

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

TEROCEL REALTY, INC.
(now PECHATEN
CORPORATION),

Petitioner,

G.R. No. 223335

Present:

PERALTA, * C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
INTING, * and
LOPEZ, JJ.

- versus -

LEONARDO MEMPIN,
Respondent.

Promulgated:

MAR 04 2020

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on Certiorari assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 137368 entitled “*TeroCEL Realty, Inc. (now Pechaten Corporation) v. Hon. Andy S. De Vera, in his capacity as Presiding Judge of the Metropolitan Trial Court of Manila, Branch 28 and Leonardo Mempin,*” for mandamus:

* On official business.

* Designated as additional member per raffle held on June 19, 2019.

N

- 1) Decision¹ dated July 23, 2015, affirming the dismissal of the petition for mandamus to compel the Metropolitan Trial Court (MeTC) - Branch 28, Manila to issue the writ of execution in Civil Case No.166014; and
- 2) Resolution² dated March 8, 2016, denying petitioner's motion for reconsideration.

Antecedents

In Civil Case No. 166014 entitled "*Terocel Realty, Inc. v. Leonardo Mempin*" for unlawful detainer, MeTC-Branch 28 rendered its Decision dated April 26, 2000, granting the complaint of petitioner Terocel Realty, Inc. (now Pechaten Corporation) and requiring respondent Leonardo Mempin to vacate subject property known as Lot 68, Block 5-E in Sampaloc, Manila.

On appeal, the Regional Trial Court - Branch 12, Manila (RTC-Branch 12), by Decision dated August 10, 2001, affirmed. Following the finality of the RTC decision, petitioner moved for execution of judgment on September 13, 2001. Respondent opposed. He claimed that he was one of the prospective beneficiaries of the complaint for expropriation being then pursued by the City of Manila pursuant to its Ordinance No. 8012. Among the properties sought to be expropriated was the lot in question.³

By Order dated January 8, 2003, RTC-Branch 12 granted petitioner's motion for execution and issued the corresponding writ of execution. It also denied respondent's motion to defer execution under Order dated November 14, 2003. Per Sheriff's Report dated July 1, 2003, respondent was alleged to have refused to vacate the property.⁴ On this score, respondent called the trial court's attention to the expropriation complaint filed by the City of Manila sometime in December 2003 against petitioner, Alegar Corporation, and Filomena Vda. De Legarda. The complaint was docketed SP No. 03-108565 and raffled to RTC-Branch 47.⁵

Records showed, however, that RTC-Branch 47 dismissed the complaint for expropriation. The decree of dismissal was affirmed twice, first by the Court of Appeals⁶ and next, by this Court.⁷ This Court's decree

¹ Penned by Associate Justice Ramon Paul L. Hernando (now a member of this Court) with the concurrence of Associate Justices Jose C. Reyes, Jr. (now a member of this Court) and Stephen C. Cruz, *rollo*, pp. 24-36.

² *Id.* at 39-40.

³ *Id.* at 25.

⁴ *Id.* at 25-26.

⁵ *Id.* at 26.

⁶ *Id.* at 26-27.

⁷ *City of Manila v. Alegar Corporation*, 689 Phil. 31, 43 (2012).

"WHEREFORE, the Court DENIES the petition and AFFIRMS the decision of the Court of Appeals dated February 27, 2009 in CA-G.R. CV 90530 subject to the following MODIFICATIONS:

1. Petitioner City of Manila is ordered to indemnify respondents Alegar Corporation, Terocel Realty Corporation, and Filomena Vda. De Legarda in the amount of P50,000.00 as attorney's fees;

became final and executory per Entry of Judgment dated August 6, 2012.⁸

Thereafter, petitioner went back to MeTC-Branch 28 through another motion for execution. MeTC-Branch 28 denied the same on the ground that it was filed beyond the prescribed five-year period for execution by motion. Petitioner's motion for execution was filed only on February 15, 2013 or twelve (12) years after the Decision dated August 10, 2001 became final and executory. According to MeTC-Branch 28, the complaint for expropriation was not a supervening event which served to toll the five-year prescriptive period. Besides, respondent was not even a party to the expropriation case.⁹ Petitioner's motion for reconsideration was denied through Order dated July 30, 2013.¹⁰

