



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2022** which reads as follows:*

**“G.R. No. 226900 (*Felicidad Ortiz-Bulatao v. Hon. Gonzalo O. Marata, in his capacity as Presiding Judge, Regional Trial Court, Branch 48, Urdaneta City, Michael John E. Fontanilla, in his capacity as Sheriff of the said Court, and Dominga De Guzman-Ortiz*). – Before the Court is a Petition for *Certiorari* and Prohibition with Motion for the Issuance of Temporary Restraining Order<sup>1</sup> dated August 24, 2016 filed by Felicidad Ortiz-Bulatao (Felicidad), assailing the Order<sup>2</sup> dated April 28, 2015 and the Resolution<sup>3</sup> dated June 28, 2016 (the assailed Orders) issued by the Regional Trial Court (RTC) of Urdaneta City, Branch 48 in Civil Case No. U-7335.**

**The Factual Antecedents**

Marcos Ortiz (Marcos) and Apolonia Ortiz (Apolonia), siblings, were the registered owners of a parcel of land consisting of a total of 10,909 square meters (a portion of which has been converted into a barangay road) covered by Original Certificate of Title (OCT) No. 24923 situated in Barrio Palina, Urdaneta City.<sup>4</sup> Apolonia Ortiz died without issue, while Marcos had two children: Felisa Ortiz-Ragonton (Felisa) and Elpedio Ortiz (Elpedio).

On April 21, 1956, after the death of Marcos, Apolonia and Elpedio, Felisa and Epifania Ordoñez (Epifania), mother of Felicidad, executed an Extra-Judicial Partition and Deed of Absolute Sale<sup>5</sup> with respect to the parcel of land covered by OCT No. 24923.

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<sup>1</sup> *Rollo*, pp. 4-16.

<sup>2</sup> *Id.* at 94-95.

<sup>3</sup> *Id.* at 98.

<sup>4</sup> *Id.* at 44.

<sup>5</sup> *Id.* at 171-172.

Under the Extra-Judicial Partition and Deed of Absolute Sale, Felisa was allotted the southern portion of the property, consisting of 4,236 square meters, while Felicidad – the daughter of Elpedio, and represented by her mother Epifania Ordoñez because she was still a minor at that time – was allotted the northern portion of the property consisting of 4,237 square meters.<sup>6</sup>

In the same document, Felisa also sold her share – the southern portion of the property adjacent to the barangay road, consisting of 4,236 square meters – in favor of Cresencio Ortiz (Cresencio) and Adelaida Acosta (Adelaida).<sup>7</sup>

The Extra-Judicial Partition and Deed of Absolute Sale was registered in the Register of Deeds and was annotated as an encumbrance in OCT No. 24923. Thereafter, Tax Declaration No. AA-45026-21621 was issued in the names of Cresencio and Adelaida. They then took possession of the land and planted some fruit-bearing trees therein.<sup>8</sup>

On February 25, 1975, Cresencio and Adelaida executed a Deed of Sale and sold the same portion of land to Dominga De Guzman Ortiz (Dominga). The Deed of Sale was duly registered in the Register of Deeds and was also annotated in OCT No. 24923. Dominga then took over the possession, supervision, administration, and cultivation of the said portion of land and introduced improvements therein.<sup>9</sup>

After the death of Adelaida, Cresencio and Dominga developed a relationship and got married. From then on, Cresencio joined Dominga in the possession, supervision, administration, and cultivation of the land. However, on April 5, 1984, Cresencio died, and upon his death, Dominga left the land and seldom visited.<sup>10</sup>

Eventually, Dominga learned that spouses Basilio Balbuena and Letecia Balbuena (spouses Balbuena), the daughter and son-in-law of Felisa, took possession of the property. Dominga likewise discovered that they removed the fruit-bearing trees therein and began laying

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<sup>6</sup> Id. at 171.

<sup>7</sup> Id. at 172.

<sup>8</sup> Id. at 18.

<sup>9</sup> Id. at 18-19.

<sup>10</sup> Id. at 19.

foundations to construct a concrete house.<sup>11</sup> This prompted Dominga to file before the RTC a Complaint<sup>12</sup> dated May 31, 2001 for quieting of title, recovery of possession, and damages against spouses Balbuena. Thereafter, on April 5, 2002, Dominga filed an Amended Complaint<sup>13</sup> where she impleaded Felisa as an additional defendant.

