



Republic of the Philippines
Supreme Court
Baguio City

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

VALENCIA (BUKIDNON)
FARMERS COOPERATIVE
MARKETING ASSOCIATION, INC.,
REPRESENTED BY THE BOARD
OF DIRECTORS OF FARMERS
COOPERATIVE MARKETING
ASSOCIATION (FACOMA) AS
TRUSTEES, HEREIN
REPRESENTED BY DAVID M.
PORTICOS, BOARD CHAIRMAN,

Petitioner,

- versus -

HEIRS OF AMANTE P. CABOTAJE,
NAMELY: ESTHER M. CABOTAJE,
AMANTE M. CABOTAJE, JR.,
JULINDA M. CABOTAJE,
FERNANDO M. CABOTAJE,
CHRISTINA IMELDA M.
CABOTAJE-NELAM, ALL HEREIN
REPRESENTED BY ESTHER M.
CABOTAJE,

Respondents.

G.R. No. 219984

Present:

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR.,* and
LAZARO-JAVIER, JJ.

Promulgated:

03 APR 2019

AW Cabalag Perfecto

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RESOLUTION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court filed by the petitioner Valencia (Bukidnon)

* On wellness leave.
¹ *Rollo*, pp. 12-34.

Farmers Cooperative Marketing Association, Inc. (petitioner FACOMA), represented by its Board of Directors, herein represented by the Board Chairman David M. Porticos, assailing the Decision² dated March 27, 2014 (assailed Decision) and Resolution³ dated August 13, 2015 (assailed Resolution) issued by the Court of Appeals - Cagayan de Oro City (CA) Twenty-first Division and Special Former Twenty-first Division, respectively, in CA-G.R. SP No. 04244-MIN, reversing the Resolution⁴ dated April 4, 2011 of the Regional Trial Court of Malaybalay City (RTC), Branch 8 in Civil Case No. 2663-97, which denied the Notice to Appeal filed by respondents Heirs of Amante P. Cabotaje (respondents Heirs of Cabotaje).

The Facts and Antecedent Proceedings

As narrated by the CA in the assailed Decision, the essential facts and antecedent proceedings of the instant case are as follows:

[Petitioner FACOMA,] represented by its Directors Sergio Belera and Pedro Pagonzaga instituted an action for quieting of title and recovery of ownership and possession of parcel of land, and damages against [respondents Heirs of Cabotaje] and Francisco Estrada.

On December 3, 2010, the [RTC] rendered a Decision[,] the *fallo* of which reads:

“**WHEREFORE**, judgment is issued in favor of the plaintiff and against the defendants ordering the Annulment and Cancellation of the Deed of Sale executed by Francisco Estrada in favor of Amante Cabotaje and all the Transfer Certificates of Titles issued pursuant thereto as follows:

x x x x

Ordering defendant Amante Cabotaje and members of his family, agents and assigns from interfering with plaintiff’s exercise of ownership over the properties and vacate the same if and when they succeed in taking possession thereof;

Ordering the demolition of all improvements introduced thereon in bad faith. Also ordering the Register of Deeds to restore the Certificates of Titles issued to the plaintiff subject hereof.”

Aggrieved, [respondents Heirs of Cabotaje] filed a Motion for Reconsideration[,] mainly contending the following:

1. [Petitioner] FACOMA has no legal personality to sue and be sued as [therein] defendant Francisco Estrada

² Id. at 38-44; penned by Associate Justice Renato C. Francisco, with Associate Justices Romulo V. Borja and Oscar V. Badelles concurring.

³ Id. at 47-50; penned by Associate Justice Romulo V. Borja, with Associate Justices Oscar V. Badelles and Henri Jean Paul B. Inting concurring.

