



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RON ZABARTE,

G.R. No. 234636

Petitioner,

Present:

- versus -

GESMUNDO, C.J., Chairperson
HERNANDO,
ZALAMEDA,
ROSARIO,* and
MARQUEZ, JJ.

GIL MIGUEL T. PUYAT,

Promulgated:

Respondent.

FEB 13 2023

x ----- x

DECISION

ZALAMEDA, J.:

Just as a farmer can enjoy the benefit of his tillage only when he is able to harvest and appropriate his produce, a successful litigant can only become truly victorious once the favorable ruling of the court is fully enforced. Indeed, execution — not merely a favorable ruling — is the ultimate reward for one’s painstaking effort to obtain justice from the courts. Necessarily, courts should never be oblivious to, more so sanction, any act or omission which tends to delay or frustrate the full satisfaction of a final and executory decision.

* On official leave.

The Case

This is a Petition for Review (Petition)¹ under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision² dated 08 March 2017 and the Resolution³ dated 06 October 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 106683, entitled "*Ron Zabarte, Plaintiff-Appellant, v. Gil Miguel T. Puyat, Defendant-Appellee.*" The CA affirmed the Omnibus Order⁴ dated 19 October 2015 (first Omnibus Order) and Omnibus Order⁵ dated 17 December 2015 issued by Branch 67, Regional Trial Court of Pasig City (RTC) in Civil Case No. 64107.

Antecedents

In January 1994, petitioner Ron Zabarte (petitioner) filed a Complaint⁶ before the RTC against respondent Gil Miguel T. Puyat (respondent) for the enforcement of a money judgment rendered by the Superior Court of the State of California, County of Contra Costa, United States of America.

After respondent filed his Answer,⁷ petitioner moved for summary judgment, arguing that the answer failed to tender a genuine issue. On 21 February 1997, the RTC issued a Decision⁸ dated 21 February 1997, ruling in favor of petitioner, thus:

WHEREFORE, judgment is hereby rendered, ordering defendant to pay plaintiff the following amounts:

1. The amount of U.S. dollars \$241,991.33, with the interest of legal rate from October 18, 1991, or its peso equivalent, pursuant to the judgment of stipulation for entry in judgment dated December 19, 1991;
2. The amount of ₱30,000.00 as attorney's fees;
3. To pay the costs of suit.

¹ *Rollo*, pp. 12-45.

² *Id.* at 46-57, Annex "A."; penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Normandie B. Pizzaro and Samuel H. Gaerlan (now a Member of this Court).

³ *Id.* at 58-60, Annex "B."

⁴ *Id.* at 152-154, Annex "O."; penned by Presiding Judge Amorfin Cerrado-Cezar.

⁵ *Id.* at 155, Annex "P."

⁶ *Id.* at 74-78, Annex "D."

⁷ *Id.* at 19-25, Annex "B."

⁸ *Id.* at 108-110, Annex "E;" penned by Judge Apolinario B. Santos.

The claim for moral damages, not having been substantiated, it is hereby denied.

SO ORDERED.⁹

The above ruling was affirmed by the CA in its Decision¹⁰ dated 31 August 1999, which then became final and executory on 16 July 2001. Consequently, petitioner moved for the issuance of a writ of execution before the RTC on 02 September 2002. Two days later, the RTC issued a Writ of Execution (Writ)¹¹ which was partially executed, as per Sheriff's Partial Returns dated 22 June 2004¹² and 28 April 2005.¹³

As the Writ remained not fully satisfied despite the lapse of three years, petitioner moved for the amendment of the Writ, which the RTC granted on 03 September 2005. Thereafter, petitioner filed on 18 October 2005, a Motion for Examination of Judgment Obligor,¹⁴ which respondent opposed on the basis of Section 36, Rule 39 of the Rules of Court. The respondent argued that he, being a resident of Mandaluyong City, cannot be compelled to appear before the RTC in Pasig City.¹⁵

Without resolving the motion, the RTC conducted a clarificatory hearing on 18 January 2006, and required the parties to submit their respective proposal and counter-proposals as basis for a possible compromise agreement.¹⁶

The following month, however, petitioner manifested that he did not receive any proposal from respondent.¹⁷ Furthermore, the next clarificatory hearing scheduled on 26 May 2006 was moved twice upon respondent's motions for the resetting of the hearing.¹⁸ Meanwhile, the hearing on 19 July 2006 was also reset due to the absence of petitioner and his counsel, while the 04 October 2006 hearing was reset due to the absence of both parties.¹⁹ Apparently, the parties were having settlement talks, leading to more hearing cancellations upon their mutual agreement.²⁰ Consequently,

⁹ Id. at 110.

¹⁰ Id. at 111-121, Annex "F"; penned by Portia Aliño Hormachuelos and concurred in by Associate Justices Buenaventura J. Guerrero and Remedios A. Salazar-Fernando.

¹¹ Id. at 122-123, Annex "G."

¹² Id. at 124, Annex "H."

¹³ Id. at 125-126, Annex "I."

¹⁴ Id. at 127-129, Annex "J."

¹⁵ Id. at 48-49.

