Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

MAYOR MARCIAL VARGAS and ENGR. RAYMUNDO DEL ROSARIO, Petitioners,	**G.R. No. 171095**
	Present:
	VELASCO, JR., *J., Chairperson*, PERALTA, VILLARAMA, JR.,
-versus-	REYES, and JARDELEZA, *JJ.*
	Promulgated:
FORTUNATO CAJUCOM, Respondent.	June 22, 2015

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D E C I S I O N

PERALTA, *J.*:

Before the Court is a petition for review assailing the trial court's Order denying petitioners' motion to quash a writ of execution.

The facts are as follows:

On August 15, 2000, Fortunato Cajucom (*Cajucom*) filed with the Regional Trial Court (*RTC*) of Cabanatuan City a Complaint for *mandamus* and abatement of nuisance against the Municipal Mayor of Aliaga, Nueva Ecija, in the person of Mayor Marcial Vargas (*Mayor Vargas*), the Municipal Engineer of Aliaga, Nueva Ecija, namely, Engr. Raymundo del Rosario (*Engr. del Rosario*), and a number of private persons, namely, Rodel Puno, Vicente Mata, Tony Maderia, Rene Maderia, and German Maderia (*Puno, et*

al.).[1] The case was docketed as Civil Case No. 3776 and assigned to the RTC of Cabanatuan City, Branch 86.[2]

In the complaint, Cajucom alleged that he had intended to start a gasoline station business on his lot in Aliaga, Nueva Ecija, but several illegal structures built on the road shoulder by Puno, *et al*. were obstructing access to his site, thus, also frustrating his plan. He claimed that demand was made for Puno, et al. to remove their structures, but to no avail. Cajucom then alleged that he tried to enlist the help of Mayor Vargas and Engr. Del Rosario, but the latter similarly did not act. Cajucom ultimately prayed for the court to command the said municipal mayor and engineer to cause the removal of all buildings and structures built on the concerned road shoulder by Puno, *et al*.

On February 14, 2001, the court rendered a Decision in favor of Cajucom.[3] It held that as correctly alleged by Cajucom, the mayor and municipal engineer failed to perform their duties under the Rules and Regulations Implementing the Local Government Code (*Republic Act No. 7160*), among which duties is the duty to order the demolition or removal of illegally constructed houses, buildings or other structures on the road shoulder.[4] Thus, the court held:

> WHEREFORE, in view of the foregoing the petition for MANDAMUS is hereby GRANTED and the public defendants Municipal Mayor Marcial Vargas and Municipal Engineer Raymundo del Rosario, both of the Municipality of Aliaga, Nueva Ecija, are hereby ordered to comply with the above-cited provision of law.
>
> IT IS SO ORDERED.[5]

No appeal was interposed from the decision.[6] As the decision became final and executory, Cajucom filed a Motion for the Issuance of a Writ of Execution.[7]

On May 11, 2001, the RTC issued an Order granting Cajucom's motion.[8] It directed that a writ of execution be issued to implement and enforce the decision of February 14, 2001. Subsequently, a Writ of Execution was issued by the clerk of court on May 25, 2001.[9]

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1 *Rollo*, pp. 10, 70-71.
2 *Id*.
3 Records, pp. 37-38.
4 *Id.* at 36-37. The court did not address the issue of abatement of nuisance as it believed itself to be without jurisdiction to rule on the issue, per its Order dated September 15, 2005, *id*. at 186-191.
5 Records, p. 37.
6 *Rollo*, p. 11.
7 Records, p. 40.
8 *Id*. at 47.
9 *Id.* at 48.

