

THIRD DIVISION

[G.R. No. 141423, November 15, 2000]

**MELINA P. MACAHILIG, PETITIONER, VS. THE HEIRS OF GRACE
M. MAGALIT, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

An interlocutory order cannot give rise to *res judicata*. Only a final and unappealable judgment on the merits rendered by a court of competent jurisdiction can effectively bar another action that has identical parties, subject matter and cause of action as the prior one.

The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the Decision^[1] dated October 15, 1999, and the Resolution dated December 28, 1999, issued by the Court of Appeals (CA) in CA-GR SP No. 31809. The dispositive portion of the challenged Decision reads as follows:

"WHEREFORE, the petition for certiorari is hereby DENIED and is accordingly DISMISSED for lack of merit.

"SO ORDERED."^[2]

The assailed Resolution,^[3] on the other hand, denied petitioner's Motion for Reconsideration.

The Facts

On February 5, 1965, Pepito Magalit, deceased husband of Dr. Grace M. Magalit (now substituted by her heirs as respondents in view of her recent demise), filed with the then Philippine Fisheries Commission -- now Bureau of Fisheries and Aquatic Resources (BFAR) -- Fishpond Application No. 24400. The application was for eleven (11) hectares of land situated in the Municipality of Batan, Province of Aklan.^[4] On April 13, 1972, Bernardo Macahilig, deceased husband of petitioner, filed with the BFAR Fishpond Application No. 29972 for five of the eleven hectares which Magalit had previously applied for.^[5] On February 28, 1972, BFAR rejected Macahilig's application for his failure to submit all the requirements.

Undaunted, Macahilig protested Magalit's application (in what will be referred to as the "Fishpond Case") on November 8, 1976, contending that for a period of 20 years, he had been in actual possession of the five-hectare area included in Magalit's application.

On August 22, 1979, the director of BFAR ordered the Committee on Fishpond Claims and Conflict to hear and determine the rights of Macahilig and Magalit over the disputed area. The Committee concluded that the former was merely the latter's laborer and caretaker. On June 6, 1980, BFAR Director Felix R. Gonzales rendered an Order disposing as follows:

"WHEREFORE, premises considered, the letter protest dated November 8, 1976 filed by Bernardo Macahilig against Pepito Magalit, should be as hereby it is DISMISSED for lack of merit. Fp. A. No. 29972 of Bernardo Macahilig shall remain REJECTED; and Fp. A. No. 24400 filed by Pepito Magalit should be, as it is hereby GIVEN DUE COURSE, to contain 10.0 hectares only, as discussed earlier on page 8 hereof, subject to the condition that the improvements existing on the area shall be forfeited in favor of the Government with a provision that said Pepito Magalit has the option if he so desire[s] to purchase from the government the aforesaid improvements after the re-appraisal thereof by representatives of this Office, otherwise, said area shall be declared open and available

"The Regional Director of Iloilo City is hereby directed to advise Bernardo Macahilig or other occupants to vacate the premises after the finality of this Order and take custody of the area in question. (Annex "B", id.; pp. 30-31, id.)."^[6]

Macahilig elevated this disposition to the Office of the President. However, then Presidential Assistant for Legal Affairs Manuel M. Lazaro, by "authority of the President," denied reconsideration in this language:

"WHEREFORE, the motion for reconsideration of Bernardo Macahilig is hereby DENIED. This DENIAL IS FINAL."

Subsequently, Macahilig challenged this action via a "Petition for Review with Prayer for an Issuance of a Writ of Injunction and/or Restraining Order." He had filed the Petition originally with the Supreme Court, which then referred it to the Intermediate Appellate Court (IAC) where it was docketed as AC-GR SP No. 03448. On March 26, 1985, the appellate court rendered a Decision declaring that Magalit had occupied, cleared and improved the land; and that Macahilig was his mere caretaker and laborer. It disposed as follows:

"WHEREFORE, this petition for review is hereby DENIED and is DISMISSED, for lack of legal and factual basis.

"It is hereby ordered that the petitioner or anybody acting in his behalf is/are to vacate the subject property in question, and to turn it over to the heirs of Pepito Magalit, considering that the challenged decision as abovestated, has long become final and executory on May 2, 1984 yet."

^[7]

Later on, Magalit instituted Civil Case No. 3517 in the Regional Trial Court of Kalibo, Aklan, for the issuance of a Writ of Execution.^[8] On November 29, 1985, Deputy Provincial Sheriff of Aklan Eriberto Taytayon Jr. implemented the Writ issued by Judge Jaime D. Discaya on October 30, 1985. The heirs of Pepito Magalit, represented by Dr. Magalit, filed on August 6, 1990, a "Motion for Correction of the Implementation of the Decision of the Court of Appeals in CA-GR SP No. 03448 promulgated on March 26, 1985 and of the Decision of the Court dated October 30, 1985." In that Motion, they prayed that the trial court properly implement said IAC Decision by ordering Spouses Macahilig to turn over to her the possession of Lot 4417, which had an area of 2.0805 hectares, more or less.^[9] Dr. Magalit contended that the Writ of Execution was not satisfied, because the spouses had refused to give up the fishpond in question.

On September 17, 1992, Judge Maria Carillo-Zaldivar issued the following Order:

"Finding from the Manifestation of counsel on record for the movant that the two (2) hectares of land she desires to be executed thru an alias writ is outside the ten (10) hectares awarded to her by the Fisheries, this Court has no jurisdiction over her claim.

"WHEREFORE, the motion for reconsideration dated September 9, 1992 is hereby DENIED."^[10]

On October 9, 1992, Dr. Magalit filed a "Petition for Contempt Against Melina Macahilig," alleging that on November 29, 1985, Bernardo Macahilig had refused to turn over Lot 4417 to her.