¹⁶ Id. at 49, 132.

¹⁷ Id. at 49, 133.

¹⁸ Id.

¹⁹ Id. at 49-50.

²⁰ Id. at 50.

the RTC ordered the case to be sent to the archives on 23 July 2008 in order not to unduly clog the court's docket.²¹

On 03 October 2008, petitioner filed *via* registered mail a motion to revive with motion to resolve the pending motion to compel respondent to appear.²² Subsequently, petitioner also filed on 11 August 2009, an *Ex-Parte* Motion for Issuance of *Alias* Writ of Execution,²³ followed by an *ex-parte* motion for the replacement of the assigned sheriff.²⁴

In an Omnibus Order dated 07 December 2009, the RTC purportedly denied the motions to revive and issue an *alias* writ,²⁵ but later assigned Sheriff Marco A. Boco (Sheriff Boco) to fully implement the amended Writ.²⁶ In April 2011, Sheriff Boco garnished the amount of ₱280,160.27 from China Bank and turned it over to petitioner. He also levied two condominium parking lots under the name of respondent and his wife, Ma. Mercedes Puyat (Mercedes).²⁷

Allegedly, however, respondent sold the same to VGS Properties, Inc. two days after the notice of levy was annotated on the certificates of title of said properties.²⁸ Furthermore, Mercedes submitted an Amended Affidavit of Third Party Claim,²⁹ claiming half of the properties as co-owner thereof. Despite these incidents, respondent's share in the parking lots were sold at public auction for ₱1,000,000.00.³⁰

As the total amount of ₱73,943,620.11 from the monetary award remained unsatisfied, petitioner filed a Motion [for the Examination of the Judgment Obligor and Corporations where Defendant has Interest].³¹ Later, the RTC issued an Order dated 27 June 2014, partially granting the same, as it ordered respondent to appear before the court, but denied the prayer for the examination of the president and/or duly authorized representatives of the corporations listed in the motion.³²

²¹ Id.

²² Id. at 15, 50, 133.

²³ Id. at 130-136, Annex "K."

²⁴ Id. at 15.

²⁵ Id. at 50 and 160; copy of the Omnibus Order not part of the records on hand.

²⁶ Id. at 180, 246-147; see Orders dated 07 April 2010 and 02 September 2010.

²⁷ Id. at 137-138, Annex "L"; see Sheriff's Partial Report dated 20 March 2013 by Sheriff IV Marco A. Boco.

²⁸ Id. at 181-185; see undated Deed of Sale.

²⁹ Id. at 193.

³⁰ Id. at 137-138, Annex "L."; see Sheriff's Partial Report dated 20 March 2013 by Sheriff IV Marco A. Boco.

³¹ Id. at 140-149, Annex "M."

³² Id. at 50-51, 206.



Both parties sought reconsideration of the said ruling. Acting thereon, the RTC issued an Order³³ dated 18 February 2015 reversing its earlier Order. This time, the RTC agreed with respondent's argument that the latter cannot be compelled to appear before the RTC as it was beyond his place of residence.³⁴

Subsequently, petitioner filed a partial motion for reconsideration while respondent countered with an omnibus motion seeking, among other things, the termination and nullification of the execution proceedings for being *functus officio*.³⁵

Ruling of the RTC

On 19 October 2015, the RTC issued the first Omnibus Order, the decretal portion of which reads:

WHEREFORE, considering the expiration of the five (5) year period to execute, the court resolves as follows:

1. Deny the MOTION FOR RECONSIDERATION by plaintiff;
2. TERMINATE EXECUTION PROCEEDINGS as of the date of this Order; and
3. UPHOLD ALL EXECUTION PROCEEDINGS prior to the date of this Order.

The termination of these proceedings is now deemed final and this court will no longer act nor entertain other reliefs prayed for by the parties.

Accordingly, Sheriff Mario A. Boco is hereby directed to file/submit before this court a final report within fifteen (15) days upon receipt hereof.

SO ORDERED.³⁶

Petitioner moved for partial reconsideration, but the same was merely noted by the RTC, along with the motion for reconsideration of respondent, as well as some pleadings filed by the parties.³⁷ Consequently, petitioner

³³ Id. at 150-151, Annex "N."

³⁴ Id. at 51 and 207.

³⁵ Id. at 51 and 151.

³⁶ Id. at 154.

³⁷ Id. at 52.

appealed³⁸ to the CA while respondent filed a Petition for *Certiorari*³⁹ with the same court.

Ruling of the CA

On 08 March 2017, the CA issued the assailed Decision affirming the RTC. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, the present appeal is hereby **DISMISSED** for lack of merit.

The Omnibus Orders dated October 19, 2015 and December 17, 2015 of the Regional Trial Court, Branch 67 of Pasig City, in *Civil Case No. 64107*, are hereby **AFFIRMED**.