Then, the court sheriff reported that on May 28, 2001, he served a copy of the writ of execution on Mayor Vargas and Engr. del Rosario.[10] The writ of execution was signed as received by the mayor's private secretary and by Engr. del Rosario on said date.[11] However, the sheriff also reported in his Return of Service dated July 2, 2001 that, as of June 13, 2001 the judgment has not been executed.[12]

Meanwhile, on February 8, 2002, Puno, *et al*. filed a petition for Annulment of Judgment with the Court of Appeals to annul the February 14, 2001 decision of the RTC.[13] That case was docketed as CA-G.R. SP No. 69035 entitled *Rodel Puno et al. v. Raymundo Annang, et al*. The grounds alleged in the petition include the trial court's lack of jurisdiction and its speculation as to certain facts of the case.[14] The CA, in a Decision dated January 12, 2005[15] and a Resolution dated March 18, 2005,[16] denied such petition. The appellate court held that the petition's allegations are flimsy and unacceptable in addition to the fact that Puno, *et al*. indeed have no right to build residential and commercial structures on the shoulder of a public road.[17] Puno, *et al*. then went to the Supreme Court via a Petition for *certiorari* with injunction and request for temporary restraining order (*TRO*), dated April 8, 2005, to assail the CA's decision denying the petition for annulment of judgment.[18] However, on May 3, 2005, the Supreme Court, in G.R. No. 167537 entitled *Rodel Puno, et al. v. Fortunato Cajucom,* denied the petition of Puno, *et al*.[19] A subsequent motion for reconsideration was likewise denied in another resolution dated July 27, 2005.[20]

On April 13, 2005, Cajucom filed a Motion to Compel Defendants Mayor Marcial Vargas and Engineer Raymundo Del Rosario to Implement the Writ of Execution and to Explain Why They Should Not Be Cited for Contempt of Court.[21]

In response to the said motion, Puno, *et al*. immediately filed their written Opposition (in lieu of oral arguments) to the same.[22] Likewise, Mayor Vargas and Engr. del Rosario filed their own Motion to Quash Writ of Execution with Explanation Why Public Defendants Should Not Be Cited for Contempt of Court.[23]

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10 *Id.* at 49.
11 *Id*. at 50.
12 *Id*. at 49.
13 *Id*. at 70.
14 *Id*. at 70-71.
15 *Id.* at 66-77.
16 *Id*. at 57-58.
17 *Id.* at 75-76.
18 *Id.* at 78-87. The case was subsequently treated as a petition for review on *certiorari* by the Supreme Court.
19 Records, p. 172.
20 *Id.*
21 *Id*. at 147-148.
22 *Id*. at 150-153.
23 *Id*. at 159-165.

Cajucom then followed up with a Motion to Punish Respondents Mayor Marcial Vargas and Municipal Engineer Raymundo Del Rosario for Contempt of Court.[24] Mayor Vargas and Engr. Del Rosario filed an Opposition[25] to the same.

On September 15, 2005, the RTC issued its assailed Order[26] denying the motion filed by Mayor Vargas and Engr. Del Rosario to quash the writ of execution of the court's Decision dated February 14, 2001. The court held that the mayor can be compelled to do his duty by writ of *mandamus*.[27] It also held that issuance of the writ was not premature as Cajucom had previously demanded for the structures to be removed but to no avail.[28] Meanwhile, the court suspended the resolution of the motion to punish Mayor Vargas and Engr. Del Rosario.[29] The dispositive portion of the said assailed Order states:

> WHEREFORE, premises considered, the Motion to Quash Writ of Execution filed by public defendants Mayor Marcial Vargas and Engr. Raymundo del Rosario, both of Aliaga, Nueva Ecija, is hereby DENIED for lack of merit. Their Explanation Why They Should Not Be Cited For Contempt Of Court is hereby NOTED. Said public defendants, however, are hereby granted a period of thirty (30) days from notice within which to implement and execute the decision of this court dated February 14, 2001 with respect to private defendants Rodel Puno, Vicente Mata, Tony Maderia, Rene Maderia and German Maderia, pursuant to Art. 87(b)(3)(VI) of Rule XV of the Implementing Rules and Regulations of the Local Government Code of 1991. For this purpose, let a writ of Mandamus be issued to Mayor Marcial Vargas and Municipal Engineer Raymundo del Rosario for execution.
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> The resolution of the Motion To Punish Respondents Municipal Mayor Marcial Vargas and Municipal Engineer Raymundo del Rosario For Contempt Of Court Pursuant to Sections 7 and 8 of Rule 71 of the 1997 Rules of Civil Procedure filed by the plaintiff through counsel is hereby SUSPENDED until after the lapse of the 30-day period from notice granted to the said public defendants to execute the decision of this court.
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> IT IS SO ORDERED.[30]

