



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **15 March 2021** which reads as follows:*

“G.R. No. 255370 (Graciano Galas herein represented by Wensie G. Dequilla, Cristina Galas Cagayan-Gaitan and Catalino Galas Cagayan v. Adelina Bongar-Mateo). –

In Civil Case No. 432-NV entitled “*Adelina Bongar-Mateo v. Graciano Galas, Cristina Galas Cagayan-Gaitan, and Catalino Galas Cagayan*” for forcible entry, the Municipal Circuit Trial Court (MCTC) – Jordan-Buenavista-Nueva Valencia-San Lorenzo-Sibunag, Sixth Judicial Region, Jordan, Guimaras, rendered a Decision¹ dated October 27, 2006 in respondent’s favor, thus:

WHEREFORE PREMISES CONSIDERED, judgment is hereby rendered in favor of the plaintiff and against the defendants, as follows:

1. Ordering the defendants to vacate from Lot No. 2108 Pls 775 located at Brgy. Napandong, Nueva Valencia, Guimaras and covered with Katibayan Ng Orihinal Na Titulo Blg. EG-1885 and to deliver possession de facto thereof to the plaintiff;
2. Ordering the defendants to demolish and remove the fence and the house they constructed inside the said lot;
3. Ordering the defendants to solidarily pay the plaintiff attorney’s fee of P5,000.00 and appearance fee of plaintiff’s lawyer in the sum of P1,000.00 per court appearance; and

¹ *Rollo*, pp. 39-44.

4. Ordering the defendants to solidarily pay the costs of this suit.

SO ORDERED.²

On appeal, the Regional Trial Court (RTC), Branch 65, San Miguel, Jordan, Guimaras, under Order³ dated June 15, 2007, affirmed but recognized petitioners' right, as co-heirs of one Isidro Galas, to demand partition of the subject property.

Petitioners' subsequent appeal by petition for review, and thereafter, their motion for reconsideration were both denied by the Court of Appeals.⁴ This decree of denial became final and executory on July 24, 2014.⁵

Respondent then filed with the Court of Appeals her Respectful Motion to Remand the Records to and/or Order the Honorable 1st MCTC, Jordan, Guimaras to Issue Writ of Execution⁶ dated October 1, 2018.

By Resolution⁷ dated January 24, 2019, the Court of Appeals denied the motion because: 1) no records were actually elevated to the Court of Appeals; and 2) the motion for issuance of writ of execution should have been filed before the MCTC.

Meantime, by Order⁸ dated February 27, 2019, the RTC directed the remand of the records to the MCTC.

Respondent thus filed with the MCTC her Motion for Execution⁹ dated September 9, 2019.

By Order¹⁰ dated September 20, 2019, the MCTC granted the motion for execution and issued the corresponding Writ of Execution¹¹ dated October 7, 2019.

But in their Motion to Quash Writ of Execution¹² dated December 16, 2019, petitioners argued that the motion for execution should not have been granted because it was filed beyond five years from finality of judgment. A separate action for revival of judgment, instead, should have been initiated.

² *Id.* at 44.

³ *Id.* at 45-49.

⁴ *Id.* at 50-51.

⁵ *Id.* at 52.

⁶ *Id.* at 54-55.

⁷ *Id.* at 57-58.

⁸ *Id.* at 59.

⁹ *Id.* at 60-62.

¹⁰ *Id.* at 65-66.

¹¹ *Id.* at 67-68.

¹² *Id.* at 69-73.

In her Comment¹³ dated December 28, 2019, respondent countered that her motion to remand the case/order the MCTC to issue a writ of execution with the Court of Appeals tolled the running of the five-year period. Under Section 1, Rule 39 of the 1997 Rules of Civil Procedure, the Court of Appeals can, on motion, in the same case and when the interest of justice so requires, allegedly direct the court of origin to issue a writ of execution. Considering that her motion pended with the Court of Appeals for four (4) months and eighteen (18) days, the five-year period is deemed to have expired only on December 12, 2019.