Spouses Balbuena filed their Answer with Counterclaim<sup>14</sup> dated June 19, 2001 where they argued that Letecia Balbuena's mother, Felisa, is the owner of the northern portion of the property consisting of 6,673 square meters, while Felicidad is the owner of the southern portion of the property, consisting of 4,236 square meters. Spouses Balbuena likewise alleged that they are unaware of any sale of the southern portion of the property between Felisa, and Cresencio and Adelaida, and that the signatures found in the Deed of Extra-Judicial Partition and Absolute Sale are forged and falsified.<sup>15</sup>

Meanwhile, on July 23, 2001, Felicidad filed her Answer-In-Intervention,<sup>16</sup> where she likewise averred that she is the owner of the southern portion of the property consisting of 4,236 square meters, and that she has been in possession of the same for several years. Felicidad also stated that she is unaware that her mother and her aunt executed an Extra-Judicial Partition and Deed of Absolute Sale, and that the signatures therein are forged and falsified.<sup>17</sup>

Subsequently, on October 29, 2002, Felisa filed her Answer with Counterclaim,<sup>18</sup> where she stated that she did not sell the southern portion of the property to Cresencio and Adelaida, and that the signatures appearing in the Extra-Judicial Partition and Deed of Absolute Sale are forged and falsified.<sup>19</sup>

On December 4, 2009, the RTC issued its Decision,<sup>20</sup> declaring that Dominga is the lawful owner of the southern portion of the property. The RTC found that Dominga was able to establish by preponderance of evidence that she acquired the southern portion of

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<sup>11</sup> Id.

<sup>12</sup> Id. at 17-22.

<sup>13</sup> Id. at 23-27.

<sup>14</sup> Id. at 28-31.

<sup>15</sup> Id. at 28-29.

<sup>16</sup> Id. at 32-34.

<sup>17</sup> Id. at 33.

<sup>18</sup> Id. at 38-42.

<sup>19</sup> Id. at 39.

<sup>20</sup> Id. at 44-61. Rendered by Designated Judge Teodorico Alfonso P. Bauzon.

the property after buying the same from Cresencio and Adelaida, and that she exercised possession over the land.<sup>21</sup> The RTC also noted that the Extra-Judicial Partition and Deed of Absolute Sale (executed between Felisa and Cresencio and Adelaida) and the Deed of Sale (executed between Cresencio and Adelaida, and Dominga) were duly notarized and properly registered.<sup>22</sup>

Meanwhile, the RTC found that the only evidence presented by the defendants in the case – Felisa’s bare denial that she did not sell the property nor signed the Extra-Judicial Partition and Deed of Absolute Sale – was untenable. Thus, the RTC ruled as follows:

WHEREFORE, premises considered, this court hereby renders judgment as follows:

1. Declaring the plaintiff Dominga De Guzman-Ortiz the lawful owner of the 4,236[-]square meter SOUTHERN portion of the land covered by O.C.T. No. 24923.

2. Ordering the defendants Feliza Ortiz-Ragonton, Basilisa Balbuena, Leticia Balbuena and all persons claiming rights under them to vacate the disputed 4,236[-]square meter SOUTHERN portion of the land, remove all structures or any improvements built therein, and to surrender the possession of the said lot to the plaintiff.

All other claims are hereby denied for lack of merit.

SO ORDERED.<sup>23</sup>

The defendants then elevated the case before the Court of Appeals (CA). However, the CA, finding no reversible error on the part of the RTC, issued its Decision<sup>24</sup> dated December 11, 2012 denying the appeal, to wit:

**WHEREFORE**, the foregoing considered, the appeal is **DENIED**. The Decision dated 09 December 2009 of the Regional Trial Court, Branch 48, Urdaneta City, Pangasinan is **AFFIRMED**.

**SO ORDERED.**<sup>25</sup>

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<sup>21</sup> Id. at 50.

<sup>22</sup> Id. at 54.

<sup>23</sup> Id. at 61.

<sup>24</sup> Id. at 71-79. Penned by Associate Justice Manuel M. Barrios with Associate Justices Remedios A. Salazar-Fernando and Normandie B. Pizarro concurring.

<sup>25</sup> Id. at 79.

Notably, such Decision was not challenged before the Court; thus, it became final and executory.

Thereafter, a Writ of Execution<sup>26</sup> was issued to enforce the RTC's final and executory Decision. However, on March 17, 2015, the defendants filed a Motion to Defer Implementation of Decision (Motion to Defer),<sup>27</sup> which stated, among others, the following:

1. That there is nothing in the dispositive portion of the RTC's Decision dated December 4, 2009 that orders Felicidad to vacate the 4,236-square meter southern portion of the land;<sup>28</sup>
2. That Felisa is neither in possession of nor claims to be the owner of the 4,236-square meter southern portion of the land;<sup>29</sup>
3. That spouses Balbuena do not claim ownership of any portion of the land;<sup>30</sup> and
4. That Dominga's claim in her complaint and the evidence she presented are contradictory, since in the complaint, it was alleged that she is the owner of 4,236 square meters, south of the barangay road, but her evidence showed that she is the owner of the 4,236-square meter southern portion of the land.<sup>31</sup>

The Motion to Defer was denied in the RTC's Order<sup>32</sup> dated April 28, 2015, to wit:

The claim of defendant-intervenor Felicidad Ortiz-Bulatao that she is not bound by the decision rendered in the above-entitled case in view of the fact that in the decision Felicidad Ortiz-Bulatao was not ordered to vacate the 4,236 square meters southern portion of the parcel of land subject of the action is misplaced. x x x.