Hence, the petitioners, Mayor Vargas and Engr. Del Rosario, filed this petition. Petitioners sum up their arguments for the allowance of their petition as follows:

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24 *Id.* at 168-170.
25 *Id.* at 173-177.
26 *Id.* at 186-191.
27 *Id.* at 189.
28 *Id.*
29 *Id.* at 190-191.
30 *Id.*

> 1. THE WRIT OF EXECUTION IS BEING ENFORCED TO COMPEL ENGINEER RAYMUNDO DEL ROSARIO TO EXERCISE THE POWERS AND PERFORM THE DUTIES AND FUNCTIONS OF MAYOR MARCIAL VARGAS UNDER RULE XV, ART. 87(3) (VI) OF THE IMPLEMENTING RULES AND REGULATIONS OF THE LOCAL GOVERNMENT CODE OF 1991 (RA 7160);[31]
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> 2. THE WRIT OF EXECUTION IS BEING ENFORCED TO COMPEL MAYOR MARCIAL VARGAS TO PERFORM A DISCRETIONARY DUTY, CONTRARY TO LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT;[32]
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> 3. RESPONDENT NOT HAVING EXHAUSTED ALL ADMINISTRATIVE REMEDIES BEFORE FILING THE PETITION, THE WRIT OF MANDAMUS SHOULD NOT HAVE BEEN GRANTED AND THE WRIT OF EXECUTION ISSUED TO ENFORCE IT ([SHOULD BE QUASHED];[33]
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> 4. RESPONDENT NOT HAVING [A] WELL-DEFINED, CLEAR AND CERTAIN RIGHT TO WARRANT THE GRANT OF MANDAMUS, THE SAME SHOULD NOT HAVE BEEN GRANTED AND THE WRIT OF EXECUTION ISSUED TO ENFORCE IT [SHOULD BE QUASHED];[34]
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> 5. THE WRIT OF EXECUTION IS NOT CAPABLE OF BEING ENFORCED AND SHOULD NOT HAVE BEEN ISSUED IN THE FIRST PLACE.[35]
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> 6. THE WRIT OF EXECUTION IS BEING ENFORCED IN A WAY [THAT] NOT ONLY VARIES THE JUDGMENT, BUT [IS] CONTRARY TO LAW AND JURISPRUDENCE.[36]

The Court is now confronted with the singular issue of whether grounds exist to quash the subject writ of execution.

It is a consistent practice that once a judgment has become final and executory, a writ of execution is issued as a matter of course, in the absence of any order restraining its issuance.[37] In addition, even a writ of demolition, if the case calls for it, is ancillary to the process of execution and is logically also issued as a consequence of the writ of execution earlier issued.[38]

Rule 39 of the Rules of Court is clear:

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31 *Rollo*, pp. 12-13.
32 *Id*. at 13-15.
33 *Id*. at 15-16.
34 *Id*. at 16-17.
35 *Id*. at 17-18.
36 *Id.* at 19-23.
37 *De Leon v. Public Estates Authority*, 640 Phil. 594, 609 (2010).
38 *Id*.; A writ of demolition is also considered sufficient to constitute a writ of execution, if the latter was not issued. *Aznar Brothers Realty Company v. Court of Appeals*, 384 Phil. 95, 108-109 (2000).

> Section 1. *Execution upon judgments or final orders*. − **Execution shall issue as a matter of right**, or motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. (1a)
>
> If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.
>
> The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.[39]

Stated differently, once a judgment becomes final, the prevailing party is entitled as a matter of right to a writ of execution.[40] Its issuance is, in fact, the trial court's ministerial duty, the only limitation being that the writ must conform substantially to every essential particular of the judgment promulgated, more particularly, the orders or decrees in the dispositive portion of the decision.[41] Even the holding in abeyance of the issuance of a writ of execution of a final and executory judgment can be considered abuse of discretion on the part of the trial court.[42]

In sum, this Court has explained the principle as follows:

> It is not disputed that the judgment sought to be executed in the case at bar had already become final and executory. It is fundamental that the prevailing party in a litigation may, at any time within five (5) years after the entry thereof, have a writ of execution issued for its enforcement and the court not only has the power and authority to order its execution but it is its ministerial duty to do so. It has also been held that the court cannot refuse to issue a writ of execution upon a final and executory judgment, or quash it, or order its stay, for, **as a general rule, the parties will not be allowed, after final judgment, to object to the execution by raising new issues of fact or of law, except when there had been a change in the situation of the parties which makes such execution inequitable or when it appears that the controversy has ever been submitted to the judgment of the court; or when it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or is issued against the wrong party, or that judgment debt has been paid or otherwise satisfied; or when the writ has been issued without authority.** Defendant-appellant has not shown that she falls in any of the situations afore-mentioned. Ordinarily, an order of execution of a final judgment is not appealable. Otherwise, as was said by

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39 Emphasis ours.

40 *Mindanao Terminal and Brokerage Service, Inc., v. Court of Appeals*, G.R. No. 163286, August 22, 2012, 678 SCRA 622, 634-636.

41 *Spouses Golez v. Spouses Navarro*, G.R. No. 192532, January 30, 2013, 689 SCRA 689, 701.

42 *Mindanao Terminal and Brokerage Service, Inc., v. Court of Appeals, supra* note 40..

> this Court in *Molina v. De la Riva*, a case could never end. Once a court renders a final judgment, all the issues between or among the parties before it are deemed resolved and its judicial function as regards any matter related to the controversy litigated comes to an end. The execution of its judgment is purely a ministerial phase of adjudication. The nature of its duty to see to it that the claim of the prevailing party is fully satisfied from the properties of the loser is generally ministerial.[43]

And equally settled is the rule that when a judgment is final and executory, it becomes immutable and unalterable.[44] It may no longer be modified in any respect, except to correct clerical errors or to make *nunc pro tunc* entries, or when it is a void judgment.[45] Outside of these exceptions, the court which rendered judgment only has the ministerial duty to issue a writ of execution.[46] A decision that has attained finality becomes the law of the case regardless of any claim that it is erroneous.[47] Any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose.[48] Thus, an order of execution which varies the tenor of the judgment or exceeds the terms thereof is a nullity.[49]

In the case at bar, there is no dispute that the trial court's decision had become final and executory, as petitioners themselves did not appeal the same. In the current petition, neither is there an allegation that the judgment is a void one. But even if there is such an allegation, the issue is a settled one, as this Court itself, in the petition for annulment of judgment filed by petitioner's co-obligors, *i.e*., Puno *et al*., had upheld the judgment rather than declare the same void. That petition also alleged lack of jurisdiction and raised other issues which are similarly raised in the instant petition.

Therefore, at this late stage, nothing more may be done to disturb the said final judgment.

As for the regularity of the issuance of the writ of execution itself, it is uncontested that all the requirements for the issuance of such a writ, as laid down in the rules, were followed in the case a bar. No issue was raised before the trial court which qualifies as an exception to the general rule that parties may not object to its issuance. Instead, for the most part, the petition appears to pray for a quashal of the writ of execution on grounds that, when

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43 *Anama v. Court of Appeals*, G.R. No. 187021, January 25, 2012, 664 SCRA 293, 302-303, quoting *Far Eastern Surety and Insurance Company, Inc. v. Virginia D. vda. De Hernandez*, G.R. No. L-30359, October 3, 1975, 67 SCRA 256, 260-261. (Emphasis ours.)

44 *Abrigo v. Flores*, G.R. No. 160786, June 17, 2013, 698 SCRA 559, 570-571.

45 *Ramos v. Ramos*, 447 Phil. 114, 119 (2003).

46 *Supra* note 43.

47 *Victorio v. Rosete,* 603 Phil. 68, 78-79 (2007).

48 *Id*.

49 *Id*.

closely examined, go into the merits of the case and the judgment being executed and are not based on any defect in the writ of execution itself or in its issuance.

To illustrate, petitioners cite the following as grounds for the quashal of the writ of execution: (1) that it allegedly would compel the municipal engineer to exercise the powers and duties of the mayor; (2) that it forces the mayor to perform a discretionary duty; (3) that there was no exhaustion of administrative remedies; and, (4) that the judgment obligee had no well-defined, clear and certain right to warrant the grant of *mandamus*.