Petitioner went to RTC-Manila via a petition for mandamus docketed as SCANo. 13-131042. It sought to compel MeTC-Branch 28 to issue the writ of execution in the unlawful detainer case. The case was raffled to RTC-Branch 54 which ruled that mandamus did not lie to direct a lower court on how it should resolve a motion for execution.¹¹

On petitioner's appeal,¹² the Court of Appeals affirmed under Decision dated July 23, 2015. It ruled that the expropriation case was not a supervening event which had the effect of freezing the five-year period for execution of judgment by motion. The court emphasized that respondent was only a prospective beneficiary of the City of Manila's land grant program, thus, his right, if any, was merely inchoate.¹³ Besides, the expropriation case did not have the effect of precluding petitioner from enforcing its own writ of execution against respondent in the unlawful detainer case.¹⁴

Too, it noted that even the ten-year period for execution by action had already expired as of September 20, 2011. More important, a writ of mandamus will not lie to compel the lower courts to execute judgment beyond the five-year or ten-year limits.

The Court of Appeals subsequently denied petitioner's motion for reconsideration under its assailed Resolution¹⁵ dated March 8, 2016.

2. Respondents Alegar Corporation, Terocel Realty Corporation, and Filomena Vda. De Legarda are in turn ordered to return the advance deposit of P1,500,000.00 that they withdrew incident to the expropriation case; and

3. This decision is without prejudice to the right of the City of Manila to re-file their action for expropriation after complying with what the law requires.

SO ORDERED.”

⁸ *Rollo*, p. 27.

⁹ *Id.*

¹⁰ *Id.* at 28.

¹¹ *Id.*

¹² *Id.* at 29.

¹³ *Id.* at 32-33.

¹⁴ *Id.* at 33-34.

¹⁵ *Id.* at 39-40.

N

The Present Petition

Petitioner now invokes the Court's discretionary appellate jurisdiction to review and reverse the Decision dated July 23, 2015 and Resolution dated March 8, 2016. Petitioner reiterates that the expropriation case and the subsequent writ of possession affecting the property were supervening events which had the effect of suspending the execution of judgment in the unlawful detainer case.¹⁶

In his Comment¹⁷ dated July 30, 2018, respondent essentially counters that the expropriation case and unlawful detainer case are distinct actions which may proceed independently of each other and that mandamus will not lie to compel a court of law to issue a writ of execution.

Issues

- 1) Did the complaint for expropriation constitute a supervening event which had the effect of interrupting the five-year period for execution of judgment by motion in the unlawful detainer case?
- 2) Does mandamus lie to compel execution of judgment by motion beyond the five-year period?

Ruling

The petition utterly lacks merit.

Petitioner's motion for execution is already barred by prescription

Section 6, Rule 39 of the Rules of Court governs execution of judgment by motion or by independent action, viz.:

Section 6. Execution by motion or by independent action. — A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations. (6a)

On one hand, a final and executory judgment may be executed by motion within five (5) years from entry of judgment.¹⁸ On the other, execution by independent action is available in cases where the five-year period had

¹⁶ *Id.* at 14-19.

¹⁷ *Id.* at 159-163.

¹⁸ *Villareal, Jr. v. MWSS*, G.R. No. 232202, February 28, 2018, 857 SCRA 162, 169-170.



already expired. The action then must be filed before it is barred by the statute of limitations which under the Civil Code is ten (10) years from finality of judgment.¹⁹

Here, it is undisputed that although petitioner filed its first motion for execution in the unlawful detainer case within the prescribed five-year period, it never pursued the same and was therefore deemed to have abandoned it. When petitioner, nonetheless, filed its second motion for execution, twelve (12) years had already elapsed from entry of judgment (September 20, 2001). Undoubtedly, the second motion was filed seven (7) years beyond the five-year period. Verily, therefore, MeTC – Branch 28 correctly denied the second motion.

In petitioner's attempt to take out the case from the five-year prescriptive period, however, it asserts that the filing of the expropriation case was a supervening event which served to suspend the five-year period.