SO ORDERED.⁴⁰

The CA agreed that the proceedings before the RTC was already time-barred. In addition, it held that although there were cases where the execution of a decision by motion was allowed to proceed beyond the five-year period upon meritorious grounds, such liberality cannot be extended to petitioner as he himself caused the delay by insisting on a wrong course of action, despite already being told by the trial court that it cannot compel the respondent for examination.⁴¹

Petitioner thus filed a Motion for Reconsideration,⁴² but the same was denied.⁴³ Hence, he filed the present Petition.

Issues

Petitioner argues that the CA ruling is not in accord with law or with the applicable decision of the Supreme Court as:

- (a) It affirmed the RTC order dismissing the execution proceedings in Civil Case No. 64107; and

³⁸ Id. at 156, Annex "Q"; see Order dated 15 February 2016.

³⁹ Id. at 157-167, Annex "R"; Docketed as CA-G.R. No. SP No. 144290.

⁴⁰ Id. at 56.

⁴¹ Id. at 53-56.

⁴² Id. at 61-73, Annex "C."

⁴³ Id. at 71.

(b) It held that there was a territorial restriction under Section 36 of Rule 39 of the Rules for examination of respondent⁴⁴

Ruling of the Court

The Petition is granted.

The rules are clear. Once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right by mere motion within five years from the date of entry of judgment. If the prevailing party fails to have the decision enforced by a motion after the lapse of five years, the said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court within ten years from the time the judgment becomes final.⁴⁵

For this reason, the jurisdiction of a court to issue a writ of execution by motion is only effective within the five-year period from the entry of judgment. Outside this five-year period, any writ of execution issued pursuant to a motion filed by the judgment creditor, is null and void. If no writ of execution was issued by the court within the five-year period, even a motion filed within such prescriptive period would not suffice. A writ issued by the court after the lapse of the five-year period is already null and void. The judgment creditor's only recourse then is to file an independent action, which must also be within the prescriptive period set by law for the enforcement of judgments.⁴⁶

In the instant case, the CA decision, affirming the RTC judgment in petitioner's favor, became final and executory on 16 July 2001. Hence, petitioner had until 16 July 2006 to have it executed by mere motion; otherwise, he must file the appropriate action within the required period to have it enforced. Petitioner moved for execution on 02 September 2002, and the RTC issued the Writ two days after. There is no question, therefore, that the timing of the motion, and the consequent issuance of the Writ, were well-within the five-year prescriptive period for execution by motion.

For some reason, however, petitioner was not able to fully execute the Writ within the same five-year period. In fact, the RTC was constrained to

⁴⁴ Id. at 17.

⁴⁵ See *Villeza v. German Management and Services, Inc.*, 641 Phil. 544, 550 (2010).

⁴⁶ See *Olongapo v. Subic Water Sewerage Co., Inc.*, 740 Phil. 502, 520 (2014).



terminate the execution proceedings on 19 October 2015 because the Writ remained partially satisfied only despite the lapse of more than 14 years since entry of judgment. This is where the controversy lies.

The RTC and the CA agree with respondent's argument that pursuant to Section 6, Rule 39 of the Rules of Court, the final and executory decision could no longer be enforced by mere motion since the five-year period had long lapsed. Petitioner, on the other hand, argues that the prescriptive period under Section 6, Rule 39 pertains only to the commencement of enforcing a final and executory judgment, and not to execution proper when a writ had already been issued by the court but remained unsatisfied, as in this case.⁴⁷ In other words, the prescriptive period, according to petitioner, is only to determine the period when a litigant may move to execute. However, the writ issued within that span of five years may be enforced even way beyond that time.

The Court shall clarify.

Enforcement of the writ within the same five-year period within which the judgment may be executed by motion

Section 6, Rule 39 of the Rules of Court is categorical that a final and executory judgment or order may be executed on motion within five (5) years from the date of its entry while Section 14, Rule 39 is clear that a writ of execution shall continue in effect during the period within which the judgment may be enforced by motion. Logically, since the life of a writ is only for five years, the winning party must be able to enforce the same during said period.

It is settled that execution is enforced by the fact of levy and sale.⁴⁸ As gleaned from the Sheriff's Partial Return⁴⁹ dated 28 April 2005, a Notice of Levy on Execution of Shares of Stocks was served on some companies where respondent supposedly had interest. However, there was nothing on record to determine what happened to such notice of levy thereafter, as the record on hand is devoid of any other return from the former sheriff. What is palpable on record is that the Writ remained unsatisfied even beyond the five-year period.

⁴⁷ *Rollo*, p. 20.

⁴⁸ *De Guzman v. Tabangao Realty Incorporated*, 753 Phil. 456, 481 (2015).

⁴⁹ *Rollo*, pp. 125-126.

Since the enforcement of the Writ could not be completed within its lifetime, petitioner should have, as a rule, filed a complaint for the revival of judgment, in accordance with Section 6, Rule 39 of the Rules of Court,⁵⁰ but he did not. Perforce, the RTC would have been justified to terminate the proceedings below for being time-barred.