⁴ Id. at 52-58. Penned by Presiding Judge Pelagio B. Estopia.



asseverated in his Answer. [Petitioner] FACOMA's failure to present to the [RTC the] original copy of the re-registration, according to [respondents Heirs of Cabotaje], would mean that it had no capacity to sue;

2. The Deed of Sale of the subject properties, which was allegedly admitted by [petitioner] FACOMA during the Pre-trial Conference and was allegedly executed and subscribed before a Notary Public is regular and valid contrary to the [RTC's] findings; and

3. The sale made by [therein] defendant Francisco Estrada to [respondents Heirs of Cabotaje] is also binding and valid.

On February 3, 2011, the [RTC] denied the aforesaid Motion for Reconsideration. Thus, on February 25, 2011, [respondents Heirs of Cabotaje] filed the Notice of Appeal. Incidentally, [petitioner] FACOMA filed a Motion to Dismiss the Notice of Appeal averring that the Motion for Reconsideration earlier filed by [respondents Heirs of Cabotaje] did not toll the running of the reglementary period to appeal for the reason that the Motion was but *pro forma* and raised no new issue.

On April 4, 2011, the [RTC] issued [a Resolution] which denied the Notice of Appeal for being filed out of time. [The RTC deemed the respondents Heirs of Cabotaje's Motion for Reconsideration as a *pro forma* motion, failing to toll the reglementary period to file an appeal.] Hence, [respondents Heirs of Cabotaje filed a Petition for Certiorari (Certiorari Petition) under Rule 65 of the Rules of Court on June 6, 2011. An Amended Petition for Certiorari⁵ dated July 25, 2011 was filed by respondents Heirs of Cabotaje.] x x x.⁶

[During the pendency of the Certiorari Petition before the CA, petitioner FACOMA filed a Motion for Execution of Judgment, which was initially denied by the RTC. Unsatisfied, petitioner FACOMA filed a Motion for Reconsideration of the RTC's denial of its Motion for Execution of Judgment. On December 13, 2011, the RTC issued a Resolution⁷ granting petitioner FACOMA's Motion for Execution of Judgment.]⁸

The Ruling of the CA

In the assailed Decision, the CA granted the Certiorari Petition filed by respondents Heirs of Cabotaje, setting aside the RTC's Resolution dated April 4, 2011. Consequently, the CA ordered the RTC to give due course to the respondents Heirs of Cabotaje's Notice of Appeal. The dispositive portion of the assailed Decision reads:

WHEREFORE, in view of the foregoing, the instant Petition for Certiorari is **GRANTED**. The assailed Resolution dated April 4, 2011 is

⁵ Id. at 61-77.

⁶ Id. at 39-41.

⁷ Id. at 59-60; penned by Acting Presiding Judge Dennis Z. Alcantar.

⁸ Id. at 16.

SET ASIDE. The Regional Trial Court, Branch 8, Malaybalay City is **ORDERED** to give due course of petitioners' Notice of Appeal.

SO ORDERED.⁹

In sum, the CA found that the Motion for Reconsideration filed by respondents Heirs of Cabotaje is not a *pro forma* motion. Hence, the Notice of Appeal filed by the latter, having been filed three days after receipt of the RTC's Resolution, was not filed out of time. On April 24, 2014, petitioner FACOMA filed a Motion for Reconsideration,¹⁰ which was eventually denied by the CA in its assailed Resolution.

Hence, the instant Petition.

Petitioner FACOMA filed a Motion for Early Resolution of Appeal¹¹ dated February 23, 2016. The respondents Heirs of Cabotaje filed their Comment¹² dated November 3, 2016 and Compliance¹³ dated November 4, 2016. Petitioner FACOMA responded by filing its Reply¹⁴ dated May 25, 2017.

Issues

In sum, the instant Petition presents three main issues for the Court's consideration:

(1) whether the CA erred in holding that what was assailed by the Certiorari Petition instituted by the respondents Heirs of Cabotaje was the RTC's Resolution dated April 4, 2011, which denied the latter's Notice of Appeal;

(2) whether the CA erred in holding that Notice of Appeal filed by the respondents Heirs of Cabotaje was wrongfully denied by the RTC, considering that the respondents' Motion for Reconsideration was not a *pro forma* motion; and

(3) whether the CA committed an error for failing to declare the Certiorari Petition moot and academic, considering that the RTC had granted the Motion for Execution of Judgment filed by petitioner FACOMA during the pendency of the Certiorari Petition.