Such grounds, however, go into the substance and merits of the case which had been decided with finality, and have no bearing on the validity of the issuance of the writ of execution. They raise issues which have been properly joined and addressed by the trial court in its decision. But at this late stage of execution, tackling those matters is a re-litigation of those issues, which no court can perform without offending well-settled principles. Essentially, arguments as to these issues are proper for an appeal, a remedy which none of the petitioners and the other judgment-obligors have taken. Instead, petitioners' co-defendants in the case, the other judgment-obligors Puno, *et al*., filed a petition to annul the judgment, also raising the trial court's alleged lack of jurisdiction and the same arguments as aforementioned, but such petition was denied by the CA, which denial was affirmed with finality by the Supreme Court. Hence, to this Court, the final judgment has become the law of the case which is now immovable. The rudiments of fair play, justice, and due process require that parties cannot raise for the first time on appeal from a denial of a motion to quash a writ of execution issues which they could have raised but never did during the trial and even on appeal from the decision of the trial court.[50]

The simple matter is that petitioners herein may not do indirectly, by assailing the writ of execution, what they cannot do directly, which is attacking the final, immutable and unalterable judgment of the RTC. They may not raise in their opposition to the writ of execution issues that they should have raised in the case during the trial proper or against the judgment via an appeal. They may not object to the execution by raising new issues of fact or law, except under the following circumstances:

(1) the writ of execution varies the judgment;
(2) there has been a change in the situation of the parties making execution inequitable or unjust;
(3) execution is sought to be enforced against property exempt from execution;

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50 *Reburiano v. Court of Appeals*, 361 Phil. 294, 304 (1999).

> (4) it appears that the controversy has been submitted to the judgment of the court;
> (5) the terms of the judgment are not clear enough and there remains room for interpretation thereof; or
> (6) it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or issued against the wrong party, or that the judgment debt has been paid or otherwise satisfied, or the writ was issued without authority.[51]

For the most part, the petition does not clearly state whether the subject writ of execution falls under any of the above exceptions. It raised two grounds, *i.e.*, that the writ is incapable of being enforced and that it varies the judgment, which can be interpreted as falling under the exceptions above, but these grounds as applied to the case at bar simply lack merit.

Petitioners claim that the writ could not be enforced since Mayor Vargas had left office after the elections of May 2001 before he was elected again in May 2004.[52]

This argument fails. Even on its face, the statement is untenable and fails to logically argue that the writ is incapable of enforcement. The statement, is in fact, an admission that Mayor Vargas could have implemented the writ during his two incumbencies – the one before the May 2001 elections and the one after the May 2004 elections - as both times, he was served with the writ well inside his term as mayor. Such service, as well as Mayor Vargas' two terms, also fell within the five-year period within which the Decision dated February 14, 2001 could have been enforced. Yet, the petition admits that it was Mayor Vargas himself who refused, without any valid or legal reason, to enforce the writ during his two terms even if it is clear that the judgment is final and there was no order restraining its enforcement. Mayor Vargas had the time and opportunity to perform his obligation but he did not. Then, it bears stressing that the writ was directed at Mayor Vargas not in his personal capacity, but in his capacity as municipal mayor, so that it is not irregular whether it was served upon him during his earlier term or in his subsequent one.[53] His failure to enforce the same on both times suggests his own disobedience to the court's final judgment, so that it is even immaterial whether or why the writ was not enforced by the other mayor who served between his two terms. Thus, it is incorrect to state that the writ is incapable of enforcement, as it is only the petitioners themselves who refuse to enforce the same.

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51 *Philippine Economic Zone Authority v. Borreta*, 519 Phil. 637, 642-643 (2006).

52 *Rollo*, p. 17.

53 The complaint did not implead Mayor Vargas in his personal capacity but in his capacity as municipal mayor; it likewise specifically prayed for the "municipal mayor of Aliaga, Nueva Ecija," not necessarily Mayor Vargas himself, to remove the buildings in question. (Records, pp. 2-3).

Then, petitioners allege that the writ varies the judgment as the writ allegedly would require them to demolish the houses of the other defendants, as opposed to the judgment which merely ordered them to comply with their duties under the implementing rules.

