

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**FELOMINO RAMIREZ and RUSTICO
VALDEZ,**

Petitioners,

-versus-

**G.R. No. L-45640
July 30, 1981**

**HON. ILDEFONSO BLEZA, Judge of the
Court of First Instance of Oriental
Mindoro, HON. ZACARIAS V. GARCIA,
Municipal Judge of Bongabong,
Oriental Mindoro, PABLO QUIJOL,
ABEDIANO GAANAN, and DR.
CONSTANCIO BONDAL,**

Respondents.

X-----X

DECISION

CONCEPCION, JR., J p:

***BARREDO, J., concurring:
AQUINO, J., concurring:***

Petition for *Certiorari* and Mandamus, to Annul and Set Aside the Orders of the respondent judge of first instance, dated February 23

and October 7, 1976, and the order of the respondent municipal judge, dated March 24, 1976, all issued in Civil Case No. R-184 of the Municipal Court of Bongabong, Oriental Mindoro, entitled: “Constancio Bundal, et al., plaintiffs, versus. Felomino Ramirez, et al., defendants”, as well as the resolution dated October 11, 1976 issued in Special Proceeding No. R-131 of the Court of First Instance of Oriental Mindoro, entitled: “Felomino Ramirez, et al., plaintiffs, versus. Constancio Bundal, et al., respondents”, and the order dated November 4, 1976, denying the motion for the reconsideration of the said resolution; and to order the respondent municipal judge of Bongabong, Oriental Mindoro to issue the writ of execution of the judgment rendered in Civil Case No. R-184 of the said court.

The facts are undisputed. It appears that on September 3, 1973, herein private respondents Pablo Quijol, Abediano Gaanan, and Constancio Bondal, filed an action for forcible entry against Felomino Ramirez and Rustico Valdez with the Municipal Court of Bongabong, Oriental Mindoro, to recover possession of a portion of Lot 654 of the Bongabong Cadastre, situated in Barrio Anilao, Bongabong, Oriental Mindoro.^[1] The defendants, petitioners herein, filed an answer thereto, asserting that Felomino Ramirez is the owner of the land occupied by them while the defendant Rustico Valdez is his tenant thereon; and counter-claimed that the plaintiffs had illegally usurped a portion of Lot 654, with an area of about 6.2399 hectares and refused to vacate the same notwithstanding demands. Wherefore, they prayed that the plaintiffs be ordered to vacate that portion of Lot 654 unlawfully occupied and possessed by them and to pay the defendants reasonable damages.^[2] On September 15, 1973, the defendants filed a petition for the issuance of a writ of preliminary mandatory injunction,^[3] which the court granted upon the filing of a bond in the amount of P1,000.00.^[4]

On September 16, 1975, the court rendered judgment, as follows:^[5]

“WHEREFORE, this court hereby renders judgment in favor of the defendants FELOMINO RAMIREZ and RUSTICO VALDEZ and against the plaintiffs Pablo Quijol and his co-hort Perfecto Fedelino, Constancio Bondal and his co-hort Uldarico Martenecio, and Abediano Gaanan and his co-hort Nemesio Gaanan and Salvador Root, as follows:

- “1. Declaring permanent the Writ of Preliminary Injunction issued by this court on February 7, 1974;
- “2. Declaring defendant Felomino Ramirez to be the lawful occupant and possessor of a portion of the Lot 654 with an area of 6.2399 hectares, situated in the Barrio of Anilao, this municipality;
- “3. Declaring the plaintiffs and their co-horts to have unlawfully entered and occupied the eastern portion of the 6.2399 hectares claimed by defendant Felomino Ramirez and depicted in Annex ‘2’ of the answer;
- “4. Ordering the plaintiffs and their co-horts if still they are in possession to vacate the eastern portion aforesaid and restore unto the defendants the peaceful possession of said portion within fifteen (15) days upon receipt hereof;
- “5. Ordering the plaintiffs to pay jointly and severally unto the defendants the amount of One Thousand Pesos as attorney’s fee.

“No findings as to costs.”