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<sup>26</sup> Id. at 81-82.  
<sup>27</sup> Id. at 83-85.  
<sup>28</sup> Id. at 83.  
<sup>29</sup> Id.  
<sup>30</sup> Id. at 83-84.  
<sup>31</sup> Id. at 84.  
<sup>32</sup> Id. at 94-95.

As provided under Section 3, Rule 19 of the Rules of Court that if an answer-in-intervention has been filed, the intervenor unites with the defendants in resisting the claim against the latter. Hence, the decision rendered against the original defendants upon which the defendant-intervenor unites is binding against the latter.

WHEREFORE, the motion to defer implementation of the decision as against defendant-intervenor Felicidad Ortiz-Bulatao is ordered denied for lack of merit.

SO ORDERED.<sup>33</sup>

Aggrieved, Felisa and Felicidad filed their Motion for Reconsideration,<sup>34</sup> but the same was again denied in the RTC's Resolution<sup>35</sup> dated June 28, 2016, thus:

Going over the argument raised by the defendant-intervenor in her Motion for Reconsideration, it is a mere rehash of her argument in her Motion to Defer Implementation of Decision filed with this Court on March 18, 2016 [sic], which was already discussed, considered and passed upon in the Order dated April 28, 2015 denying the said Motion.

In view thereof, there being no new argument raised in the Motion for Reconsideration to compel this Court to revisit and reconsider its earlier findings, said Motion for Reconsideration is resolved denied for lack of merit.

In respect the Motion for Demotion filed by the plaintiff against defendant-intervenor Felicidad Ortiz-Bulatao, the latter is given a period of thirty (30) days from receipt of this Order to vacate the disputed 4,236 sq. meters southern portion of the land covered by O.C.T. No. 24923, remove all structures or any improvements built therein, and to surrender the possession of the land to the plaintiff.

SO ORDERED.<sup>36</sup>

### **The instant petition**

Undeterred by the adverse rulings of the RTC, Felicidad filed directly before the Court the instant petition for *certiorari* and prohibition under Rule 65 of the Rules of Court, where she raised the following issues:

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<sup>33</sup> Id.

<sup>34</sup> Id. at 96-97.

<sup>35</sup> Id. at 98.

<sup>36</sup> Id.

1. Whether or not private respondent has the right to claim ownership of the portion of (4,236) square meters southern portion of the land described in the complaint, when in her complaint she claims to own a portion of (4,236) square meters south of the barangay road; and
2. Whether or not petitioner should be ejected from the land and be ordered to surrender possession thereof to private respondent.<sup>37</sup>

Moreover, Felicidad prayed that the Court issue a ruling declaring her as the rightful owner of the 4,236-square meter southern portion of the land.<sup>38</sup>

### The Court's Ruling

The petition must be dismissed for utter lack of merit.

*Direct resort to the Court is improper.*

As already mentioned, Felicidad filed the instant petition under Rule 65 directly before the Court challenging the assailed Orders. On this score alone, the petition must be dismissed for failure to observe the doctrine of hierarchy of courts. As aptly discussed in *Chamber of Real Estate and Builders Association, Inc. v. Secretary of Agrarian Reform*:<sup>39</sup>

Primarily, although this Court, the Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction, **such concurrence does not give the petitioner unrestricted freedom of choice of court forum.** In *Heirs of Bertuldo Hinog v. Melicor*, citing *People v. Cuaresma*, this Court made the following pronouncements:

**This Court's original jurisdiction to issue writs of *certiorari* is not exclusive.** It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. **There is after all a**

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<sup>37</sup> Id. at 11.

<sup>38</sup> Id. at 13.

<sup>39</sup> 635 Phil. 283 (2010).

**hierarchy of courts.** That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level (“inferior”) courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. **A direct invocation of the Supreme Court’s original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.** This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court’s time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court’s docket. x x x

The rationale for this rule is two-fold: (a) it would be an imposition upon the precious time of this Court; and (b) it would cause an inevitable and resultant delay, intended or otherwise, in the adjudication of cases, which in some instances had to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as better equipped to resolve the issues because this Court is not a trier of facts.

This Court thus reaffirms the judicial policy that it will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances, such as cases of national interest and of serious implications, justify the availment of the extraordinary remedy of writ of *certiorari*, calling for the exercise of its primary jurisdiction.<sup>40</sup> (Emphasis in the original; citations omitted)

In this case, no compelling reason was given to justify the direct resort to the Court. Thus, the dismissal of the instant petition is in order.