Petitioners are in error because the writ does not contain anything other than a command to the sheriff to enforce what is in the dispositive portion of the final judgment. The writ of execution merely states:

> TO: The Deputy Sheriff
> Regional Trial Court
> Branch 86
> Cabanatuan City-wide
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> GREETINGS:
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> WHEREAS, on February 14, 2001, a decision was rendered by this Court in the above-entitled case, the dispositive part of which reads as follows:
>
> WHEREFORE, in view of the foregoing the petition for MANDAMUS is hereby GRANTED and the public defendants Municipal Mayor Marcial Vargas and Municipal Engineer Raymundo del Rosario, both of the Municipality of Aliaga, Nueva Ecija, are hereby ordered to comply with the above-cited provision of law.
>
> IT IS SO ORDERED.
>
> WHEREAS, on May 11, 2001, an order was issued for the issuance of (a) Writ of Execution for the full implementation of the decision against the defendants.
>
> NOW THEREFORE, **you are hereby commanded to execute and make effective the decision of this Court dated February 14, 2001 in accordance with law**, together with your lawful fees on this Writ and return you proceedings pursuant to the 1997 Rules of Civil Procedure, as amended.[54]

Clearly, nothing in the writ alters or varies the judgment, the dispositive portion of which it faithfully reproduces. Equally, nothing in it necessarily limits the judgment obligations to an order to demolish the subject houses. Purely, the writ merely commands compliance by petitioners with the following legal provisions: *First*, the law itself, or the Local Government Code, Book III, Title II, Chapter III, Article I, Section 444 (b) (3), which states:

> ARTICLE I
> The Municipal Mayor

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54 *Rollo*, p. 48. (Emphasis ours.)

> Section 444. *The Chief Executive: Powers, Duties, Functions and Compensation*. −
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> x x x x
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> (b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:
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> x x x x
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> (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:
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> x x x x
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> (vi) **Require owners of illegally constructed houses, buildings or other structures to obtain the necessary permit**, subject to such fines and penalties as may be imposed by law or ordinance, or **to make necessary changes in the construction** of the same when said construction violates any law or ordinance, or **to order the demolition or removal of said house, building or structure within the period prescribed by law or ordinance**;[55]

Next, the following provision of the Rules and Regulations Implementing the Local Government Code, which is almost a *verbatim* reproduction of the law, states:

> RULE XV
> POWERS, DUTIES, AND FUNCTIONS OF LOCAL CHIEF EXECUTIVES
>
> x x x x
>
> Art. 87. *Powers, Duties, and Functions of the Municipal Mayor.* -
>
> x x x x

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55 Emphasis supplied.

> (b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of the Code, the municipal mayor shall:
>
> x x x x
>
> (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided under these Rules, particularly those resources and revenues programmed for agro-industrial development and countrywide growth and progress, and relative thereto, shall:
>
> x x x x
>
> (vi) **Require owners of illegally constructed houses, buildings, or other structures to obtain the necessary permit,** subject to such fines and penalties as may be imposed by law or ordinance, or **to make necessary changes in the construction** of the same when said construction violates any law or ordinance, or **to order the demolition or removal of said house, building, or structure within the period prescribed by law or ordinance;** [56]

And if the enforcement would be limited to a demolition of the structures, it is not due to any defect in the writ itself, but to the circumstances of the case and the situation of the parties at the time of execution. As the trial court correctly observed, the above enumerations speak of three (3) alternative duties, namely: (1) require the owners of illegally constructed structures to obtain the necessary permit, subject to fines and penalties; (2) make necessary changes in the construction of the same when said construction violates any law or ordinance, or (3) order the demolition or removal of said house, building, or structure within the period prescribed by law or ordinance. The obligations as enumerated are separated by the word "or," which the rules in statutory construction dictate should be treated as a disjunctive article indicating an alternative.[57] The use of "or" often connects a series of words or propositions indicating a choice of either, which means that the various members of the enumeration are to be taken separately, with the term signifying disassociation and independence of one thing from each of the other things enumerated.[58] Thus, petitioners are clearly obliged to perform a duty that is one of the three alternatives that the law enumerates, where a choice of one excludes the others.

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56 Emphasis ours.

