



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated July 27, 2022 which reads as follows:

“G.R. No. 230630 (*Heirs of Loreto Hermida and Apolonia Barton, et al. vs. Heirs of the late Gregorio Andes, et al.*). — This Court resolves a Petition for Review on *Certiorari*,¹ filed by the heirs of Loreto Hermida and Apolonia Barton (the Hermidas) assailing the Decision dated September 19, 2016² and Resolution dated March 15, 2017³ of the Court of Appeals (CA) in CA-G.R. CV No. 105601.

Antecedents

The case stemmed from a Decision dated June 27, 1988 (*June 27, 1988 Decision*) rendered by the Regional Trial Court of Sorsogon, Branch 51 (RTC-Branch 51) in Civil Case No. 2980 for quieting of title, recovery of property and damages, involving a 649 square meter (sq.m.) property located in Barangay Binisitahan, Magallanes, Sorsogon.

The complaint was filed by the heirs of Gregorio Andes⁴ (the Andeses) against the Hermidas⁵ in March 1975. Allegedly, the Hermidas, who owned the adjoining 200 sq.m. lot to the Andeses’, encroached on a portion of the latter’s

¹ Filed under Rule 45 of the Rules of Court.

² *Rollo*, pp. 35–47. Penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court), and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba.

³ *Id.* at 65–66.

⁴ The named plaintiffs are: Francisca, Priscilla, Ramon, Gregorio, Jr., Nestor, all surnamed Andes, Linda A. Alpapara, and Cynthia A. Capitulo; *id.* at 72.

⁵ The named defendants are: Ella B. Hermida-Etaya, Eleazar B. Hermida, Eduardo B. Hermida, Elvin B. Hermida, Elvira B. Hermida-Oseo, Elizabeth B. Hermida, Heirs of Elmer B. Hermida, Heirs of Ely B. Hermida, Spouses Elsa and Ernest Almero; *id.* at 72.

649 sq.m. property.⁶ The RTC-Branch 51 ruled in favor of the Andeses, declaring them as the owner of the portion encroached upon by the Hermidas. The dispositive portion of the decision reads in part as:

WHEREFORE, judgment is hereby rendered in favor of the [Andeses] and against the [Hermidas]:

A. Declaring –

1. The [Andeses] the owners of the land in question consisting of 649 square meters, which is part and parcel of the properties described in paragraph 2 of [their] complaint; the [Andeses] as pro-indiviso owners of Parcel 1 and plaintiff Dolores Andes or her heirs as absolute owners and entitled to possession of Parcel 2;
2. The [Hermidas] the owners of the 200 square meters parcel of land which they purchased from Fr. Francisco Hermida; and should there be dispute of the boundary between the 200 square meters and plaintiff's property, a competent surveyor should be employed by the parties to segregate the 200 square meters from the land in question in order to fix the said boundary, the expenses therefor, to be shouldered by defendants[.]⁷

In due course, the *June 27, 1988 Decision* became final and executory,⁸ and a writ of execution was issued.⁹ However, the writ was not implemented because the Hermidas refused to vacate.¹⁰ In view of the unenforced decision, Gregorio Andes, Sr. sent a letter dated November 20, 1991,¹¹ to the Hermidas demanding payment for the encroached area. The demand was unheeded. Consequently, the Andeses moved for the issuance of an alias writ of execution,¹² which was granted, but nonetheless remained unimplemented.

Thus, on February 26, 1999, the Andeses filed a complaint¹³ for revival of the *June 27, 1988 Decision*, this time before Branch 65 of the RTC of Sorsogon, Sorsogon (RTC-Branch 65) docketed as Civil Case No. 99-6552-102. They averred that “the money judgment in the said decision has not yet been satisfied x x x, and that, there is still an apparent controversy with respect to the metes and bounds of the lands in question awarded to the [Andeses] despite the survey made by a competent surveyor.”¹⁴ The complaint also alleged that “the [Hermidas] are still claiming interest in the property awarded to the [Andeses].”¹⁵ The RTC-Branch 65 then commissioned Engr. Marilyn Rañon (Engr. Rañon) to conduct a relocation survey on the subject properties to identify and determine the

⁶ *Rollo*, pp. 90–91.

⁷ *Id.* at 105.

⁸ *Id.* at 107.

⁹ *Id.* at 108–110.

¹⁰ *Id.* at 111.

¹¹ *Id.* at 113.