Enforcement of the writ after the lapse of five years from entry of judgment, but within the 10-year period to enforce a judgment

Concededly, there have been several Court decisions in the past where it was held that a valid execution issued and levied within the five-year period may be enforced by sale even after lapse of said period.⁵¹ In *Government of the Philippines v. Echaus (Echaus)*,⁵² the Court held:

Section 443 of the Code of Civil Procedure limits the time within which a writ of execution may be issued to enforce a judgment, but it does not state the limit of the period when the sale at public auction by the sheriff shall take place after the issuance of the writ of execution and a valid levy made pursuant thereto. Section 447 of the Code of Civil Procedure treats of the enforcement of the judgment after the lapse of five years. Neither of these sections supports the contention of the appellant.

We are of the opinion that a valid execution issued and levy made within the period provided by law may be forced by a sale thereafter. (Cf. *Alagar vs. Roda and Manalo*, 29 Phil. 129; 23 C.J. 625; *vide* particularly *Mosher v. Borden*, 166 N.W. 927; also *Brown v. Hopkins*, 101 Wis. 498, 77 N.W. 499; *Ludeman v. Nirth*, 96 Mich. 17, 55 N.W. 449.)

x x x⁵³

The pronouncement in *Echaus* was then echoed by the Court in *Quiambao v. Manila Motor Company, Inc.*,⁵⁴ where petitioners therein raised the issue of whether or not a pre-war writ of execution and levy may still be enforced by sale of the levied property after the lapse of the five-year period within which a judgment may be executed by motion.⁵⁵ Thereafter, *Del*

⁵⁰ See supra note 42 at 549.

⁵¹ See *Civil Procedure Annotated*, p. 161, Justice Feria, J.Y. and Atty. Noche, MC.S., 2013 Edition, Quezon City, Central Book Supply, Inc.

⁵² 71 Phil. 318 (1941).

⁵³ Id. at 320.

⁵⁴ G.R. No. L-17384, 31 October 1961, 113 Phil. 431 (1961).

⁵⁵ Id. at 439.

*Rosario v. Hon. Judge Yatco (Del Rosario)*⁵⁶ reiterated that while the rule limits the time which a writ of execution may be issued to enforce a judgment, it does not prescribe a period when the sale at public auction by the sheriff shall take place after the issuance of the writ of execution and a valid levy made pursuant thereto.⁵⁷

Succeeding jurisprudence have long made it clear, however, that *Echans* applies only if the issuance of the writ and the levy of the property were both made within the five-year period, while the subsequent sale of the levied property completed within 10 years from entry of judgment, which is the prescriptive period to file an action to enforce a judgment set forth under Article 1144 (3)⁵⁸ and Article 1152⁵⁹ of the New Civil Code.

Thus, in *Ansaldo v. Fidelity and Surety Company of the Philippine Islands*,⁶⁰ where the judgment creditor attempted to carry out the writ of execution 10 years after entry of judgment,⁶¹ the Court explained in this wise:

Appellant contends that there is no law limiting the time within which property already levied upon may be sold by the sheriff at public auction; and reliance is placed on the case of *Government vs. Echans*, (71 Phil., 318). This authority is not in point, because, as stated in the very brief for appellant, the judgment in that case was rendered on November 15, 1932, levy was made on October 8, 1934, and the sale at public auction was held on September 14, 1939. In other words, the execution sale took place (although beyond the 5-year period within which the judgment might be executed on motion) within the period of ten years during which the judgment could be enforced by action.

Ansaldo was later applied in *Jalandoni v. Philippine National Bank, et al. (Jalandoni)*⁶² to resolve the issue of whether or not a judgment debtor's land, which was levied upon within five years from the entry of judgment, can be sold at an execution sale after the expiration of the ten-year period for enforcing the judgment. The Court even went further to discuss at length what separated *Ansaldo* and *Jalandoni* from *Echans* and *Del Rosario*, thus:

⁵⁶ 125 Phil. 396 (1966).

⁵⁷ Id. at 398-399.

⁵⁸ Article 1144. The following actions must be brought within ten years from the time the right of action accrues.

1. x x x

2. x x x

3. Upon a judgment.

⁵⁹ Article 1152. The period for prescription of actions to demand the fulfillment of obligation declared by a judgment commences from the time the judgment became final.

⁶⁰ 88 Phil. 547 (1951).

⁶¹ Id. at 548-549.

⁶² 195 Phil. 1 (1981).

In the *Ansaldo* case, a writ of execution was issued by the Court of First Instance of Manila on April 11, 1933 and a notice of levy was annotated on April 17, 1933 on the Torrens titles covering the lots of the judgment debtor, Angel A. Ansaldo. No other step was taken by the judgment creditor on the writ of execution and levy.

More than fourteen years later, or on July 30, 1947, Jose Ma. Ansaldo, the heir of the judgment debtor, filed a petition with the Court of First Instance of Manila for the cancellation of the levy in view of the inaction of the judgment creditor. The latter opposed the petition.

The lower court granted it on the ground that the judgment creditor's right to enforce the judgment by execution had prescribed. This Court affirmed the lower court's order cancelling the levy annotated on Ansaldo's titles.

x x x x

In the *Echans* case, the judgment was rendered in 1932, the writ of execution was issued and the levy was made in 1934, and the execution sale was held in 1939 or within the ten-year period.