By Order¹⁴ dated January 16, 2020, the MCTC denied the motion to quash, thus:

The pendency of the Motion to Remand the Records to and/or Order the Honorable 1st MCTC Jordan, Guimaras to issue Writ of Execution before the Court of Appeals, Cebu City, for a period of more than four (4) months, has effectively tolled the five-year *reglementary* period to enforce a judgment by motion. Hence, the motion for the issuance of writ of execution filed by the plaintiff on September 12, 2019 as well as the issuance of the writ of execution on October 7, 2019 were well within the five-year *reglementary* period as embodied under the rules.

It was the reason, precisely, under the figured circumstances that this Court gave due course to the execution of the judgment in this case by mere motion.

The rules does not prohibit the plaintiff from availing of the remedy in securing a writ of execution from the appellate court pursuant to *Section 1, Rule 39 (3) of the Revised Rules of Court*, which states that: “the appellate court, may on motion in the same case, when the interest of justice so requires, direct the court of origin to issue writ of execution.” Thus, the filing of the motion for execution in the appellate court before the five-year prescriptive period should not be attributed against the plaintiff as cause of delay after it was denied due course.

Under the principle of equity, the period of delay through no fault of the prevailing party should not be included in computing the five-year period to execute a judgment by motion. (*Judge Narciso M. Aguilar, Remedial Law, Basic Provisions Annotated, page 333, 2009 ed.*)

Every litigation must come to an end the winning party must be afforded the fruits of litigation, that is through its execution.¹⁵ (Emphasis supplied)

Petitioners’ Motion for Reconsideration¹⁶ was denied under Order¹⁷ dated February 6, 2020.

¹³ *Id.* at 75-80.

¹⁴ *Id.* at 81-83.

¹⁵ *Id.* at 82-83.

¹⁶ *Id.* at 84-88.

¹⁷ *Id.* at 89.

This time, petitioners filed with the RTC a special civil action for certiorari,¹⁸ reiterating that in view of the belated filing of the motion for execution, the same should have been denied.

By its assailed Decision¹⁹ dated August 11, 2020, the RTC affirmed in full, and under Order²⁰ dated October 7, 2020, denied petitioners' motion for reconsideration.

The Present Petition

Petitioners now seek direct relief from the Court *via* Rule 45 on a pure question of law.²¹

The petition must fail.

Section 11, Rule 51 of the 1997 Civil Procedure reads:

Section 11. Execution of judgment. — Except where the judgment or final order or resolution, or a portion thereof, is ordered to be immediately executory, the motion for its execution may only be filed in the proper court after its entry.

In original actions in the Court of Appeals, its writ of execution shall be accompanied by a certified true copy of the entry of judgment or final resolution and addressed to any appropriate officer for its enforcement.

In appealed cases, where the motion for execution pending appeal is filed in the Court of Appeals at a time that it is in possession of the original record or the record on appeal, the resolution granting such motion shall be transmitted to the lower court from which the case originated, together with a certified true copy of the judgment or final order to be executed, with a directive for such court of origin to issue the proper writ for its enforcement. (n) (Emphasis supplied)

*Mina v. Vianzon*²² further teaches:

It is, therefore, clear that in the execution of the judgment in ejectment cases, the issuance of a demolition order is within the jurisdiction of the Municipal Trial Court which rendered the decision. The Regional Trial Court that affirms the decision of the Municipal Trial Court cannot order execution of its judgment. The exception is when the Regional Trial Court grants execution pending appeal.

¹⁸ *Id.* at 90-110.

¹⁹ *Id.* at 34-37.

²⁰ *Id.* at 38.

²¹ *Id.* at 4-30.

²² 469 Phil. 886, 892-893 (2004).

In the present case, the execution ordered by the respondent judge was not one in a case pending appeal. For the decision of the Court of Appeals was rendered on September 22, 1999 and the same became final and executory on October 16, 1999. The order granting the motion for execution was issued on April 12, 2000. By the latter date, the judgment of the Court of Appeals had already become final and executory, depriving the RTC of jurisdiction to issue the order. It is of no moment that the motion for execution was filed on October 8, 1998.