¹² *Id.* at 114.

¹³ *Id.* at 115–122. Docketed as Civil Case No. 99-6552-102 before Branch 65, Regional Trial Court, Sorsogon, Sorsogon.

¹⁴ *Id.* at 119.

¹⁵ *Id.*

boundaries of the 200 sq.m. of the Hermidas and the total encroachment on the property of the Andeses.

Engr. Rañon conducted the survey in the presence of the parties, assisting the police officers and barangay officials, and rendered his report identifying the following:

8. [The] claim of the [Andeses] are as follows:

8.a. Lot No. 224, Cad. 481-D located at Binisitahan, Magallanes, Sorsogon, with an area of 2,468 square meters surveyed in the name of Heirs of Basilio Andes.

8.b. A total area of SIX HUNDRED FORTY NINE (649) square meters per Decision and [the Andeses'] complaint dated 27 June 1988 and 26 February 1999 respectively. This area falls within the following:

8.b.1. Portion of Lot No, 223, Cad 481-D designated as Lot No. 223-B with an area of EIGHTY SIX (86) square meters. This area was actually occupied by the defendants. The improvements found thereon are two-storey residential house made of mixed materials, concrete fence built on the southern portion of this lot and bamboo fence built along the northern portion of the lot;

8.b.2. Lot No. 93, Cad 481-D with an area of THREE HUNDRED SIX (306) square meters. Portion of this lot designated as Lot No. 93-A with an area of THIRTY SEVEN (37) square meters was occupied by the defendants. Remaining portion of this lot designated as Lot No. 93-B with an area of TWO SIXTY NINE (269) square meters was occupied by the plaintiffs.

8.b.3. Lot No. 796, Cad 481-D with an area of TWO FIFTY SEVEN (257) square meters. This lot was occupied by the Plaintiffs. The improvements found thereon are some coco trees and several fruit-bearing trees.

9. **[The] total area of Lot No. 223-B, Lot No. 93, Cad 481-D and Lot No. 796, Cad 481-D are SIX HUNDRED FORTY NINE (649) square meters. This is the total area claimed by the plaintiffs.**

10. [The] claim of the Defendants were identified as follows:¹⁶

10.a. An area of TWO HUNDRED (200) square meters per Decision dated June 27, 1988. This area was occupied by the defendants and is within the northwestern portion of Lot No. 223, Cad 481-D designated as Lot No. 223-A. The improvements found thereon are two-storey residential house made of mixed materials and mango tree. Remaining portion of Lot 223, Cad 481-D designated as Lot No. 223-B with an area of EIGHTY SIX (86) square meters was also occupied and claimed by the defendants. A two-storey and single storey residential house made of mixed materials were constructed within this area;

¹⁶ Id. at 135.

10.b. **Portion of Lot No. 93, Cad 481-D designated as Lot No. 93-A with an area of THIRTY SEVEN (37) square meters. A concrete fence was built along the eastern portion of this area and same was occupied by the defendants.**

11. **[The] contested areas were identified as Lot No. 223-B (red color) and Lot No. 93-A (green color) with an area of 86 square meters and 37 square meters respectively.**¹⁷ (Emphasis supplied)

The RTC-Branch 65 approved the commissioner's report, but upon the Andeses' motion for reconsideration, the RTC stayed the execution of the revived judgment,¹⁸ thus:

IN VIEW OF THE FOREGOING, the execution of the Revived Judgment is ordered STAYED. The disposition of the 649 sq.m. belonging to the plaintiffs, as well the 123 sq.m. in excess of the 200 sq.m. awarded to and being occupied by the defendants, should be threshed out by the parties in a separate incident, either in this action or in an independent litigation. Defendants are hereby ordered to settle the 50% unpaid balance due the Commission appointed by this court (Engr. Rañon) immediately upon receipt thereof. For strict compliance.

SO RESOLVED.¹⁹

The RTC-Branch 65 explained that it had no authority or jurisdiction to issue a writ of execution. What the Andeses claimed were Lot Nos. 224-A and 224-B, which were not occupied by the Hermidas. Thus, there is no dispute as to the lots claimed by the Andeses. The RTC also concluded that the 649 sq.m. awarded to the Andeses in the *June 27, 1988 Decision* was part and parcel of uncontested Lot Nos. 224-A and 224-B. Based on the Commissioner's Report, the Hermidas did not encroach on any portion of Lot Nos. 224-A and 224-B since they were occupying portions of Lot Nos. 223-B (86 sq.m.) and 93-A (37 sq.m.).