On the other hand, in this case the trial court and the bank hold the view that the execution sale can be made beyond the ten-year period for enforcing the judgment as long as the levy was effected within five years from the entry of judgment as in the instant case.

x x x x

The levy is the essential act by which the property is set apart for the satisfaction of the judgment and taken into the custody of the law, and ... after it has been taken from the defendant, his interest is limited to its application to the judgment, irrespective of the time when it may be sold (*Southern Cal. Lumber Co. vs. Hotel Co.*, 94 C. 217, 28 American State Reports 115).

In the decision in the *Southern California Lumber* case, the phrase "irrespective of the time when it may be sold" means that after a levy has been made, the property levied upon may be sold even after the sixty-day period, which is the term of the writ of execution, but that phrase does not mean that the execution sale could be held beyond the ten-year period for enforcing the judgment.

In the *Del Rosario* case, the judgment was rendered in 1955, the writ of execution was issued in 1956 and a levy was made on the land of the judgment debtor, Narciso del Rosario, which levy was annotated on his title and was recorded in the registry of deeds. No execution sale was held.

In 1961, Del Rosario and the persons to whom he had mortgaged the land levied upon filed in court a petition to cancel the levy on the ground that more than five years had already elapsed since the levy was

made and no auction sale had been held. Del Rosario contended that the judgment creditor's remedy was to file an action to revive the judgment.

The trial court did not grant the petition. It ordered the judgment creditor to take steps that the land levied upon be sold at an execution sale within sixty days. This Court affirmed that order of the trial court. It should be noted that the said execution sale would take place within the ten-year prescriptive period for enforcing the judgment.⁶³

Clearly, contrary to petitioner's posture, the issuance of a writ of execution by the court during the five-year period does not automatically give the winning party an extension of time to execute the same; neither does it authorize the winning party the right to enforce it *sine die*. The winning party must still observe the following time frames: 1) the issuance of writ of execution and levy must transpire within the five-year period for enforcement of judgment by motion; and 2) properties levied upon by execution must be sold at public auction within the period of 10 years during which the judgment can be enforced by action.⁶⁴

As adverted to, however, while petitioner was able to secure the Writ in a timely fashion, the sheriff could not levy sufficient properties of the respondent within the same five-year period. What is more, 14 years had already elapsed since entry of judgment, without the judgment being revived through an appropriate action. From these facts, it would appear that the CA was correct in affirming the RTC's dismissal of the proceedings below.

Execution by motion, even after the lapse of five years, on exceptional circumstances or meritorious grounds

Petitioner, citing *Torralba v. Hon. De Los Angeles, et al. (Torralba)*,⁶⁵ next claims the running of the prescriptive period to enforce a final and executory judgment or order is effectively interrupted when the winning party filed a motion for the issuance of a writ of execution.⁶⁶

A perusal of *Torralba* readily shows that the circumstances therein merited an exemption from the general rule. In said case, the order of ejectment was not carried out after the judgment debtor begged to withhold the execution of judgment because of financial difficulties. The Court elucidated that the agreement of the parties to defer or suspend the

⁶³ Id. at 5-7.

⁶⁴ See *Philippine National Bank v. International Corporate Bank*, 276 Phil. 551, 561 (1991).

⁶⁵ 185 Phil. 40 (1980).

⁶⁶ *Rollo*, pp. 23-24.

enforcement of the judgment interrupted the period of prescription.⁶⁷ To rule otherwise would deprive the winning party of any remedy to enforce a clear and adjudged right, and would encourage judgment debtors to escape the payment of their firm obligations through trickery, chicanery, gimmickry or other modes of persuasion, fair or foul.⁶⁸

Thus, in the case *Republic v. CA*,⁶⁹ the Court emphasized that under exceptional circumstances or meritorious grounds, the five-year period allowed for enforcement of the judgment by motion, and for that matter, the ten-year prescriptive period allowed by law for enforcement by action, are deemed to have been effectively interrupted or suspended by the period during which the legality or validity of the sale was being litigated, or under the following circumstances:

Justice Florenz D. Regalado, in his *Remedial Law Compendium*, vol. 1, Fifth Revised Edition, pp. 271-272 sums up these exceptions thus:

4. However, where the execution was withheld due to the financial difficulties of the debtor (*Lancita vs. Magbanua*, L-15467, Jan. 31, 1963), or was suspended by agreement of the parties (*Torralba vs. De los Angeles*, L-27592, Feb. 14, 1980), especially if it was with court approval (*Manila Railroad Co. vs. CIR*, L-18389, Jan 31, 1963), as where the compromise agreement approved by the court provided that the judgment debtor was given 6 years from rendition of the judgment within which to pay the judgment account (*Tan Ching Ji vs. Mapalo, et. al., supra*), or was not carried out due to the repeated refusal or failure of the sheriff to enforce the same (*Lancita vs. Magbanua, supra*), or was suspended by order of the court (*Casela vs. CA*, L-26754, Oct. 16, 1970), or was interrupted by the filing of a motion for examination of the judgment debtor and an action for mandamus by the judgment creditor (*Potenciano vs. Mariano, et al.* L-30904, Mar. 6, 1980), the 5-year period may be proportionately extended (*Bien, et al. vs. Sunga, et al.*, L-39644, Sept. 30, 1982). Hence, where the delay in the execution of the judgment for more than 8 years was due to the acts of the judgment debtor, the Supreme Court held that the motion for *alias* writs of execution and for demolition constitute, in effect, a revival of the judgment under Sec. 6 of Rule 39 (*David vs. Ejercito, et al.*, L-41334, June 18, 1976).