The trial court appointed a commissioner to determine whether Lot 4417 was included in the parcels of land awarded to the deceased Magalit.^[11] Sheriff Nelson R. dela Cruz, the appointed commissioner, submitted his Commissioner's Report dated May 13, 1993, pertinent portions of which read:

"That on April 29, 1993[,] a certain Cipriano Matutino, an employee of the Department of Agriculture Regional Office in Iloilo City personally came to the office of the undersigned commissioner and delivered a letter dated April 26, 1993, addressed to the undersigned with attached sketch. x x x.

"That on May 7, 1993, the undersigned constituted [sic] himself into the fishpond in question which is situated at Lalab, Batan, Aklan, together with x x x Respondent Melina Macahilig, Barangay Chairman Robinson de la Vega and the representative of Dr. Grace M. Magalit.

"That x x x Petitioner Dr. Grace M. Magalit is in the actual possession of Lot-A with an area of 99,114 square meters or 9.9 has. which is a fully developed fishpond, and without any question from the respondent. However, as per Order of the Bureau of Fisheries and Aquatic Resources dated June 6, 1980, that portion labelled Parcel-A in

the sketch with an area of 2.3 [h]as. has to be excluded because it is needed for [f]orest purposes. So if we deduct 2.3 [h]as. from the 9.9 [h]as. the remaining area for the [p]etitioner will only be 7.6 [h]as., that is [why] the Bureau of Fisheries has to include Lot 4417 and Lot 5216, in order that the area of 10.0 hectares in said order will be satisfied."^[12]

In the Order of June 18, 1993, the trial court adopted the Commissioner's Report and ruled in favor of Dr. Magalit in this wise:

"Finding from the [C]ommissioner's [R]eport and [the] sketch submitted that the questioned Lot 4417 with an area of 20,805 square meters is actually in the possession of [Petitioner] Melina Macahilig but which was given to the [respondent's] husband, let a writ of execution be issued in favor of the [respondent] and against [Petitioner] Melina Macahilig for the delivery of Lot 4417.

"As regards Lot 5216, the report of the commissioner states that the same is covered by an Original Certificate of Title No. P-19359 in the name of Julie Cawaling. The petitioner is hereby directed to desist from occupying this lot until the original certificate of title in the name of Julie Cawaling shall have been passed upon by a competent court.

"Failure on the part of the [petitioner] to deliver x x x said area covered by Lot 4417 to the [respondent], this court will declare her in contempt."^[13]

Petitioner moved for reconsideration, but her motion was denied in the Order of July 14, 1993,^[14] which held that she had no valid reason to possess the disputed lot, considering that her husband's application therefor had been rejected.^[15]

Unfazed by the unfavorable turn of events, petitioner filed with the CA, on August 12, 1993, a Petition for *Certiorari*^[16] alleging that the trial court had acted with grave abuse of discretion in issuing the Orders dated June 18 and July 14, 1993.

Ruling of the Court of Appeals

The CA ruled that the trial court did not commit grave abuse of discretion when it issued a Writ of Execution ordering the delivery of Lot 4417 to Dr. Magalit. The records show that the fishpond application of petitioner's husband was rejected by the BFAR, and that petitioner did not present any other evidence to prove her right of possession over the disputed property.

On the other hand, Dr. Magalit's claim was based on the Decision in the Fishpond Case, which upheld her right -- as the surviving spouse of the applicant -- to possess the ten hectares of land awarded to him, including Lot 4417 which covered an area of more or less 2.0805 hectares. The disputed lot was included in the area awarded to Dr. Magalit because of the report of the commissioner appointed by the trial court to settle the issue. Petitioner had not objected either to the said appointment or to the Report.

The Orders of June 18 and July 14, 1993 were based on the evidence presented before the trial court. Consequently, they cannot be regarded as capricious and whimsical exercises of judicial power.

Hence, this Petition.^[17]

The Issues

Petitioner interposes the following issues for our resolution:^[18]

"Whether x x x the Decision dated October 15, 1999 and the Resolution dated December 28, 1999 are contrary to law and established evidence and jurisprudence because the court *a quo* has no jurisdiction to order the execution of the Orders dated June 18, 1993 and July 14, 1993 x x x requiring the petitioner to turn over Lot no. 4417 to Dra. Magalit.

"Whether x x x [said] Orders x x x are void for lack of jurisdiction.

"Whether [said] Orders include Lot 4417.

"Whether x x x the lot in question can be turned over to the private respondents.

"Whether x x x there is a judgment in favor of Dra. Magalit including Lot 4417.

"Whether x x x the Order dated September 17, 1992 is conclusive or operates as a bar to the Orders dated June 18, 1993 and July 14, 1993."

In simpler terms, the Petition raises the following crucial issues:

1. Was the issuance of the Writ of Execution in Civil Case No. 3517 proper?
2. Did the trial court acquire jurisdiction over Lot 4417?
3. Did the September 17, 1992 Order constitute res adjudicata barring the June 18 and July 14, 1993 Orders of the trial court?

The Court's Ruling

The Petition has no merit.

First Issue: **Propriety of Writ of Execution**

Petitioner insists that the Decision in AC-GR SP No. 03448 has already been complied with, because the fishponds adjudicated to respondents had been surrendered to the latter. She cites as evidence the receipt dated November 27, 1985 signed by Robinson de la Vega, the administrator of Dr. Magalit; and the Decision in Civil Case No. 3436 for annulment of mortgage. The receipt^[19] stated