Consequently, the Andeses filed anew a complaint for quieting of title, recovery of property and damages against the Hermidas over the encroached areas of Lot No. 223-B and Lot No. 93-A. The case was docketed as Civil Case No. 11-441 before the RTC-Branch 65. In this second complaint for quieting of title, the Andeses contended that:

[O]ut of the contested 849 square meters, 200 square meters belong to the [Hermidas] and 649 square meters belong to the [Andeses]. As found by the Commissioner [Engr. Rañon], out of the 649 square meters, 123 square meters is occupied by the [Hermidas] while the remaining portion of 526 square meters is being occupied by [the Andeses], hence only the 123 square meters encroached by [the Hermidas] is the proper subject of this case.²⁰

¹⁷ Id. at 135-136.

¹⁸ Id. at 82-88.

¹⁹ Id. at 88.

²⁰ Id. at 78.

The Andeses prayed that they be declared the lawful owners and be restored to possession of the 123 sq.m. — 86 sq.m. of Lot No. 223-B and 37 sq.m. of Lot No. 93-A — portion of the lots encroached upon by the Hermidas.²¹

In its January 5, 2015 Resolution, the RTC-Branch 65 dismissed the case for failure of the Andeses to prove their legal and equitable right to Lot Nos. 223-B and 93-A.²² The Andeses then filed an appeal before the CA, which was granted.²³ The dispositive portion of the CA's September 19, 2016 Decision²⁴ reads:

WHEREFORE, premises considered, the instant appeal is GRANTED. The court *a quo* is directed to enforce the decision in Civil Case No. 2980 and award the 123 sq.m. portion of Lot No. 223-B and 93-A encroached upon by the defendants-appellees in favor plaintiffs-appellants.

SO ORDERED.²⁵ (Emphasis in the original)

The CA determined that the property under litigation referred to Lot Nos. 223-B and 93-A, and not Lot No. 224. The ruling of RTC-Branch 65 in Civil Case No. 99-6552-102 brought confusion to the parties when it declared that the adjudication of RTC-Branch 51 in its *June 27, 1988 Decision* in Civil Case No. 2980 pertained to Lot No. 224. In effect, RTC-Branch 65 rendered a conflicting new judgment — that the Hermidas did not encroach upon the Andeses' property. This is contrary to the final and executory declaration in the *June 27, 1988 Decision* that awarded only 200 sq.m. in favor of the Hermidas. Consequently, “[RTC-Branch 65] overstepped its jurisdictional bounds when it added 123 sq.m. to the 200 sq.m. lot of [the Hermidas] while reducing the 649 sq.m. lot that has been previously awarded to [the Andeses], to 526 sq.m.”²⁶ The reliance of RTC-Branch 65 on the possession of the Hermidas is insufficient to justify awarding them ownership as mere possession of a property does not amount to ownership. Moreover, the CA noted that the *June 27, 1988 Decision* of RTC-Branch 51 in Civil Case No. 2980 already attained finality and immutability. Thus, it can no longer be modified by RTC-Branch 65. The Hermidas filed a motion for reconsideration,²⁷ but it was denied.²⁸

²¹ *Id.* at 78–79.

²² *Id.* at 67–71.

²³ *Supra* Note 2.

²⁴ *Rollo*, pp. 35–47.

²⁵ *Id.* at 46.

²⁶ *Id.* at 43.

²⁷ *Id.* at 48–63.

²⁸ *Id.* at 65–66. Resolution dated March 15, 2017. The CA disposed of the Hermidas' motion for reconsideration as follows:

After a punctilious evaluation of the arguments presented by the parties, We find that the Motion for Reconsideration failed to raise any substantial matter sufficient to convince Us to reconsider our Decision dated 19 September 2016. The matters raised in the Motion for Reconsideration having been passed upon and thoroughly discussed by this Court in said Decision, We find no cogent reason to reverse or modify our findings. Thus, the Decision dated 19 September 2016 stands.

WHEREFORE, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.