57 *Hacienda Luisita Inc. v. Presidential Agrarian Reform Council*, G.R. No. 171101, November 22, 2011, 660 SCRA 525, 550-551, quoting *PCI Leasing and Finance, Inc. v. Giraffe-X Creative Imaging, Inc.*, 554 Phil. 288, 302 (2007).

58 *Saludaga v. Sandiganbayan*, 633 Phil. 369, 378 (2010).

Flowing from this, however, is the reality that two of the three obligations, those which would "require owners of illegally constructed structures to obtain the necessary permit" and "make necessary changes in the construction of said structures" are simply not enforceable due to the inherent illegality of the structures concerned which were all built on public areas. No amount of permits nor change in construction would legitimize the illegal structures as they are built on property for public use, which is the public highway. Such is a factual finding that is binding on this Court. The court below found that the areas occupied are the shoulder and drainages which are part of the road's right-of-way and which, in turn, is considered part of the highway under Presidential Decree No. 17, as amended, otherwise known as the Revised Philippine Highway Act of 1972.[59] Puno et al. will never legally acquire the same by prescription, for prescription does not run against the State or its subdivisions on any of its non-patrimonial property.[60] The provincial road whose shoulder was occupied by these defendants is one such non-patrimonial property.[61] And as far as the structures obstruct free passage to the road, they likewise will never attain legality by mere lapse of time.[62]

Therefore, the enforcement of the subject decision through the writ issued by the trial court is presently limited to just one of the three alternatives, *i.e.*, a demolition of the structures. The said limitation is not because the writ "altered" the judgment; it is because the situation of the parties and the practicalities of such enforcement require it. In addition, the decision subject of the execution itself noted that it was the "failure of the public defendants to act on (Cajucom's) letter-complaint to cause the removal of the structures located on the shoulder of the road" that "constrained (him) to file the instant case."[63] Removal or demolition of the structures was likewise what was prayed for by Cajucom in the complaint.[64] Thus, the trial court recognizes that a removal of the structures is what is called for in this case. Such is expressed in the decision and the dispositive portion thereof must be understood in this context. When interpreting the dispositive portion of the judgment, the findings of the court as found in the whole decision must be considered; a decision must be considered in its entirety, not just its specific portions, to grasp its true intent and meaning.[65]

But even if the decision was entirely silent on the matter, this Court has held that a judgment is not confined to what appears upon the face of the

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59 Secs. 3(a), 3(b) and 23. In addition, Department Order No. 52, series of 2003 of the Department of Public Works and Highways considers right of way to include the travelway, curb and gutter, sidewalks, shoulders, canals and other portions.

60 CIVIL CODE, Arts. 1108(4), 1113. *East Asia Traders Inc. v. Republic*, 477 Phil. 848, 863 (2004).

61 *Id.* at Arts. 420, 424. *Province of Zamboanga v. City of Zamboanga*, 131 Phil. 446, 454 (1968).

62 Civil Code, Arts. 694(4), 698.

63 Records, p. 36.

64 *Rollo*, p. 71.

65 *San Miguel Corporation v. Teodosio*, 617 Phil. 399, 420-421 (2009).

decision, but extends to those necessarily included therein or necessary thereto.[66] In the case at bar, the dispositive part of the trial court's decision did not specify which of the alternative duties the public officers were to perform, but since the decision itself factually states that the plaintiff sues for the removal of the subject structures, and that the structures are built on a public highway, then it follows that only one of the alternative duties – that of demolition – is capable of enforcement. As demolition stands as the only and necessary way to effectuate the judgment, then it is what the execution of the judgment should consist of. The writ of execution and a companion writ of demolition, if later prayed for and issued by the trial court, are just a natural consequence of and a necessary means to enforce the said decision.[67]

WHEREFORE, the petition is **DISMISSED** for lack of merit. The assailed Order dated September 15, 2005, of the Regional Trial Court of Cabanatuan City, Branch 86, is **AFFIRMED**. The parties and the officers of the court below are hereby **ORDERED** to **IMPLEMENT** the writ of execution with dispatch.

No costs.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

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66 *De Leon v. Public Estates Authority*, *supra* note 37, at 607.
67 *Id.* at 609.

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

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

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.

MARIA LOURDES P. A. SERENO
Chief Justice