The Court shall discuss the three aforementioned issues in *seriatim*.

⁹ Id. at 43-44.

¹⁰ Id. at 16; a copy of the pleading was not attached to the instant Petition.

¹¹ Id. at 108-112.

¹² Id. at 124-133. Document titled, "COMMENTS."

¹³ Id. at 117-123.

¹⁴ Id. at 141-142.



The Court's Ruling

- I. *The Certiorari Petition assailed the RTC's Resolution dated April 4, 2011 and not the Decision dated December 3, 2010.*

As its first submission, petitioner FACOMA argues that the allegations in the Certiorari Petition filed by respondents Heirs of Cabotaje reveal that what was actually being assailed by the latter in their Certiorari Petition was the RTC's Decision dated December 3, 2010 which granted petitioner FACOMA's complaint for quieting of title and recovery of ownership and possession over the subject property, and not the RTC's Resolution dated April 4, 2011 which denied the Notice of Appeal filed by respondents Heirs of Cabotaje. Hence, petitioner FACOMA maintains that respondents Heirs of Cabotaje's Certiorari Petition should have been dismissed as it was tantamount to being an illegal substitute to a lost appeal.¹⁵

The Court finds the first submission of petitioner FACOMA unmeritorious.

The CA found as a fact that the Certiorari Petition filed by respondents Heirs of Cabotaje was centered on the RTC's Resolution dated April 4, 2011, which denied the Notice of Appeal filed by the latter due to the respondents' Motion for Reconsideration supposedly being *pro forma*:

[A] reading of the [Certiorari Petition] shows that what was assailed by the [respondents Heirs of Cabotaje] was the Resolution dated April 4, 2011 denying their Notice of Appeal, a copy thereof was received by them on April 6, 2011, and not the December 3, 2010 [D]ecision adverted to by [petitioner FACOMA] x x x.¹⁶

Well-settled is the rule that the Court is not a trier of facts. When supported by substantial evidence, the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court.¹⁷

The Court finds no cogent reason to reverse the factual finding of the CA that the Certiorari Petition filed by respondents Heirs of Cabotaje, as a fact, assailed the RTC's Resolution dated April 4, 2011. To be sure, a simple perusal of the Certiorari Petition reveals that respondents Heirs of Cabotaje allege in their Petition that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its Resolution dated April 4, 2011:

In view of the 4 April 2011 Resolution of the [RTC] denying due course to their [N]otice of [A]ppeal, [the respondents Heirs of Cabotaje are] left with no plain, speedy, and adequate remedy in the ordinary course of law, but to file this [Certiorari Petition] in

¹⁵ Id. at 21-23.

¹⁶ Id. at 50.

¹⁷ *Ontimare, Jr. v. Elep*, 515 Phil. 237, 245 (2006).



accordance with Rule 65 and Section 3, Rule 46 of the Revised Rules of Court in the Philippines (As Amended).¹⁸

Hence, the Court resolves to deny petitioner FACOMA's first submission.

II. *The respondents Heirs of Cabotaje's Motion for Reconsideration on the RTC's Decision dated December 3, 2010 is not a pro forma motion. Hence the Notice of Appeal filed by the respondents Heirs of Cabotaje should be given due course.*

As to the second issue raised by petitioner FACOMA, the latter argues that the CA erred in holding that the RTC committed grave abuse of discretion in denying the Notice of Appeal filed by respondents Heirs of Cabotaje on the ground that their Motion for Reconsideration was purportedly a *pro forma* motion.

Again, the Court finds the second submission of petitioner FACOMA without merit.