The plaintiffs filed a notice of appeal without, however, submitting the corresponding appeal bond, so that on November 10, 1975, the respondent municipal judge ordered them to submit the bond.^[6] Obviously, the plaintiffs failed to comply with the said order, for on February 23, 1976, the respondent judge of first instance, to whom the records of Civil Case No. R-184 were erroneously forwarded, issued an order, which reads:^[7]

“ORDER

“It appearing that the appeal interposed by the appellant has not been perfected aside from the fact that appellant had filed

before this Court Civil Case No. R-436, Bondal et al. vs. Ramirez et al. for Recovery of Ownership between the same parties;

“WHEREFORE, let the records of this case be returned to the Municipal Court of origin to await the outcome of Civil Case No. R-436 of this Court.”

On March 18, 1976, the defendants filed a motion with the Municipal Court praying that the judgment rendered in Civil Case No. R-184 be entered and that a writ of execution be issued.^[8] The said court, however, denied the motion for the reason that “the Court of First Instance had returned the records of this case to this Court to await the outcome of Civil Case No. 436”, so that “this Court apparently could not take any action regarding the instant motion for the issuance of a writ of execution.”^[9] Consequently, the defendants filed a petition for mandamus with the Court of First Instance of Oriental Mindoro, docketed therein as Special Proceeding No. R-131, to compel the respondent municipal judge to issue the writ of execution prayed for.^[10] But the court, in its resolution dated October 11, 1976, denied the petition for lack of merit.^[11] The defendants filed a motion for the reconsideration of said resolution,^[12] but the motion was denied on November 4, 1976.^[13] On October 7, 1976, the respondent judge of first instance ordered the transfer of the records of Civil Case No. R-184 to his court.^[14] Whereupon, the defendants filed the instant recourse.

The petitioners contend that the respondent judge of first instance had no jurisdiction to hold the execution of the judgment rendered in Civil Case No. R-184, to await the outcome of Civil Case No. 436, since no appeal was perfected from the decision of the Municipal Court in Civil Case No. R-184 as to confer the court of first instance with appellate jurisdiction over Civil Case No. R-184; and that the petitioners have clearly shown that they are entitled to the writ of execution because the judgment rendered in Civil Case No. R-184 had already become final and executory.

The private respondents, upon the other hand, claim that “the subject petition for Review on Certiorari with Mandamus is without merit made purposely for delay considering the fact that the land subject matter in Forcible Entry Case No. 184 of the Municipal Court of

Bongabong, Oriental Mindoro is the same land subject matter in Civil Case No. 269 of the Court of First Instance of Oriental Mindoro, Pinamalayan Branch wherein the herein respondents Dr. Gaudencio Bondal and others were declared owners of the portion claimed against the petitioner, the decision is now final and executory.”^[15]

There is merit in the petition. To begin with, the Court of First Instance of Oriental Mindoro had not acquired appellate jurisdiction over Civil Case No. 184 of the Municipal Court of Bongabong, Oriental Mindoro because the appellants therein (now private respondents) failed to perfect their appeal within the reglementary period. Well settled is rule that if a party does not perfect his appeal within the time prescribed by law, the appellate court cannot acquire jurisdiction.^[16] Hence, the order of the respondent judge of first instance, dated February 23, 1976, directing the respondent Municipal Judge of Bongabong, Oriental Mindoro to hold the execution of the judgment rendered in Civil Case No. R-184 to await the outcome of Civil Case No. R-436, was issued without jurisdiction.

Besides, it appears that Civil Case No. R-436 was filed by the herein private respondents with the Court of First Instance of Oriental Mindoro on January 20, 1976, “in a final bid to recover the property in question from the petitioners herein who were adjudged to be in possession in the said forcible entry case,”^[17] after the decision rendered in Civil Case No. 184 had become final and executory, and designed to set at naught the said final judgment. Thus, in the Resolution,^[18] dated October 11, 1976, issued in Special Proceeding No. R-131, the respondent judge justified the filing of Civil Case No. 436, as follows:

“Consequently, the filing of the case No. 436 for recovery of possession by the respondent against the herein petitioners was proper and sanctioned by law and jurisprudence because it is only in so doing that they may be able to repossess the property now in the possession of the petitioners. In fine, the decision of the respondent judge in the forcible entry case, referring as it does only to possession, cannot determine with finality who is the owner or owners of the land in question. To allow the lower court to issue the writ of execution sought by the petitioners without their right and those of the respondents being first

determined in the Civil Case No. 436 for recovery of possession would certainly result in chaos and confusion tending to becloud rather than clarify the issue of possession. Furthermore, if the lower court should issue the writ of execution and petitioners are placed in possession of the property, and later on, in Civil Case No. 436 respondents are adjudged the lawful owners of the same property, they cannot be precluded from likewise asking for a writ of execution to enable them to recover its possession from the petitioners.”