The issue is not novel. *Republic v. Mangrobang*²⁰ enunciated: "In the ejectment case, the issue is possession of the disputed property, while in the eminent domain case, the issue is the taking by the State of the property by virtue of its power of eminent domain. Note, however, that the decision in one will not necessarily affect the decision in the other." So must it be.

In any event, while in exceptional cases, the Court had allowed execution by motion even after the lapse of the five-year period, these cases had one common denominator: the judicial debtor itself caused or incurred the delay for its personal benefit or advantage.²¹

This is not the case here. As judicial debtor, respondent did not have any hand in the filing of the expropriation complaint, the issuance of the writ of execution, or the supposed pronouncement of the City of Manila that it did not plan to eject the actual occupants of the affected properties. In fact, respondent himself was not even a party to the expropriation case nor a recognized beneficiary thereof by the City of Manila.

***Mandamus is not a proper remedy
to compel execution of judgment***

Under the Rules on Civil Procedure, a writ of mandamus may issue when there is a clear legal duty imposed upon the office or the officer to perform an act, and when the party seeking mandamus has a clear legal right to the performance of such act.²² Certainly, mandamus is never issued in doubtful cases. It cannot be availed of against an official or government

¹⁹ *Funk v. Santos Ventura Hocorma Foundation, Inc.*, 789 Phil. 348, 360 (2016).

²⁰ 422 Phil. 178, 186 (2001).

²¹ *Yau v. Silverio, Jr.*, 567 Phil. 493, 503 (2008).

²² *Knights of Rizal v. DMCI Homes, Inc.*, 809 Phil. 453, 527 (2017).

agency whose duty requires the exercise of discretion or judgment.²³ The writ of mandamus will not issue either to compel officials to do something which is not their duty to do or which it is their duty not to do, or to give to the applicant anything to which he is not entitled by law.²⁴

Here, petitioner is no longer entitled to execution of judgment either by motion or independent action since its right to do so is already barred by prescription. Surely, it is the duty of the courts not to enforce a stale judgment.

ACCORDINGLY, the petition is **DENIED**. The Decision dated July 23, 2015 and Resolution dated March 8, 2016 of the Court of Appeals in CA-G.R. SP No. 137368 are **AFFIRMED**.

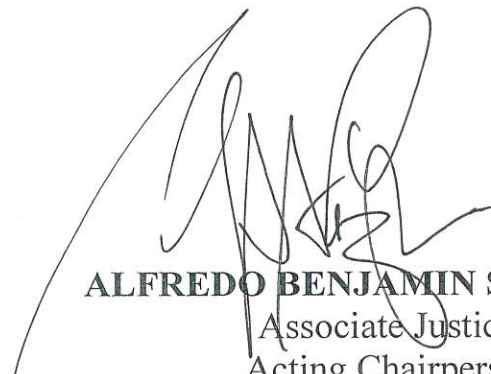
SO ORDERED.



AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

(On official business)
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



HENRI JEAN PAUL B. INTING
Associate Justice



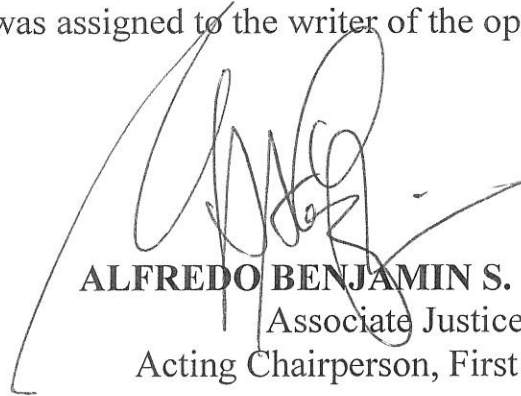
MARIO V. LOPEZ
Associate Justice

²³ *First Class Cadet Aldrin Jeff P. Cudia v. The Superintendent of the Philippine Military Academy*, 754 Phil. 590, 638 (2015).

²⁴ *Uy Kiao Eng v. Nixon Lee*, 624 Phil. 200, 207 (2010).

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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, 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.



ESTELA M. PERLAS-BERNABE
Acting Chief Justice