

SECOND DIVISION

[G.R. No. 131641, February 23, 2000]

NATIVIDAD P. NAZARENO, PETITIONER, VS. COURT OF APPEALS, HON. NAPOLEON V. DILAG, PRESIDING JUDGE, RTC-CAVITE, BRANCH XV, ROMEO P. NAZARENO AND ELIZA NAZARENO, RESPONDENTS.

DECISION

BELLOSILLO, J.:

A writ of execution must conform to the judgment to be executed; it may not vary the terms of the judgment it seeks to enforce. Nor may it go beyond the terms of the judgment sought to be executed. Where the execution is not in harmony with the judgment which gives it life, and in fact exceeds it, it has pro tanto no validity. To maintain otherwise would be to ignore the constitutional provision against depriving a person of his property without due process of law.^[1]

Adjudication of ownership necessarily includes delivery of possession. Indeed, it would be defeating the ends of justice should we require that for the parties to obtain possession of the property duly adjudged to be theirs from those who have no right to remain therein, they must submit to court litigations anew.^[2] An exception however exists where the actual possessor has shown a valid right over the property enforceable even against the owner thereof.^[3]

On 15 March 1985 Natividad Nazareno filed a *Complaint for Annulment of Sale and Damages* against spouses Romeo and Eliza Nazareno. Natividad avers in her complaint that she is the sole and absolute owner of a parcel of land located in Naic, Cavite, covered by TCT No. 51798 of the Registry of Deeds of Cavite. Sometime in April 1981 Natividad's brother, Romeo, and his wife Eliza convinced Natividad to lend them TCT No. 51798 to be used as collateral to a loan the proceeds of which would be used in the completion of the construction of the Naic Cinema on the subject property. Natividad agreed on the condition that title to her property would be returned within one (1) year from the completion of the construction of the cinema. Accordingly, Natividad executed a *Deed of Absolute Sale* in favor of spouses Romeo and Eliza over the lot covered by TCT No. 51798. The sale, however, was simulated because Natividad did not receive any consideration therefor.

The cinema was completed in November 1981 but despite several demands by Natividad, spouses Romeo and Eliza failed and refused to return Natividad's title to the property; instead, they had the property transferred in their name. Consequently, TCT No. T-118276 was issued in their name in lieu of TCT No. 51798.

Spouses Romeo and Eliza denied that the property belonged to Natividad. On the contrary, they averred that it originally formed part of the estate of the late Maximino Nazareno, Jr., father of Romeo and Natividad. According to Romeo, the

property was his share in their inheritance. As regards the deed of sale, he explained that it was only resorted to for the purpose of carrying out and implementing the transfer of the property forming part of the estate of Maximino Nazareno Jr., the distribution of which was entrusted to Natividad.

The trial court found for the spouses Romeo and Eliza and ruled that although the *Deed of Absolute Sale* was simulated, the same could be treated as an adjudication and a conveyance to Romeo of his share in the estate of his father.

But the Court of Appeals ruled otherwise. It found that during pre-trial, the parties stipulated that the *Deed of Absolute Sale* between Natividad and spouses Romeo and Eliza was simulated as there was in fact no money consideration. Consequently, the burden of proof was shifted to Romeo to prove that the transfer was in reality a conveyance of his share in the estate of his father. But during trial, Romeo failed to prove this so-called conveyance of his share. On the other hand, Natividad satisfactorily showed that the property was previously sold to her by their late father. Romeo failed to disprove this fact. Neither did he successfully cause the deed of sale executed by Maximino Nazareno Jr. in favor of Natividad to be declared null and void. Resultingly, its authenticity and validity remained unrebutted.

In short, the Court of Appeals did not sustain the trial court and set aside its *Decision*. The *Deed of Absolute Sale* executed by Natividad in favor of the spouses Romeo and Eliza as well as TCT No. 118276 was declared null and void. Hence, the Register of Deeds was ordered to restore TCT No. 51798 under the name of Natividad. The case was brought to us on a *Petition for Review on Certiorari* but we denied the petition after having ascertained that the appellate court committed no reversible error. Thus, the Court of Appeals' decision became final and executory on 13 June 1996.

On 7 November 1996 Natividad filed a *Manifestation and Motion* with the Regional Trial Court of Naic praying for the issuance of a writ of execution as well as a writ of possession. The spouses Romeo and Eliza filed an *Opposition* contending that in her *Complaint* Natividad never prayed that she be placed in possession of the subject premises. Neither did the Court of Appeals order that petitioner be placed in possession of the property.

On 21 February 1997 the trial court granted the writ of execution prayed for but denied the issuance of a writ of possession as it was not included in the decision of the Court of Appeals. Natividad's *Motion for Reconsideration* was denied. Hence, recourse was made to the Court of Appeals.

On 9 September 1997 the Court of Appeals denied the petition thus -

Execution not in harmony with the judgment has no validity. It must conform more particularly to that ordained or decreed in the dispositive portion of the decision, as the only portion of the decision that becomes the subject of execution.

Therefore, to issue a writ of possession in favor of petitioner in this case where possession was never decreed in favor of petitioner, would be void

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