Hence, this Petition.²⁹ The Hermidas contend that the CA erroneously reversed the RTC-Branch 65 and rendered a judgment not based on facts, law and jurisprudence. The Resolution of RTC-Branch 65 in Civil Case No. 11-441 did not alter or modify the *June 27, 1988 Decision* of RTC-Branch 51 in Civil Case No. 2980. It simply “tried its best to identify the properties that [RTC-Branch 51] failed to identify.”³⁰ Even the *June 27, 1988 Decision* stated that ‘should there be dispute of the boundary between the 200 sq.m. and [the Andeses’] property, a competent surveyor should be employed by the parties to segregate the 200 sq.m. from the land in question in order to fix the said boundary[.]’³¹ The Hermidas maintain that they did not encroach upon the Andeses’ property, and alleged that the latter failed to prove their claim over the 123 sq.m. portion of Lot Nos. 223-B and 93-A.

On the other hand, the Andeses filed a Comment³² averring that the *June 27, 1988 Decision* of RTC-Branch 51 clearly concluded that the 649 sq.m. lot belongs to them and the Hermidas owned only 200 sq.m.³³ The necessary implication of this conclusion is that the Hermidas encroached on the Andeses’ property. Thus, the CA’s ruling does not run counter to the *June 27, 1988 Decision* of RTC-Branch 51.³⁴

Issue

For this Court’s resolution is whether the CA erred in ordering the enforcement of the *June 27, 1988 Decision* of RTC-Branch 51 in Civil Case No. 2980 and in awarding 123 sq.m. of Lot Nos. 223-B and 93-A to the Andeses.

Ruling

The petition lacks merit.

Section 2, Rule 36 of the Rules of Court provides:

Section 2. Entry of judgments and final orders. — If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment or final order and shall be signed by the clerk, within a certificate that such judgment or final order has become final and executory.

Simply, the rules provide that a decision or judgment becomes final and executory only if the aggrieved party does not file an appeal or motion for new trial or reconsideration of the said decision within the time provided. Here, the

²⁹ Id. at 7–28.

³⁰ Id. at 25.

³¹ Id. at 26–27.

³² Id. at 174–204.

³³ Id. at 191–192.

³⁴ Id. at 193–204.

June 27, 1988 Decision in Civil Case No. 2980 rendered by RTC-Branch 51 had long become final and executory. 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.³⁵

The rule on immutability of judgment admits of exceptions, to wit: (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.³⁶

In this case, we agree with the CA in ruling that with a *nunc pro tunc judgment*, the RTC-Branch 65, which decided the second case for quieting of title, could have given life to the *June 27, 1988 Decision* rendered by RTC-Branch 51 in Civil Case No. 2980, which awarded a 649 sq.m. to the Andeses. In *Mercury Drug Corp. v. Spouses Huang*,³⁷ we held that a *nunc pro tunc* correction is made to enter into the record an act previously done by the court, which had been omitted through inadvertence or mistake. It is not made to correct judicial error, but solely for the records to reflect that a judicial action has actually been taken. However, RTC-Branch 65 instead modified the decision by proclaiming that there is no clear judgment to be enforced and further ruled that the Hermidas did not encroach upon Lot No. 224, belonging to the Andeses.

The Hermidas maintain that RTC-Branch 65 “endeavored to resolve what [the Andeses] and [RTC-Branch 51] did not do, viz., the technical identification of the properties in Civil Case No. 2980, by commissioning a license[d] Geodetic Engineer[.]”³⁸ On the other hand, the Andeses assert that the *June 27, 1988 Decision* and the CA consistently held that 649 sq.m. belongs to them and that the Hermidas own only 200 sq.m. of the properties involved.³⁹ Apropos to this, We rule that the interpretation of RTC-Branch 65 of the relocation survey *vis-à-vis* the allegations in the original complaint in Civil Case No. 2980 is inaccurate, and its reliance on the relocation survey is flawed.

A relocation survey is only a tool used to prevent any possible error that may result in the execution of a decision. The conduct of a survey cannot and should not be regarded as an opening for another round of litigation on the issues definitively settled a long time ago. We quote with approval the following discourse of the CA:

It is worthy to point out that the Relocation survey was conducted on January 24, 2004 when the Decision in Civil Case No. 2980 has already been

³⁵ *Montehermoso v. Barato*, G.R. No. 246553, December 2, 2020.

³⁶ *FGU Insurance Corp. v. RTC of Makati City*, Branch 66. 659 Phil. 117 (2011).

³⁷ 817 Phil. 434 (2017).

³⁸ *Rollo*, p. 24.

