

FIRST DIVISION

[G.R. No. 136294, September 28, 1999]

MARIA G. BALUYUT, BEATRIZ G. DAVID, CONSOLACION G. ZAMORA, PURITA G. TONGOL, LUZ G. VIRAY, JOSE S. GUIAO AND JESUS GUIAO, PETITIONERS, VS. RODOLFO GUIAO, TRINIDAD G. MANDAL, SPOUSES NICOLAS TUBIL AND ILUMINADA CANLAS, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

At bar is a petition for review on *certiorari* seeking to set aside and reverse the Decision, dated March 30, 1998; and, the Resolution, dated November 9, 1998 of the Court of Appeals which dismissed petitioner's petition to set aside the orders issued by the Regional Trial Court of Guagua, Pampanga, Branch 50 in Civil Case No. G-1972, to wit: the Order, dated May 24, 1996 denying the Motion to Quash the Writ of Possession; Order, dated August 28, 1996 denying the Motion for Reconsideration thereof; Order, dated November 18, 1996 denying petitioner's Notice of Appeal; and Order, dated March 7, 1997, denying their Motion for Reconsideration thereof.

The antecedent facts are undisputed:

On July 7, 1988, plaintiffs (herein petitioners) filed before the Regional Trial Court of Guagua, Pampanga, a complaint against defendants (herein respondents) seeking to declare null and void the donation of a 245.42 square meter portion of the property covered by Original Certificate of Title No. 4528, executed by plaintiff Rosario S. Vda. De Guiao in favor of defendants Rodolfo Guiao and Trinidad G. Mandal, as well as the separate sale of said portion by the defendants in favor of their co-defendants spouses Nicolas Tubil and Iluminada Canlas likewise, as null and void.^[1]

After trial on the merits, the Regional Trial Court rendered a decision in favor of the plaintiffs (herein petitioners) and against the defendants (herein respondents), the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, as follows:

1. Declaring the 'Donation of Real Property Inter Vivos' (Exh. 'B') supposedly executed by plaintiff Rosario S. Vda. De Guiao in favor of defendants Trinidad Mandal and Rodolfo Guiao null and void and without force and effect;
2. Ordering defendant spouses Nicolas Tubil and Iluminada Canlas to reconvey to plaintiffs, particularly to Rosario S. Vda.

De Guiao, the 245.42 square meter lot subject of the repudiated deed of donation;

3. Ordering defendant Rodolfo Guiao to return the amount of P125,000.00 to defendant spouses Nicolas Tubil and Iluminada Canlas, representing the purchase price of one-half of the 245.42 square meter lot sold by Rodolfo Guiao to the spouses Tubil, as shown by Exhibit 'D';
4. Ordering defendant Trinidad Mandal to return the amount of P16,500.00 to defendant spouses Nicolas Tubil and Iluminada Canlas, representing the purchase price of the other half of the 245.42 square meter lot sold by Trinidad Mandal to the spouses Tubil, as shown by Exhibit 'E';
5. Ordering all defendants to pay jointly and severally plaintiffs' counsel, Atty. Wilfredo G. Laxamana, the sum of P5,000.00 representing attorney's fees; and
6. Ordering all defendants to pay jointly and severally the costs of suit.

SO ORDERED.^[2]

On appeal, the above decision was reversed by the Court of Appeals, to wit:

WHEREFORE, the judgment appealed from is hereby reversed, and the complaint dismissed. Costs against appellees.

SO ORDERED.^[3]

The record of the case was then returned to the court of origin on September 23, 1992, together with the entry of judgment which had become final and executory.

On April 27, 1995, respondent spouses Nicolas Tubil and Iluminada Canlas, in order to take possession of their property, filed a motion with the trial court praying therein that a writ of possession be issued in their favor over the 245.42 square meter portion of the subject property.

On May 23, 1995, the trial court issued an Order granting the aforesaid Motion for Issuance of a Writ of Possession; and, on May 26, 1995, a Writ of Possession was issued.

On June 9, 1995, petitioners filed a Motion to Quash the Writ of Possession alleging therein that, "(T)he dismissal of the complaint did not give rise to a right to take possession of the property involved. If ever, the only portion that may be executed from the said decision would be the costs of suit."

On May 24, 1996, the trial court issued an Order denying the Motion to Quash the Writ of Possession. Said Order reads in part: "xxx in ruling that there is a valid

donation in favor of the defendants-appellants (herein respondents), the Court of Appeals impliedly ruled that the defendants-appellants has (sic) the right to possess the land which they brought (sic) from the plaintiff-appellee Rosario Guiao.”^[4]

Petitioners filed a Motion for Reconsideration which the trial court denied anew on August 28, 1996.

On September 12, 1996, petitioners filed a Notice of Appeal from the Order, dated May 24, 1996, denying the Motion to Quash the Writ of Possession.

On November 18, 1996, the trial court denied the Notice of Appeal.

Not satisfied, petitioners filed a Motion for Reconsideration which the trial court denied on March 7, 1997.

Petitioners then filed a petition for *certiorari* with the Court of Appeals assigning therein the following errors:

1) THAT THE PUBLIC RESPONDENT HAS ACTED IN EXCESS OF ITS JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ISSUING THE WRIT OF POSSESSION, DESPITE THE EVIDENT VARIANCE BETWEEN THE SAID WRIT AND THE DECISIONS TO WHICH THE LATTER WAS ANCHORED; AND

2) THAT THE PUBLIC RESPONDENT HAS ACTED IN EXCESS OF ITS JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DENYING THE NOTICE OF APPEAL FILED BY HEREIN PETITIONERS, DESPITE THE FACT THAT SAID APPEAL IS ALLOWED BY LAW AS AN EXCEPTION TO THE RULE.^[5]

Anent the second issue, the Court of Appeals said that while the lower court erred in denying petitioners’ notice of appeal, it (the appellate court) was taking cognizance of the petition for certiorari which is allowed under Section 1(f), Rule 41 of the 1997 Rules of Civil Procedure.^[6] The appellate court expounded on its reasoning, thus:

Under the Revised Rules of Court, only final judgments or orders shall be subject to appeal. No interlocutory or incidental judgment or order shall stay the progress of an action, nor shall it be the subject of appeal until final judgment or order is rendered for one party or the other (vide Rule 41, Sec. 2). But as correctly pointed out by the petitioners, the Supreme Court has allowed an exception to said rule. Thus, in the case of *Paulino vs. Court of Appeals*, the Supreme Court had the occasion to state:

“Ordinarily, an order of execution of a final and executory judgment is not appealable because otherwise, there would be no end to a case. However, if in the opinion of the defeated party, such order of execution varies the terms of the judgment and does not conform to the essence thereof, or the terms of the judgment does not allow room for interpretation and the interpretation given by the trial court as contained in its order of execution is wrong, the latter may appeal the