Also, where the judgment creditors had complied with virtually all the requirements, made in piecemeal fashion by the Commission on Audit, for the payment to them by the defendant province of the judgment account but which still remained unpaid after 8 years from finality of the judgment, the Supreme Court held that said 8 years should not be included in computing the 5-year period to execute a judgment by motion. The delay was through no fault of the judgment creditor but was imputable to

⁶⁷ *Supra* note 42 at 551.

⁶⁸ See *Republic of the Philippines v. Court of Appeals*, 329 Phil. 115 (1996).

⁶⁹ *Id.* at 122-123.

the governmental agencies involved (Prov. Gov't of Sorsogon vs. Villaroya, et al., G.R. No. 64037, Aug. 27, 1987). Quoting from Republic vs. CA (L-43179, June 27, 1985), the Supreme Court reiterated that:

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 the party or otherwise. Any interruption or delay occasioned by the debtor will extend the time within which the writ may issued without scire facias.

These exceptions have one common denominator, and that is: the delay is caused or occasioned by actions of the judgment debtor and/or is incurred for his benefit or advantage.⁷⁰

*Existence of exceptional
circumstances or meritorious
grounds in the case at bar*

The question of whether or not the case at bar provides exceptional circumstances or meritorious grounds that would warrant the suspension or interruption of the running of the prescriptive period remains. On this score, petitioner insists that his case should be considered as an exception because of the spates of attacks by respondent, which effectively delayed the full implementation of the Writ.⁷¹ The CA, on the other hand, ruled in the negative, as it found petitioner negligent under the following circumstances:

Records show that by the time the proceedings before the RTC is drawing near the 5-year period prescribed in Rule 39, plaintiff-appellant already sensed that defendant-appellee was unduly delaying the enforcement of the judgment. This was in February 2006- when he filed a motion to compel judgment obligor to appear. At that time, plaintiff-appellant should have known or should been [*sic*] aware that the 5-year period under Rule 39 is about to expire in July of the same year, 2006.

Yet, plaintiff-appellant kept on insisting on the wrong motion for the examination of the judgment obligor even when it was already pointed out to him that such course of action is not allowed because the defendant-appellee is a resident of Mandaluyong City, which is outside Pasig City where the RTC is stationed.

Worst [*sic*], instead of filing a new action for the revival of the judgment after the lapse of five (5) years, plaintiff-appellant filed a mere motion to reconsider the Omnibus Order, contrary to the mandatory

⁷⁰ Id. at 122.

⁷¹ Rollo, p. 27.

provisions of Rule 39 of the Rules of Court and Article 1144 of the Civil Code.⁷²

The Court reverses the CA.

To be sure, the purpose of the law in prescribing time limitations for enforcing judgment by action is precisely to prevent the winning parties from sleeping on their rights.⁷³ Moreover, the statute of limitations has not been devised against those who wish to act but cannot do so for causes beyond their control.⁷⁴ Accordingly, when the delay could not be attributed to the prevailing party, a liberal interpretation of the rules of procedure should be resorted to where a literal and strict adherence will most likely result in miscarriage of justice.⁷⁵

Petitioner could not be said to have slept on his right. From the entry of judgment on 16 July 2001, he seasonably moved for execution of the same, and thus obtained a writ on 04 September 2002. However, the Writ could not be enforced fully because of respondent's opportunism.

The Court does not fail to see that respondent was willing to spend on a costly litigation, but refused, for no valid reason, to pay a dime to petitioner. When petitioner filed a motion to examine respondent, the latter vigorously opposed the same, all because he was a resident of Mandaluyong City. Moreover, clarificatory hearings on the matter were postponed several times due to respondent's absence. The case was even sent to the archives for a while because of the settlement talks between the parties. The negotiation ultimately fell through because respondent was bargaining unreasonably. Also, as repeatedly pointed out by petitioner, respondent tried to evade the satisfaction of judgment by selling his parking lots only two days after Sheriff Boco caused the annotation of the notice of levy on the certificates of title of said properties.

Aside from respondent's schemes, which undoubtedly benefited him, the original sheriff in this case, Sheriff IV Joel R. Ordonez (Sheriff Ordonez), and the RTC inarguably also had a big hand in the failure of petitioner to fully enforce the Writ within the required period. This, the CA failed to recognize.

⁷² Id. at 55.

⁷³ Supra note 42 at 552.

⁷⁴ *Spouses Davis v. Spouses Davis*, 827 Phil. 502, 510 (2018).