³⁹ *Id.* at 195–199.

handed down. Thus, the [RTC-Branch 51] could not have been guided by the boundaries identified in the Survey. What is clear from the [*June 27, 1988 Decision*] is that a 649 square meter lot belongs to Andes while a 200 square meter lot belongs to the Spouses Hermida. Considering that the [RTC-Branch 51] made reference to a 649 sq. m. lot which was occupied by the Spouses Hermida, there is a strong indication that this actually pertains to Lot No. 223-B and 93-A identified in the Relocation Survey.

Incidentally, the [RTC-Branch 65] in Civil Case No. 99-6552-102, which is also the court a *quo* recognized that the 649 sq. m. lot awarded in favor of Andes falls under Lot Nos. 223-B, 93-A and 796:

Furthermore, the 649 sq. m. area allotted to the plaintiffs as contained in the decision does not fall within the area of coverage of Lot 224, Cad 481-D, but within the portions of Lot 223-B (86 sq. m.); Lot 93-A (37 sq. m.); Lot 93-B (269 sq. m.); and Lot 796, Cad 481-D with an area of 257 sq. m. - thus totaling all in all to 649 sq. m. While the 200 sq. m. awarded to the defendants as per Decision of June 27, 1988, is within the northwestern portion of Lot No. 223, Cad 481-D, denominated as Lot 223-A.

x x x It must be emphasized that [the *June 27, 1988 Decision*] has already found that the Spouses Hermida has encroached on the property of Gregorio Andes. The Relocation Survey was intended merely to determine the extent of the said encroachment. The [RTC-Branch 65] therefore erred when it utilized the Relocation Survey to determine whether or not an encroachment exists.

This could have been avoided if only the [RTC-Branch 65], xxx took into consideration the reference considered by [RTC-Branch 51] which was then existing at that time, and not the boundaries which only came about after conducting a Relocation Survey. x x x.

x x x There is no room for further interpretation when the [RTC-Branch 51] awarded only 200 sq. m. portion of the lot in favor of the Spouses Hermida. This can no longer be modified by [RTC-Branch 65].⁴⁰

Clearly, the *June 27, 1988 Decision* of RTC-Branch 51 in Civil Case No. 2980 effectively bars a re-litigation of the issues settled with finality. Particularly, the adjudication of 649 sq.m. portion of the property in favor of the Andeses, as well as the 200 sq.m. portion awarded to the Hermidas. This pronouncement is controlling and should have guided the RTC-Branch 65 in the execution process in Civil Case No. 99-6552-102 and in the quieting of title and recovery of possession action in Civil Case No. 11-441.

We emphasize that under the doctrine of judicial stability or non-interference in the regular orders or judgments of a co-equal court, the various trial courts of a province or city, having the same equal authority, should not, cannot, and are not permitted to interfere with their respective cases, much less with their orders or judgments.⁴¹

⁴⁰ *Rollo*, pp. 42-43.

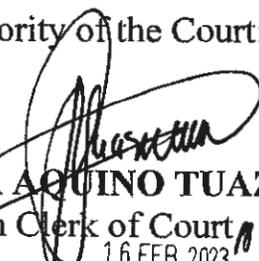
⁴¹ *Del Rosario v. Ocampo-Ferrer*, 787 Phil. 631 (2016).

In sum, there is no dispute that the *June 27, 1988 Decision* in Civil Case No. 2980 has long become final and executory. Under the doctrine of finality of judgment and by operation of law, it has become immutable and should be respected. The matter of execution is always open for as long as the judgment remains incomplete.⁴² Now that the judgment has been laid to rest, let the execution be enforced, as is consistent with public policy and justice, to put an end to this prolonged litigation. In *Heirs of Tuballa v. Cabrera*,⁴³ We held that the orderly administration of justice requires that the judgments of a court must reach a point of finality set by the law, rules, and regulations. The noble purpose is to write *finis* to the dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations.

FOR THESE REASONS, we **DENY** the petition and **AFFIRM** the Decision dated September 19, 2016 and Resolution dated March 15, 2017 of the Court of Appeals in CA-G.R. CV No. 105601.

SO ORDERED.” (J.Y. Lopez, *J.*, took no part due to his prior participation in the Court of Appeals, Gaerlan, J. designated additional member *per* Raffle dated November 24, 2021)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
16 FEB 2023

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⁴² *Republic v. Hon. Delos Angeles*, 588 Phil. 1003 (2008).

⁴³ 570 Phil. 598 (2008).