Relevant herein is the ruling in *City of Manila v. Court of Appeals*, 204 SCRA 362, 369 (1991):

The rule is that if the judgment of the Metropolitan Trial Court is appealed to the Regional Trial Court and the decision of the latter is itself elevated to the Court of Appeals, whose decision thereafter becomes final, the case should be remanded through the Regional Trial Court to the Metropolitan Trial Court for execution. The only exception is the execution pending appeal, which can be issued by the Regional Trial Court under Section 18 [now Section 21] of Rule 70 or the Court of Appeals or the Supreme Court under Section 10 [now Section 21] of the same Rule. (Emphasis supplied)

Here, since it is the MCTC which has jurisdiction to issue the writ of execution, respondent should have filed her motion for execution before said court. On this score, we cannot sustain the uniform rulings of the courts below that respondent's erroneous filing of the motion for execution with the Court of Appeals effectively tolled the running of the five-year period within which to execute the final and executory decision, by mere motion. The availment of a remedy in the wrong court does not toll the running of the reglementary period.²³

Even then, we ought to reckon with *Basilonia v. Villaruz*,²⁴ viz.:

Nonetheless, jurisprudence is replete with a number of exceptions wherein the Court, on meritorious grounds, allowed execution of judgment despite non-observance of the time bar. In *Lancita, et al. v. Magbanua, et al.* it was held:

In computing the time limited for suing out an execution, although there is authority to the contrary, the general rule is that there should not be included the time when execution is stayed, either by agreement of the parties for a definite time, by injunction, by the taking of an appeal or writ of error so as to operate as a supersedeas, by the death of a party, or otherwise. Any interruption or delay occasioned by the debtor will extend the time within which the writ may be issued without *scire facias*. x x x x.

Thus, the demands of justice and fairness were contemplated in the following instances: dilatory tactics and legal maneuverings of the

²³ See *City of Lapu-Lapu v. PEZA*, 748 Phil. 473 (2014).

²⁴ 766 Phil. 1, 15-17 (2015).

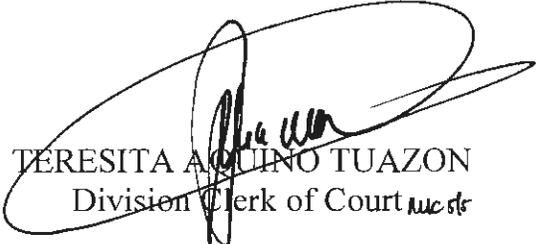
judgment obligor which redounded to its benefit; agreement of the parties to defer or suspend the enforcement of the judgment; **strict application of the rules would result in injustice to the prevailing party to whom no fault could be attributed** but relaxation thereof would cause no prejudice to the judgment obligor who did not question the judgment sought to be executed; and **the satisfaction of the judgment was already beyond the control of the prevailing party as he did what he was supposed to do**. Essentially, We allowed execution even after the prescribed period elapsed when the delay is caused or occasioned by actions of the judgment debtor and/or is incurred for his benefit or advantage. (Emphasis supplied)

Here, there are three (3) compelling reasons why the belated motion for execution should be granted. **First**, this case has pended since 2006 or for fifteen (15) years already without yet any closure in sight. To require respondent to go through another full blown litigation to execute what she rightfully deserves under the law would certainly cause her grave injustice. Procedural rules are meant to aid in the speedy and orderly dispensation of justice; and never to cause injustice or inequity. **Second**, although respondent went to the wrong forum for her motion to execute, she cannot be said to have slept on her right because she actually initiated the same within the five-year prescriptive period. **Third**, it is simply nonsensical to push back the proceedings for another lifetime of delay, so to speak, just because respondent incurred a slight delay of four (4) months and eighteen (18) days in the filing of the correct motion with the MCTC. Not only will this entail more expense for both parties and the judiciary, it will also cause the further clogging of the court dockets, not to mention adding unnecessary burden to our already overworked judges and court personnel. Most of all, trite as it may be, justice delayed is justice denied.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *nic str*

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 65
San Miguel, Jordan, Guimaras
(Special Civil Action No. 20-0668)

HON. PRESIDING JUDGE (reg)
Municipal Circuit Trial Court
Jordan-Nueva Valencia-Sibunag
Jordan, Guimaras
(Civil Case No. 432-NV)

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