⁷⁵ See *Heirs of Piedad v. Bobilles*, 821 Phil. 719, 739-740 (2017), citing *Republic v. Court of Appeals*, 221 Phil. 685, 693 (1985); *Philippine Veterans Bank v. Solid Homes*, 607 Phil. 14, 26-27 (2009); *Villeza v. German Management and Services, Inc.*, 641 Phil. 544, 551-552 (2010).

The Writ was issued as early as September 2002, but it appears from the records that Sheriff Ordonez failed to implement the same diligently. Judging from his Sheriff's Partial Return⁷⁶ dated 28 April 2005, he started implementing the Writ only on 10 February 2005, by serving a copy thereof, along with the Notice for Immediate Payment, on a caretaker of respondent's address on record.⁷⁷ By that time, more than two years had passed since the RTC's issuance of the Writ. The pieces of evidence on hand also suggest that Sheriff Ordonez only made returns twice: *first*, in April 2005; and *second*, in June 2005. There was not even a return showing what transpired after he served a copy of the Notice of Levy on Execution of Shares of Stocks on the companies where respondent supposedly had interest.

To be sure, it is compulsory for the sheriff to execute and make a return on the writ of execution within the period provided under Section 14, Rule 39 of the Rules of Court. Furthermore, the sheriff must submit periodic reports on partially satisfied or unsatisfied writs, so that the court as well as the parties may be apprised of the actions carried out in relation thereto. As stated under the rules, the periodic reporting must be done regularly and consistently every 30 days until the writ is returned fully satisfied.⁷⁸ Sheriff Ordonez's failure to comply with his duties under the Rules was indubitably beneficial to respondent's cause.

On another point, contrary to the CA's finding that petitioner only filed a motion to compel in 2006, when the expiration of the five-year period was drawing near, the facts show that petitioner had first filed a Motion for Examination of Judgment Obligor back in October 2005.⁷⁹ However, the RTC did not resolve the motion, but instead found the need to set several clarificatory hearings, and even persuaded the parties to explore the possibility of settlement. These significantly contributed to the delay of the proceedings as, in fact, the RTC had to order the case archived on 23 July 2008 because of the repeated cancellations of the scheduled clarificatory hearings in view of the settlement talks between the parties.

It further appears from a perusal of the CA decision that the issue of whether respondent could be compelled to be examined was only resolved by the RTC in its Omnibus Order dated 9 December 2009. Palpably, from the time of petitioner's filing of the motion in October 2005, it unjustifiably took the RTC more than four years to dispose the same. To make matter worse, while said Omnibus Order supposedly denied the motion to compel, the RTC later on granted a similar motion filed by petitioner, only to reverse

⁷⁶ *Rollo*, pp. 125-126.

⁷⁷ *Id.* at 125.

⁷⁸ See *Bautista v. Cruz*, 691 Phil. 650, 662 (2012).

⁷⁹ *Rollo*, p. 127-129; see Motion for Examination of Judgment Obligor, Annex "J."

itself anew, upon motion for reconsideration by respondent. In all, it took the RTC until December 2015, or 10 long years, to make up its mind, and finally dispose the issue in favor of respondent.

Further compounding the misery of petitioner, however, is that such ruling by the RTC, as affirmed by the CA, was erroneous.

Contrary to the CA's view, petitioner cannot be faulted for availing the benefits of Section 36, Rule 39 of the Rules of Court since the Writ remained not fully satisfied even after the lapse of three years from its issuance. As the Court stated in *Montenegro v. Montenegro*,⁸⁰ the purpose of Section 36 of Rule 39 is precisely to provide the judgment obligee a remedy in case where the judgment obligor continues to fail to comply with its obligation under the judgment.⁸¹ Section 36, Rule 39 provides:

Section 36. Examination of judgment obligor when judgment unsatisfied. – When the return of a writ of execution issued against property of a judgment obligor, or any one of several obligors in the same judgment, shows that the judgment remains unsatisfied, in whole or in part, **the judgment obligee, at any time after such return is made, shall be entitled to an order from the court which rendered the said judgment, requiring such judgment obligor to appear and be examined concerning his property and income before such court or before a commissioner appointed by it at a specified time and place;** and proceedings may thereupon be had for the application of the property and income of the judgment obligor towards the satisfaction of the judgment. But no judgment obligor shall be so required to appear before a court or commissioner outside the province or city in which such obligor resides or is found. (Emphasis and underlining supplied.)

From foregoing rule, petitioner was indubitably entitled to the issuance of a pertinent order from the RTC. In statutory construction, the term “shall” is a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory.⁸² To underscore the importance and mandatory nature of this rule, Section 38, Rule 39 states that “[a] party or other person may be compelled, by an order or subpoena, to attend before the court or commissioner to testify as provided in the two preceding sections, and upon failure to obey such order or subpoena or to be sworn, or to answer as a witness or to subscribe his deposition, may be punished for contempt as in other cases.”

⁸⁰ 475 Phil. 350 (2004).

⁸¹ Id. at 361.

⁸² *Enriquez v. Enriquez*, 505 Phil. 193, 199 (2005).