As jurisprudence dictates, grave abuse of discretion arises when a lower court or tribunal patently violates the Constitution, the law or existing jurisprudence.¹⁹

In its Resolution dated April 4, 2011, the RTC found the respondents Heirs of Cabotaje's Motion for Reconsideration a *pro forma* motion because it did not raise any new arguments. However, the Court has decided in a *catena* of cases that the mere reiteration in a motion for reconsideration of the issues raised by the parties and passed upon by the court does not make a motion *pro forma*. The Court, in *Coquilla v. Commission on Elections*,²⁰ held that:

x x x The mere reiteration in a motion for reconsideration of the issues raised by the parties and passed upon by the court does not make a motion *pro forma* otherwise, the movant's remedy would not be a reconsideration of the decision but a new trial or some other remedy. But, as we have held in another case:

Among the ends to which a motion for reconsideration is addressed, one is precisely to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence and in doing so, the movant has to dwell of necessity upon the issues passed upon by the court. If a motion for reconsideration may not discuss these issues, the consequence would be that after a decision is rendered,

¹⁸ *Rollo*, p. 72; emphasis and underscoring supplied.

¹⁹ *Spouses Marquez v. Spouses Alindog*, 725 Phil. 237, 251 (2014), citing *Tagolino v. House of Representatives Electoral Tribunal*, 706 Phil. 534 (2013).

²⁰ 434 Phil. 861 (2002).

the losing party would be confined to filing only motions for reopening and new trial.

Indeed, in the cases where a motion for reconsideration was held to be *pro forma*, the motion was so held because (1) it was a second motion for reconsideration, or (2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence, or (3) it failed to substantiate the alleged errors, or (4) it merely alleged that the decision in question was contrary to law, or (5) the adverse party was not given notice thereof.²¹

Thus, it is evidently settled that the respondents Heirs of Cabotaje's Motion for Reconsideration is not a *pro forma* motion. It is not alleged to be a second motion for reconsideration. It is not contended that the said Motion failed to specify the findings and conclusions contained in the RTC's Decision that the respondents Heirs of Cabotaje opined were contrary to law or not supported by the evidence. It is likewise not alleged that the said Motion merely alleged that the Decision in question was contrary to law without making any explanation.

In addition, the CA was correct in invoking the Court's Decision in *Department of Agrarian Reform v. Uy*,²² citing *Security Bank and Trust Company, Inc. v. Cuenca*,²³ which held that a motion for reconsideration is not *pro forma* just because it reiterated the arguments earlier passed upon and rejected by the appellate court. **A movant may raise the same arguments precisely to convince the court that its ruling was erroneous.**

As found by the CA, "[a] thorough examination of the Motion for Reconsideration reveals that **[respondents Heirs of Cabotaje] had stressed the issue on [petitioner] FACOMA's legal capacity to sue them which [was] not discussed in the Decision dated December 3, 2010.** This alone would readily tell Us that [respondents Heirs of Cabotaje's] [M]otion for [R]econsideration was not *pro forma*."²⁴

Hence, the Court upholds the CA's finding that respondents Heirs of Cabotaje's Motion for Reconsideration on the RTC's Decision dated December 3, 2010 is not a *pro forma* motion that prevented the tolling of the reglementary period to file an appeal. Hence, the Court sustains the CA's order upon the RTC to give due course to the Notice of Appeal filed by respondents Heirs of Cabotaje.

III. *The instant case has not been rendered moot and academic by the RTC's granting of petitioner FACOMA's Motion for Execution of Judgment.*

²¹ Id. at 868-869.

²² 544 Phil. 308, 329 (2007).

²³ 396 Phil. 108 (2000).

²⁴ *Rollo*, p. 42; emphasis and underscoring supplied.



Finally, as to petitioner FACOMA's theory that the execution of the RTC's Decision has purportedly made the instant case moot and academic, this too is without any merit.

The Court agrees with the CA when it held that the "alleged execution of the RTC judgment cannot be considered as a supervening event that would automatically moot the issues in this petition."²⁵

A case or issue is considered moot and academic only when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.²⁶

However, it must be stressed that the Rules of Court precisely covers the situation wherein an already executed judgment may still be reversed or remedied upon appeal. In other words, according to the Rules of Court, the execution of a judgment may not necessarily be a supervening event that renders an appeal without value and of no practical value.

Rule 39, Section 5 of the Rules of Court states that where the executed judgment is reversed totally or partially, or annulled, on appeal or otherwise, the trial court may, on motion, issue such orders of restitution or reparation of damages as equity and justice may warrant under the circumstances.

