

SECOND DIVISION

[G.R. No. 143781, February 27, 2002]

**JOSE CLAVANO, INC., PETITIONER, VS. HOUSING AND LAND USE
REGULATORY BOARD AND SPS. ENRIQUE AND VENUS TENAZAS,
RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

"The tendency of the law," observes Justice Oliver Wendell Holmes, "must always be to narrow the field of uncertainty." And so was the judicial process conceived to bring about the just termination of legal disputes. The mechanisms for this objective are manifold but the essential precept underlying them is the immutability of final and executory judgments.

This fundamental principle in part affirms our recognition of instances when disputes are inadequately presented before the courts and addresses situations when parties fail to unravel what they truly desire and thus fail to set forth all the claims which they want the courts to resolve. It is only when judgments have become final and executory, or even when already deemed satisfied, that our negligent litigants belatedly come forth to pray for more relief. The distilled wisdom and genius of the ages would tell us to reject their pleas, for the loss to litigants in particular and to society in general would in the long run be greater than the gain if courts and judges were clothed with power to revise their final decisions at will. We find this basic rule decisive of the instant controversy.

On 8 April 1994 petitioner Jose Clavano, Inc., sold under a contract to sell a house and lot in Cebu City to private respondents, the spouses Enrique and Venus Tenazas. The spouses paid fifty percent (50%) of the purchase price but encountered problems in paying the balance and some additional charges. Alleging default on the part of the spouses, petitioner refused to accept their subsequent payments and sued them instead for rescission of their contract to sell and the forfeiture of all prior payments made thereon. The suit was however dismissed in due course and petitioner took no further action thereon.

Subsequently, private respondents filed a complaint for specific performance with the Housing and Land Use Regulatory Board (HLURB) Regional Office in Cebu City against petitioner to compel it to honor their contract to sell.^[1] The spouses alleged that they had tendered enough money to pay for the balance and all charges for the house and lot which petitioner unreasonably refused to accept. They asked for judgment compelling Jose Clavano, Inc. to accept their payment and to execute in their favor the necessary deed of absolute sale for the disputed house and lot as well as to compensate them for damages they had incurred. Petitioner denied the allegations in the complaint and insisted that the spouses had already defaulted in their obligation to settle the balance of the purchase price and other accounts.^[2]

On 14 November 1995 the HLURB Regional Office found the spouses' complaint meritorious and ordered petitioner to -

1. Accept from the complainants [herein private respondents] the amount of P1,958,000.00 covered and contained in the Manager's Check duly tendered to it. The complainants are accordingly directed to redeliver and again tender to the respondent [herein petitioner] the payment previously refused; 2. Immediately thereafter, execute a Deed of Absolute Sale in favor of the complainants and deliver the corresponding Transfer Certificate of Title over Lot 25, Block 1 of the EVC Emerald Estate free from all liens and encumbrances; 3. Deliver and transfer the possession or occupancy of the subject Cullinan House in favor of the complainants in the same complete condition and fit state as promised in the contract upon completion thereof and/or pursuant to respondent's representations; 4. Pay the complainants as and by way of damages the amount of Three Hundred Thousand (P300,000.00) Pesos and the amount of One Hundred Thousand (P100,000.00) Pesos by way of attorney's fees, and cost of litigation in the amount of Five Thousand (P5,000.00) Pesos. The counterclaims prayed for by respondent are hereby denied for lack of merit.^[3]

On 21 June 1996 the HLURB upheld the *Decision*.^[4] On 12 March 1998 the Office of the President likewise sustained the Decision but deleted the award of moral damages. On 29 May 1998 reconsideration was denied.^[5] On 7 August 1998 the petition for review of petitioner with the Court of Appeals was dismissed for insufficiency of the certificate of non-forum shopping. On 8 October 1998 the appellate court denied reconsideration thereof.^[6] On 7 December 1998 we dismissed the petition for review on *certiorari* of the CA *Decision* for failure of petitioner Jose Clavano, Inc. to submit a written explanation for substituted service thereof upon the respondents spouses and the Court of Appeals.^[7]

On 31 August 1999 the *HLURB Decision*, as modified by the Office of the President, lapsed into finality and ripened for execution.^[8] The HLURB Regional Office issued a writ of execution to enforce the judgment,^[9] and so petitioner was constrained to surrender to the spouses an unnotarized deed of absolute sale over the subject house and lot, the corresponding original owner's duplicate of the transfer certificate of title in petitioner's name, tax declaration certificates, manager's check for costs and attorney's fees, miscellaneous documents, and the keys to the house bought by the spouses.^[10]

On 23 March 1999 private respondents filed a motion with the HLURB complaining about several defects in the housing unit as well as the fact that the deed of absolute sale which petitioner had delivered was unnotarized and the transfer certificate of title earlier produced was still titled in the name of petitioner. The spouses also asked the HLURB to order petitioner to pay for the expenses of the notarization of the deed and for the fees and taxes necessary for transferring and recording the title in the spouses' name.