Under our rules of procedure, the validity of a judgment or order of the court which has become final and executory may be attacked only by a direct action or proceeding to annul the same, or by motion in another case if the court had no jurisdiction to enter the order or pronounce the judgment. To sustain a collateral attack on a judgment, the record must show that the court lacked jurisdiction to render the judgment.^[19] In the instant case, there is no showing, much less an allegation, that the Municipal Court of Bongabong, Oriental Mindoro lacked jurisdiction to render judgment in Civil Case No. 184. For this reason, the order of February 12, 1976, holding in abeyance the execution of the judgment in Civil Case No. R-184 to await the disposition of Civil Case No. 436, was improperly issued.

Moreover, the pendency of Civil Case No. R-436, an “*accion publiciana*”, where ownership is concededly the principal issue,^[20] before the Court of First Instance of Oriental Mindoro, does not preclude nor bar the execution of the judgment rendered in Civil Case No. R-184, where the action was for forcible entry and the only issue involved was the material possession or possession de facto of the land under litigation. Such action which involves the title over the premises is entirely independent from forcible entry.

WHEREFORE, the petition is granted and the orders, dated February 23, October 7, and March 24, 1976, all issued in Civil Case No. R-184 of the Municipal Court of Bongabong, Oriental Mindoro, are hereby annulled and set aside. The resolution, dated October 11, 1976, and the order dated November 4, 1976, both issued in Special Proceeding No. R-131 of the Court of First Instance of Oriental Mindoro, are accordingly reversed and another one entered ordering the respondent municipal judge of Bongabong, Oriental Mindoro, to

issue the writ of execution in Civil Case No. R-184. Costs against the private respondents.

SO ORDERED.

Guerrero^[*] and De Castro, JJ., concur.

SEPARATE OPINIONS

BARREDO, J., concurring:

I concur, without prejudice to the result of the ownership case in Civil Case No. 269.

AQUINO, J., concurring:

I concur. Respondent Judge of First Instance acted with grave abuse of discretion in preventing the execution of the final and executory judgment of the Municipal Court in the ejectment case on the flimsy pretext that another possessory action was pending in his court involving the same land.

The judgment of the municipal court is *res judicata* as to the issue of possession *de facto* but is not conclusive as to the title or ownership (Sec. 7, Rule 70, Rules of Court; *Peñalosa vs. Tuason*, 22 Phil. 303).

Possession and ownership of a parcel of land may be held by different persons. The winning party is entitled to the execution of the Municipal court's final judgment as to possession. The enforcement of that judgment would not cause "chaos and confusion."

[1] Rollo, p. 15.

[2] *Id.*, p. 18.

[3] *Id.*, p. 26.

- [4] Id., p. 30.
[5] Id., p. 32.
[6] Id., p. 43.
[7] Id., p. 49.
[8] Id., p. 44.
[9] Id., p. 47.
[10] Id., p. 50.
[11] Id., p. 56.
[12] Id., p. 62.
[13] Id., p. 65.
[14] Id., pp. 66, 67.
[15] See Comment, Rollo, p. 75. The respondents, however, did not attach a copy of the decision rendered in Civil Case No. 269.
[16] Valdez vs. Ocumen, 106 Phil. 929 and case cited therein.
[17] Rollo, p. 59.
[18] Id., pp. 60-61.
[19] Rosensons, Inc. vs. Jimenez, L-41225, November 11, 1975; 68 SCRA 24.
[20] Rollo, p. 59.
[*] Justice Juvenal K. Guerrero, a member of the First Division was designated to sit in the Second Division in lieu of Justice Vicente Abad Santos who is on official leave.