Simply stated, in the eventuality that the appeal of respondents Heirs of Cabotaje will prosper, contrary to the mistaken view of petitioner FACOMA, the RTC may still order the restitution or reparation of damages in favor of respondents Heirs of Cabotaje. Hence, the argument raised by petitioner FACOMA is erroneous; the appeal filed by respondents Heirs of Cabotaje would not be a futile and purely hypothetical exercise that has no practical use or value.

As held by the Court in *Silverio v. Court of Appeals*,²⁷ execution "does not bar the continuance of the appeal on the merits, for the Rules of Court precisely provide for restitution according to equity and justice in case the executed judgment is reversed on appeal."²⁸

In *Regulus Development, Inc. v. Dela Cruz*,²⁹ the petitioners therein claimed that the therein assailed CA petition, which was a Rule 65 Petition (such as in the instant case), should have been dismissed for being moot and academic because the lower court's judgment had already been executed. In the said case, the Court denied the therein petitioner's argument, holding that "[a]n **issue on jurisdiction** prevents the petition [for Certiorari pending with the CA] from becoming 'moot and academic' [despite the execution of the lower court's judgment.]"³⁰ In the instant case, it is undeniable that the RTC was allegedly and subsequently found to have committed grave abuse of

²⁵ Id. at 50.

²⁶ *Regulus Development, Inc. v. Dela Cruz*, 779 Phil. 75, 85 (2016).

²⁷ 225 Phil. 459 (1986).

²⁸ Id. at 479.

²⁹ 779 Phil. 75 (2016).

³⁰ Id. at 85; emphasis supplied.



discretion that amounted to a lack or excess of jurisdiction; an issue of jurisdiction is extant.

Further, in *Carpio v. Court of Appeals*,³¹ the Court explained that the execution of a lower court's judgment

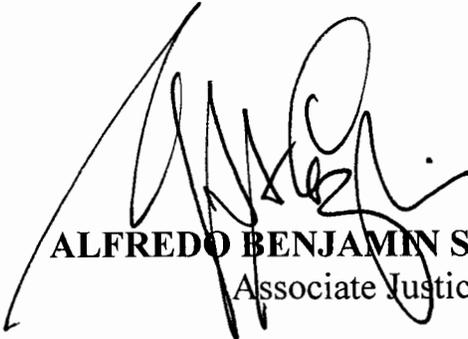
cannot be considered as a supervening event that would automatically moot the issues in the appealed case x x x. Otherwise, there would be no use appealing a judgment, once a writ of execution is issued and satisfied. That situation would be absurd. On the contrary, the Rules of Court in fact provides for cases of reversal or annulment of an executed judgment. Section 5 of Rule 39 provides that in those cases, there should be restitution or reparation as warranted by justice and equity. Therefore, barring any supervening event, **there is still the possibility of the appellate court's reversal of the appealed decision — even if already executed — and, consequently, of a restitution or a reparation.**³²

Hence, the Court finds the third submission of petitioner FACOMA lacking in merit.

All told, petitioner FACOMA failed to present any reversible error committed by the CA in issuing the assailed Decision and Resolution that would warrant the Court's exercise of its discretionary appellate jurisdiction.

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated March 27, 2014 and Resolution dated August 13, 2015 issued by the Court of Appeals - Cagayan de Oro City Twenty-first Division and Special Former Twenty-First Division, respectively, in CA-G.R. SP No. 04244-MIN are **AFFIRMED**.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

³¹ 705 Phil. 153 (2013).

³² Id. at 163; emphasis supplied.

Ms. Kent
ESTELA M. PERLAS-BERNABE
Associate Justice

(On wellness leave)
JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

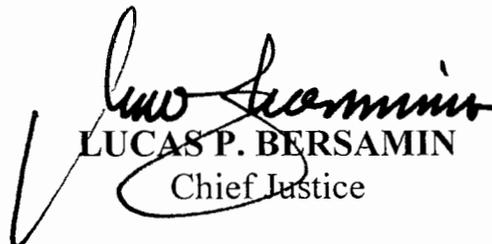
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice

