

SPECIAL TWENTIETH DIVISION

[CA-G.R. SP NO. 08486, January 26, 2015]

**MRA REALTY CORPORATION, MILAGROS A. DIVINO AND
MANUEL M. AQUINO , PETITIONERS, VS. THE REGIONAL TRIAL
COURT OF CEBU CITY, BRANCH 21, NOW PRESIDED BY THE HON.
ERIC F. MENCHAVEZ, MARCELO M. AQUINO, JR., (NOW
REPRESENTED BY HIS LEGAL HEIRS, NAMELY, EDITHA
CARBONELL VDA. DE AQUINO, MAGDALENA AQUINO-
PAPADOPOULUS, MYRNA AQUINO-KELLY, MARIVIC AQUINO,
UHRON, MARCELO C. AQUINO III AND MICHAEL C. AQUINO,
RESPONDENTS.**

D E C I S I O N

QUIJANO-PADILLA, J.:

Before Us is a Petition for Certiorari^[1] under Rule 65 of the Rules of Court assailing the Orders^[2] promulgated by the Regional Trial Court, Seventh (7th) Judicial Region, Branch 21, Cebu City, dated January 27, 2014 and April 4, 2014, respectively which found the petitioners guilty of Indirect Contempt.

The Antecedents

In gist, this case involves a family feud among siblings over their inheritance.

Private respondent Marcelo M. Aquino, Jr. (now represented by his legal heirs) and the petitioners Milagros A. Divino and Manuel M. Aquino are siblings. They are the children of the late spouses Marcelo R. Aquino, Sr. And Victoria M. Aquino.

Private respondent Marcelo M. Aquino, Jr. alleged in his Complaint^[3] that when he got married in 1958, the family especially his mother did not approve of such union and even disowned him as her son. For this reason private respondent Marcelo M. Aquino, Jr. never again visited their ancestral house.

On June 19, 1978, Marcelo R. Aquino, Sr. died intestate. Private respondent Marcelo M. Aquino, Jr. then requested his sister Milagros A. Divino to have the estate of their father settled and partitioned among themselves. The latter did not agree and informed him that such settlement would be discussed only after their mother's death.

On October 10, 1998, Victoria M. Aquino, the mother of the parties died. Private respondent Marcelo M. Aquino, Jr., again, approached his sister and inquired about the partition. However, he was shocked to know that the properties were already sold, while others were transferred to MRA Realty Corporation, long before their father's death.

In view of such information, private respondent investigated the transactions and, he found out that there was really an intent to hide the properties from him, so that he can no longer inherit anything.

Meanwhile, petitioners in their Answer,^[4] generally denied the allegations of the private respondent Marcelo M. Aquino, Jr. They alleged that the private respondent caused problems to their family and refused to be disciplined by their parents.

Petitioners further argued that MRA Realty Corporation was legitimately formed and all the other transactions relative to the properties of the late spouses Marcelo R. Aquino, Sr. and Victoria M. Aquino were valid.

On December 27, 2006, the Regional Trial Court, Branch 21, Cebu City, issued a Decision^[5] which was in favor of the private respondent. The decretal portion of the decision states:

WHEREFORE, in view of the foregoing premises, a Decision is hereby rendered declaring the deeds of sale dated April 29, 1976 executed by Marcelo R. Aquino in favor of Milagros A. Divino (Exh. "E") and the Deed of Sale dated August 23, 1976 executed by Marcelo R. Aquino in favor of Manuel Aquino (Exh. "G") null and void from the beginning.

Consequently, since the deeds of sale are declared null and void, the transfer certificates of title, tax declarations in the name of MRA Realty Corporation are hereby ordered canceled. It is further decreed that:

1. The defendants shall submit a certified accounting of income of the subject properties, but not limited to the proceeds of sale, fruits, and such properties and articles of value, which shall be reckoned from the death of Marcelo R. Aquino, Sr;
2. The duly accounted income of the leased properties or proceeds of the sale shall be divided in equal share among the parties; and
3. In the event that the partition of the properties subject of the action is not anymore possible, the plaintiff or his heirs should be given equal shares in stocks of MRA Realty Corporation as the defendants.

SO ORDERED.^[6]

Petitioners then filed a Notice of Appeal.^[7] However, the Court of Appeals, Nineteenth (19th) Division,^[8] Cebu City, through a Resolution^[9] dated April 18, 2008, in CA-G.R. CEB-CV No. 01954, dismissed the appeal for failure to file the Appellant's Brief pursuant to Sec. 1(e), Rule 50 of the Revised Rules of Court.

Petitioners then filed a Petition for Review on Certiorari^[10] with the Supreme Court. This was however denied by the latter's Second Division in G.R. No. 190507, through a Resolution^[11] dated February 10, 2010. Likewise, the Motion for Reconsideration^[12] was denied in a Resolution^[13] dated April 26, 2010 of the Supreme Court, Second Division.

Undeterred, petitioners filed an Omnibus Motion^[14] with the court a quo, the Regional Trial Court, Branch 21 of Cebu City. In their motion, petitioners asked for a clarification of the dispositive portion of the assailed Decision dated December 27, 2006. They further averred that the decision involved matters beyond the jurisdiction of the court and its implementation would cause prejudice to the other shareholders of the corporation.

In an Order^[15] dated November 18, 2010, the Regional Trial Court, Branch 21 of Cebu City denied the Omnibus Motion filed by the petitioners. Subsequently, petitioners filed a Motion for Reconsideration^[16] which was also denied by the RTC in an Order^[17] dated February 7, 2011. In the said order, the RTC elucidated that petitioners cannot perpetually file any pleading to delay execution of the judgment which was already final and executory.

Consequently, petitioners filed with the Court of Appeals, Cebu City a Petition for Annulment of Final Judgment and Orders (with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction).^[18]

In a Resolution^[19] promulgated on February 5, 2014, the Court of Appeals, Special Former Twentieth Division,^[20] in CA-G.R. SP NO. 05774, dismissed the appeal. The Court of Appeals postulated that petitioners cannot avail of Section 1,^[21] Rule 47 of the Rules of Court on Annulment of Judgments or Final Orders and Resolutions because such is only available if petitioner is not at fault. In the case at hand, it must be remembered that petitioners lost their right to appeal due to their failure to file the Appellant's Brief.

Unsatisfied, petitioners filed a Motion for Reconsideration^[22] which was pending for resolution by the Court of Appeals, at the time petitioners filed this Petition for Certiorari under Rule 65.

On the other hand, private respondent Marcelo M. Aquino, Jr. filed a Motion for Execution^[23] dated March 7, 2011, praying for the issuance of a Writ of Execution. This was granted by the RTC in an Order^[24] dated March 11, 2011.

Petitioners filed their Comment/Opposition^[25] dated March 16, 2011. In their Comment, petitioners informed the lower court of their filing of a Petition for Annulment of Final Judgment and Orders (with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) with the Court of Appeals.

On March 21, 2011, the Regional Trial Court, Branch 21 of Cebu City, through its Clerk of Court issued a Writ of Execution.^[26] Accordingly, on April 11, 2011, a Notice of Compliance^[27] addressed to one of the petitioners, Manuel M. Aquino, was issued by the Sheriff.

Consequently, petitioners filed a Motion to Quash "Writ of Execution" dated 21 March 2011 and "Notice for Compliance" dated 11 April 2011.²⁸ This Motion to Quash by the petitioners was dated April 18, 2011.

Private respondent Marcelo M. Aquino, Jr. then filed a Motion to Cite Defendants in Contempt^[29] dated June 3, 2011.

Hence, in an Order^[30] dated November 28, 2011, the RTC gave petitioners a period of thirty (30) days from receipt to comply with the Notice of Compliance issued by the Sheriff, failure to do so, will constrain the court to impose the proper sanction as provided for by law.

In view of such order, the petitioners filed a Manifestation with Motion for Reconsideration and to Hold in Abeyance Execution of Decision.^[31]

In an Order^[32] dated January 17, 2012, the RTC noted the said Manifestation and reiterated its previous ruling, whereby it emphasized the finality of the judgment and that only an injunctive order from a higher court could stop the implementation of the Writ of Execution. However, the lower court practiced leniency and gave the petitioners another ten (10) days to comply.

Private respondent then filed a Second Motion (For Writ of Execution)^[33] dated December 14, 2012, to which the petitioners responded by filing a Comment/Opposition^[34] and repeated their previous arguments that the implementation of the decision would cause serious prejudice to MRA Realty Corporation and that the court a quo has no jurisdiction to implement such a decision.

In an Order^[35] dated February 4, 2013, the RTC reminded the counsel of the private respondent Marcelo M. Aquino, Jr. that a writ has already been issued, hence the Second Motion for the issuance of a Writ of Execution is not anymore necessary. The lower court also ruled that petitioners are already resorting to various strategies to delay the execution of the judgment. Verily, because of the recycled motions filed by the petitioners, the court opted to terminate its leniency. The decretal portion of this February 4, 2013 Order of the RTC reads:

WHEREFORE, in view of all the foregoing, the instant motion filed by the defendants is hereby DENIED. Accordingly, the two (2) Orders dated 28 November 2011 and 17 January 2012 issued by this Court are maintained but partly modified that not only defendant Manuel M. Aquino but also to include defendant MRA Realty Corporation to submit a certified accounting of all the income of the company to be reckoned from the death of the parties' mother Victoria Montalban Vda. De Aquino. The certified accounting should be submitted before this Court within thirty (30) days from receipt of this Order. Counsel for the defendants is hereby advised to appropriately explain to their [sic] clients to comply religiously (with) the directive of this Court so as not to suffer the inconvenience of the sanction that might be handed down in connection with this contempt proceedings.

SO ORDERED.^[36]

In view of the public respondent's order, the petitioners filed their Response (to the Order dated 4 February 2013).^[37]

The Ruling of the Regional Trial Court

In an Order^[38] dated January 27, 2014, the Regional Trial Court, Branch 21, Cebu City found the petitioners guilty of indirect contempt. The questioned order is reproduced as follows:

This is an indirect contempt proceedings [sic] filed by the Plaintiff against the Defendants for refusing to comply with the directive of this Court in the course of the execution proceedings.

The series of pleadings and manifestations filed by the Defendants in connection therewith shows that the Defendants do not want to comply because they maintained that this Court is executing a null and void judgment. This Court would like to remind again the Defendants that unless and until the Supreme Court declares the modification or reversal of the Decision rendered by this Court, this Court has to proceed with the implementation of its Defendants [sic] by reason of its finality and therefore, executory.

The contention by the Defendants that this case must first passed thru an estate proceeding is highly misplaced at this stage of the proceedings. That scenario should have been raised by the Defendants, particularly Defendant MRA REALTY CORP., during the pendency or trial of this case and not at this time when the finality of judgment is already at hand in favor of the Plaintiff.

The devious tactics and schemes employed by the Defendants in the instant proceedings has in effect disrupted or even stopped or restrained the execution process. It is pertinent to state here that this case has been stalled for almost 14 years due to a family feud that one of their brother-heir, the herein Plaintiff, has been deprived of his rights of [sic] the family's hereditary properties. In fact, the herein Plaintiff had [sic] already passed away and his lawful heirs are still longing to enjoy the fruits of this Court's verdict which was handed down on 27 December 2006.

On Defendants' allegation that this Court's 4 February 2013 Order modified the 27 December 2006 Decision, is totally wrong. A perusal of the subject Order, it is clearly understood that what the Court is doing is just an accomodation for the Defendants to conveniently comply the needed accounting to jive with the implementation of the 27 December 2006 Decision. Nothing has been altered or modified on its 27 December 2006 Decision. The Court even extended in its Order to include any responsible or authorized officers of defendant MRA REALTY CORP. to assist the Defendants to submit such verified accounting but still Defendants refused and still refuse to do so.

This Court has intentionally delayed the resolution of the contempt proceeding to give the Defendants more time to comply and the Court of Appeals would decide on their Petition in their favor invalidating this Court's Decision dated 27 December 2006, so that this issue will be put to a complete rest. But to this date, nothing has come up.