*No grave abuse of discretion  
was committed.*

Even assuming that the petition is given due course, the petition must still be dismissed because it miserably failed to establish that the RTC committed grave abuse of discretion.

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<sup>40</sup> Id. at 300-301.

In *Chua v. People*,<sup>41</sup> the Court explained that a petition for *certiorari* must sufficiently demonstrate that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner, thus:

Where a petition for *certiorari* under Rule 65 of the Rules of Court alleges grave abuse of discretion, the **petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction** as to be equivalent to lack of jurisdiction. In *Yu v. Judge Reyes-Carpio*, the Court explained:

The term “grave abuse of discretion” has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion **when such act is done in a “capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.”** The abuse of discretion must be so **patent and gross as to amount to an “evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.”** Furthermore, the use of a petition for *certiorari* is restricted only to “truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void.” From the foregoing definition, it is clear that **the special civil action of *certiorari* under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross** x x x.<sup>42</sup> (Emphasis supplied; citations omitted)

In this case, however, apart from Felicidad’s bare allegation that the RTC purportedly committed grave abuse of discretion, there is no indication, much less proof, that the RTC issued the assailed Orders in an arbitrary or despotic manner. On the contrary, it must be emphasized that in issuing the same, the RTC was only validly exercising its jurisdiction to enforce an already final and executory judgment. Clearly, therefore, the RTC did not commit any grave abuse of discretion that would warrant the reversal of the assailed Orders.

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<sup>41</sup> 821 Phil. 271 (2017).

<sup>42</sup> Id. at 279-280.

*A final and executory judgment can no longer be altered or modified.*

To recall, the RTC's Decision<sup>43</sup> dated December 4, 2009 which declared Dominga as the rightful owner of the southern portion of the property became final and executory in view of Felicidad's failure to file an appeal. Despite this, however, the instant petition ultimately asks the Court to modify the said Decision and declare Felicidad as the owner of the southern portion of the property.

This cannot be done. As elucidated in *Gomeco Metal Corporation v. Court of Appeals*,<sup>44</sup> a judgment, once it has attained finality, can no longer be altered, modified, or changed, in accordance with the doctrine of immutability of judgments, thus:

The doctrine of immutability of judgment maintains that once a judgment has attained finality, the same can no longer be changed or modified **in any respect**, either by the court that rendered it or by any other court. In *FGU Insurance v. Regional Trial Court*, we explained the full breadth of such doctrine, including the few recognized exceptions thereto, as follows:

Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.

But like any other rule, it has exceptions, namely: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.<sup>45</sup> (Emphasis in the original; citations omitted)

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<sup>43</sup> *Rollo*, pp. 44-61.

<sup>44</sup> 793 Phil. 355 (2016).

<sup>45</sup> *Id.* at 379.

From the foregoing, it is manifestly clear that the RTC's final and executory Decision<sup>46</sup> declaring Dominga as the rightful owner of the southern portion of the property can no longer be modified or changed. Even more, such final and executory Decision cannot be modified simply through a petition for *certiorari*. As explained in *Local Water Utilities Administration Employees Association for Progress (LEAP) v. Local Water Utilities Administration (LWUA)*,<sup>47</sup> Rule 65 Petitions cannot be used as substitutes for lost appeals, to wit:

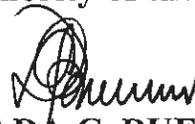
This Court has repeatedly held that a special civil action for certiorari under Rule 65 of the Rules of Court is proper only when there is neither appeal nor plain, speedy and adequate remedy in the ordinary course of law. **The extraordinary remedy of certiorari is not a substitute for a lost appeal; it is not allowed when a party to a case fails to appeal a judgment to the proper forum, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse.**<sup>48</sup> (Emphasis supplied; citation omitted)

Given these precepts, it is beyond cavil that Felicidad cannot be allowed to question and ask for a modification of an already final and executory judgment through the instant petition, considering that she herself is to blame for her failure to appeal and avail of the appropriate remedy. All in all, it is undeniable that the RTC committed no grave abuse of discretion when it issued the assailed Orders.

**WHEREFORE**, the Petition for *Certiorari* and Prohibition with Motion for the Issuance of Temporary Restraining Order dated August 24, 2016 is **DISMISSED** for utter lack of merit.

**SO ORDERED."**

By authority of the Court:

  
**LIBRADA C. BUENA**  
Division Clerk of Court ms/18

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>46</sup> *Rollo*, pp. 44-61.

<sup>47</sup> 794 Phil. 496 (2016).

<sup>48</sup> *Id.* at 504.



Ms. Felicidad O. Bulatao  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 48  
Urdaneta City, 2428 Pangasinan  
(Civil Case No. U-7335)

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