On 15 June 1999 the HLURB granted the motion -

x x x the Sheriff of the Regional Trial Court of Cebu City is hereby x x x directed to assist complainants [herein private respondents] to have the Deed of Absolute Sale notarized with the actual expenses thereon by the complainants be chargeable against the herein respondent [herein petitioner]. Immediately thereafter, the Register of Deeds of Cebu City is directed to nullify and cause the corresponding cancellation of Transfer Certificate of Title in the name of herein complainants upon payment of the essential fees or charges for registration of the deed by complainants, subject to the further settlement of the assessed realty tax obligation for the lot and unit by respondent which the complainants may, at their option, advance and demand a reimbursement thereafter x x x^[11]

Petitioner moved for reconsideration of the 15 June 1999 HLURB Order and argued that it amended the final *HLURB Decision* which as far as petitioner was concerned had been fully executed. Petitioner also claimed that the Order set aside or nullified the provision in the contract to sell (which the *HLURB Decision* supposedly enforced) obliging private respondents as buyers of the disputed house and lot to answer for the expenses involved in the transfer of title in their favor.^[12] On 16 November 1999 the HLURB denied reconsideration.^[13]

On 10 December 1999 petitioner elevated the HLURB Orders on a Rule 65 *certiorari* to the Court of Appeals.^[14] On 9 February 2000 the appellate court dismissed the petition and affirmed the HLURB Orders. In its *Decision*, the Court of Appeals ruled that by virtue of the 14 November 1995 *HLURB Decision* petitioner was mandated to pay for or refund, as the case may be, the expenses for the transfer of title of the subject house and lot to private respondents.^[15] On 23 February 2000, taking his cue from the *CA Decision*, the sheriff by notice thus demanded from petitioner the reimbursement of P232,305.60 for the alleged actual expenses of private respondents in notarizing and registering with the Register of Deeds the deed of absolute sale for the house and lot and of recording the corresponding Torrens title in private respondents' name.^[16] On 8 June 2000 reconsideration of the 9 February 2000 *CA Decision* was denied,^[17] hence, the instant petition for certiorari under Rule 65 of the 1997 *Rule of Civil Procedure*.

Petitioner denies any obligation to pay for the expenses of private respondents in obtaining for themselves the transfer of ownership of the house and lot bought by them since neither the contract to sell with private respondents nor the 14 November 1995 final *HLURB Decision* exacts such obligation from petitioner.^[18] On the other hand, private respondents argue that the instant petition for certiorari under Rule 65 is the wrong mode of seeking review of the assailed orders and rulings, and that Art. 1358 of *The Civil Code* requires a public (hence notarized) document to validly effect delivery of ownership of the subject house and lot to private respondents.^[19]

We rule for petitioner. *Firstly,* it must be stressed that the assailed rulings of the HLURB and the Court of Appeals pertain to proceedings which have for their purpose the execution of the 14 November 1995 *HLURB Decision*. Obviously the *Decision* has

long become final and, as petitioner alleges, has also been completely satisfied. Under these facts, the HLURB is thus left with no other authority but to enforce the dispositive part of its Decision which it can no longer amend, modify or alter in a manner affecting the merits of the judgment.^[20] Since the instant petition alleges the amendment or modification of the *HLURB Decision* which was beyond the authority of the HLURB and the Court of Appeals to do, the proper remedy clearly is a petition for certiorari under Rule 65 of the *Rules of Court*. In *Estate of Salud Jimenez v. Philippine Export Processing Zone*,^[21] we said -

x x x the remedies of certiorari and appeal are not mutually exclusive remedies in certain exceptional cases, such as when there is grave abuse of discretion, or when public welfare so requires. The trial court gravely abused its discretion by setting aside the order x x x which has long become final and executory x x x x Its action was clearly beyond its jurisdiction for it cannot modify a final and executory order. x x x x Hence, though an order completely and finally disposes of the case, if appeal is not a plain, speedy and adequate remedy at law or the interest of substantial justice requires, a petition for certiorari may be availed of upon showing of lack or excess of jurisdiction or grave abuse of discretion on the part of the trial court.

Secondly, the subsequent Orders of the HLURB requiring petitioner to pay for the expenses incurred by private respondents in securing the transfer of title in their name do not fall within the ambit of the *HLURB Decision* whether expressly or by necessary inference, i.e., "whatever then is necessary to be done to carry out the decision should be ordered."^[22] The Orders are completely separate from and independent of the *Decision* and do not merely enforce it as the HLURB and the Court of Appeals would want to impress. The Orders cannot therefore be considered part of the Decision which must be executed against petitioner. Fundamental is the rule that execution must conform to that ordained or decreed in the dispositive part of the decision;^[23] consequently, where the order of execution is not in harmony with and exceeds the judgment which gives it life, the order has *pro-tanto* no validity.^[24]

While the *Decision* commands petitioner to "execute a Deed of Absolute Sale in favor of [private respondents] and deliver the corresponding Transfer Certificate of Title" to them and that only a public document would serve to cede ownership of an immovable property,^[25] such as the house and lot in question, we cannot infer from these directives that petitioner should also pay for the expenses in notarizing the deed and in obtaining a new certificate of title. The obligation to pay for such expenses is unconnected with and distinct from the obligations to execute and deliver the deed of absolute sale and the certificate of title. Since there is no qualification that the duties to execute and to deliver shall also compel petitioner to assume the expenses for transferring the pertinent title in favor of private respondents, the ordinary and literal meaning of the words "execute" and "deliver" should prevail,^[26] that is, for petitioner to perform all necessary formalities of the deed of sale^[27] and give or cede the *res* of the certificate of title (that certificate which naturally must be in their possession since petitioner cannot give what it does not have) to the actual or constructive control of private respondents.^[28] Needless to stress, petitioner can actually discharge these obligations without settling for its own account the expenses which private respondents are demanding. In this regard,

petitioner can appear before the notary public for notarization of the deed of absolute sale and assist in the cancellation of the certificate of title in its name by giving this certificate together with the deed of absolute sale to private respondents for presentation at the Registry of Deeds, which it has several times expressed willingness to do.

Clearly, there is nothing in the body much less in the dispositive portion of the *HLURB Decision* nor in the pleadings of the parties from where we may deduce that petitioner must pay for the amounts spent in transferring title to private respondents. It is well settled that under these circumstances no process may be issued to enforce the asserted legal obligation.^[29] In *De la Cruz Vda. de Nabong v. Sadang*^[30] we nullified an order requiring an indemnity bond since the requirement was not contained in the dispositive part of the final judgment. Similarly in *Supercars, Inc. v. Minister of Labor*^[31] we set aside the award of back wages for the period that the writ of execution was unserved since the final and executory decision of the Minister of Labor merely directed the reinstatement of the laborers to their former positions. Finally, *David v. Court of Appeals*^[32] affirmed the ruling of the Court of Appeals mandating the payment of simple legal interest only with nothing said about compounded interest since the judgment sought to be executed therein ordered the payment of simple legal interest only and held nothing about payment of compounded interest. This Court can do no less than follow these precedents in the instant petition.

Thirdly, the HLURB or the Court of Appeals cannot order petitioner at this late stage to reimburse the charges and fees relative to the transfer of title to private respondents of the subject house and lot when they (private respondents) did not allege this obligation nor pray for this relief in their complaint and other pleadings and did not attempt to prove this cause of action one way or the other. It is elementary that a judgment must conform to, and be supported by, both the pleadings and the evidence, and be in accordance with the theory of the action on which the pleadings are framed and the case was tried.^[33] The judgment must be *secundum allegata et probata*. In *Falcon v. Manzano*^[34] where the trial court rendered judgment allowing plaintiff to recover from the defendant the unpaid portion of the purchase price of a parcel of land when the plaintiff only asked for the nullification of the contract of sale of the realty and the return of the property to her, we set aside the judgment of the trial court in conceding to her a remedy which was not prayed for in the complaint -

The lower court rendered a judgment in favor of the plaintiff for one-half of the unpaid purchase price. The question presented in the petition was not even discussed by the lower court, to wit: the right of the plaintiff to have the contract declared null and the property in question returned to her. The court, in rendering its decision, ought to have limited itself to the issues presented by the parties in their pleadings.

In the analogous case of *Lerma v. De la Cruz*^[35] the plaintiff therein brought an action to recover accrued rents and damages for the injury to the land but the trial court extended the relief sought by giving judgment for possession of the land. We ruled: "The plaintiff did not ask for possession, nor is there any prayer to that effect in the complaint, and the judgment must, therefore be reversed insofar as it undertakes to provide for the restitution of the land in question to the plaintiff."