Judge Antonio M. Esteves.

On November 17, 2000, the public respondent heard respondent's omnibus motion. After hearing the parties,^[43] public respondent enjoined them to comply with their respective undertakings in their agreement.

On January 6, 2001, petitioner Felixberto Francisco filed a motion to hold the proceedings in abeyance,^[44] alleging, among other things, that in violation of their compromise agreement, respondent did not cause the dismissal of the criminal cases she had filed against him nor discharged the existing liens over the land, such as that of her lawyer.

On May 9, 2001, public respondent issued the first assailed order granting respondent a break-open order and a writ of possession.^[45]

On May 28, 2001, the petitioners-spouses filed an omnibus pleading,^[46] praying for reconsideration and alleging new developments that allegedly made it necessary to defer the enforcement of the order.

On June 13, 2001, petitioner Tolentino filed a motion for reconsideration.^[47] Respondent, on the other hand, filed a motion for execution of the writ of possession.

On August 20, 2001, public respondent issued the second assailed order granting execution of the said writ.^[48]

Hence this petition.

On September 10, 2003, while this case was pending with this Court, respondent Flordeliza Rivera died.^[49]

While a number of interesting legal issues are raised in this petition, it contains a glaring defect which warrants its dismissal.

This petition was purportedly brought by Reynaldo C. Tolentino and the Spouses Felixberto and Higinia Francisco as co-petitioners. A quick glance at its certification of non-forum shopping, however, reveals that only petitioner Tolentino actually signed it. He described himself as "one of the petitioners" but presented no authority anywhere in the petition to sign it on behalf of the Francisco spouses, his supposed co-petitioners, thus violating Section 1, Rule 65,^[50] in relation to Section 3, Rule 46^[51] of the 1997 Revised Rules of Civil Procedure. By the language of the rule itself, this constitutes a fatal omission which, along with other circumstances existing at the time this petition was filed, justifies its dismissal.

By naming the Francisco spouses as his co-petitioners and claiming that the assailed orders would "dispossess petitioners of their right to redeem at a correctly computed amount the foreclosed property,"^[52] petitioner tried to create the impression that there existed a unity of purpose between them. This was not true.

Supposedly, under their agreement dated October 10, 1995, petitioner Tolentino was to help the Francisco petitioners-spouses litigate for the recovery of their land, in exchange for which he was to receive sixty percent of their interest therein and a right of first refusal in case they ever decided to sell the remainder.

This first agreement notwithstanding, the petitioners-spouses entered into a compromise agreement with respondent to which petitioner Tolentino was not a party. In fact, it took over six months from the time judgment was rendered on this compromise agreement for petitioner Tolentino to file his motion to intervene. For someone who was supposedly helping the Francisco petitioners-spouses prosecute their claim, petitioner Tolentino apparently knew very little of their intentions and their plans.

Notably, petitioner Tolentino's special civil action before the Court of Appeals (CA G.R. SP No. 54489) was similarly devoid of the spouses' participation. The certification of non-forum shopping in that petition was likewise signed by petitioner Tolentino alone.

Finally, there was a marked difference in the conduct shown by petitioner Tolentino and by the Francisco petitioners-spouses during the two years leading to the filing of the instant petition. During the November 17, 2000 hearing, for example, it was clear that the Franciscos were already willing to fulfill their end of the compromise agreement, the validity of which petitioner Tolentino was at that time vigorously contesting. Later on, petitioner Felixberto Francisco, in his "Motion to Hold in Abeyance Proceedings" dated January 6, 2001 asked only that the proceedings be