Relative to this, even conceding respondent could not be compelled to appear before a Pasig Court for examination because he is a resident of Mandaluyong City, this does not mean that the RTC was already justified in denying petitioner's motion or in delaying its ruling thereon for a long period of time. The RTC could have easily appointed a commissioner who can go to Mandaluyong City to conduct the necessary examination of respondent concerning his property and income. To have a literal interpretation of the last sentence of Section 36, Rule 39 would only bring iniquitous results, as what happened in this case.

Certainly, this rule is not designed to make it any more difficult, much less impossible, for a winning party to satisfy a judgment in his or her favor. The RTC should have acted logically or equitably in resolving such issue. In fact, the Court had, in so many instances, even emphasized that the rules may, under certain circumstances, be liberally construed in order to ensure the satisfaction of a final and executory judgment, thus:

It is revolting to the conscience to allow petitioner to further avert the satisfaction of her obligation because of sheer literal adherence to technicality. After all, the Rules of Court mandates that a liberal construction of the Rules be adopted in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding. This rule of construction is especially useful in the present case where adherence to the letter of the law would result in absurdity and manifest injustice.⁸³

Needless to say, the actions taken by the RTC on a crucial issue before it left much to be desired. It bears to recall that the unsatisfied monetary judgment, as of April 2011, had reached the staggering amount of ₱73,943,620.11 when converted to Philippine currency. Unfortunately, the CA's rather myopic view of the case further contributed to the suffering of petitioner who will be left wretched with the proverbial *Pyrrhic* victory if the errors of the RTC remained uncorrected. The final and executory decision in favor of petitioner would be reduced to a mere memorabilia of his long, arduous, and almost successful legal battle. In turn, this will be another blow to the effort of the Court to strengthen the integrity of the judiciary, and maintain the public's faith and confidence in the administration of justice. But what is most appalling here is that because the lower courts placed too much emphasis on technicalities, without regard to the totality of circumstances, and without exercising diligence and sound discretion, respondent would be allowed to walk away the ultimate winner in this case by evading payment of a just and valid obligation.

⁸³ *Heirs of Piedad v. Bobilles*, 505 Phil. 193, 738 (2017), citing *Camacho v. Court of Appeals*, 351 Phil. 108, 115 (1998).

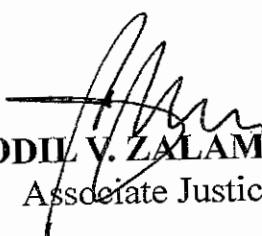
All these dire consequences surely reek of travesty of justice. Indeed, what good does a favorable decision serves to petitioner, if its execution becomes a malarkey. Hence, although it is not lost to this Court that the proceedings below had already gone beyond 10 years – which is more than the period allowed to execute a judgment by mere motion, as well as to enforce a judgment by court action – the Court is not wont to stamp its imprimatur on this deplorably unfair situation. Manifestly, the peculiar circumstances herein merit the relaxation of the rules, so that justice can be rightfully dispensed, and for the winning litigant to be given what he truly deserves.

In fine, the Court holds that, in view of the confluence of events herein, the five-year period for enforcing the judgment by motion was interrupted or suspended by petitioner's filing of his first motion for examination of the judgment debtor in October 2005. Hence, the case should be remanded to the RTC for continuation of the execution proceedings.

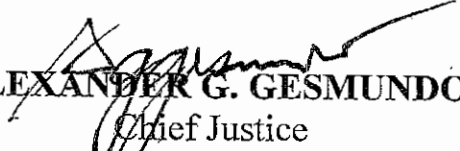
WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED**. The Decision dated 08 March 2017 and Resolution dated 06 October 2017 of the Court of Appeals in CA-G.R. CV No. 106683 are **REVERSED** and **SET ASIDE**. The Omnibus Orders dated 19 October 2015 and 17 December 2015, respectively, issued by the Regional Trial Court, Branch 67, Pasig City, in Civil Case No. 64107, are likewise **REVERSED** and **SET ASIDE**.

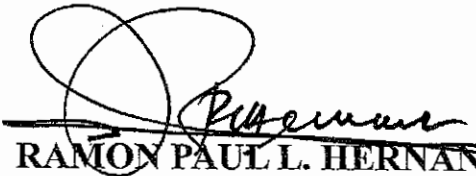
The case is **REMANDED** to the trial court for continuation of the execution proceedings.

SO ORDERED.

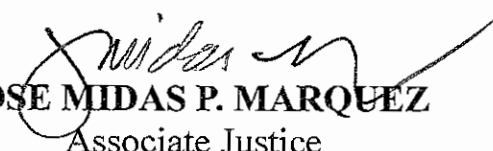

RODIL V. ZALAMEDA
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

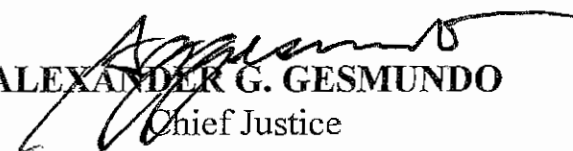

RAMON PAUL L. HERNANDO
Associate Justice

(on official leave)
RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to the Section 13, Article VIII of the Constitution, I certify 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.


ALEXANDER G. GESMUNDO
Chief Justice