

ORDER - May 5, 2000

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Republic of the Philippines
REGIONAL TRIAL COURT
NATIONAL CAPITAL JUDICIAL REGION
Branch CXI (111), Pasay City

WILSON P. ORFINADA,
Plaintiff,

- versus -

CIVIL CASE NO. 3957-P

MACARIO RODRIGUEZ,
and Heirs et al.,
Defendants,

- versus -

DON ANACLETO MADRIGAL ACOP,
JULIAN M. TALLANO,
Intervenors.

X-----X

ORDER

The Office of the Solicitor General is hereby given a period of five (5) days from receipt of the copy of this order within which to file an opposition to the "Urgent Motion for the Issuance of a Fourth Alias Writ of Execution, Possession and Demolition" filed by counsel for the Intervenors, after which, with or without opposition from the OSG, the incidents will be considered submitted for resolution.

SO ORDERED.

Pasay City, May 05, 2000.

Copy furnished:

Office of the Solicitor General
Amaro St., Makati City



OR# 0209571

ERNESTO A. REYES
Judge

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DATE: 9-23-08

RTC III, PASAY

JOAN E. GRUTA
OFFICER-IN-CHARGE

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Republic of the Philippines
REGIONAL TRIAL COURT
NATIONAL CAPITAL JUDICIAL REGION
BRANCH XXI (LTD. PASAY CITY)

WILSON CORINAIDA, ET AL.
Plaintiffs.

CIVIL CASE CASE NO. 3937 P

MACARIO J. RODRIGUEZ, ET AL.
Defendants.

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ANACLETO MADRIGAL ACOPIADO, ET AL.
Intervenors

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ORDER

RTC III, PASAY

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Submitted for consideration are the following motions:

1. Motion To Admit Clarificatory Decision Order dated January 13, 1978 and Sheriff's Certificate of Writ of Execution dated May 1, 1979 filed by intervenor Movant Julian M. Tallano through counsel Atty. Paulino M. Ejercito;

2. Motion To Order The Assessors of the Areas where the lands allegedly covered by TCT Nos. T-408 and T-458 are Situated To Accept Payments of the Back Real Estate Taxes filed by intervenors Anacleto Acopiado, et al. through counsel Atty. Edisto E. Soriano;

3. Motion For Intervention and Answer to Intervention filed by Honor. F. Rodriguez, in his capacity as administrator of the estate of Mariano F. Rodriguez, through counsel Atty. Manuel Oliveres Abadín;

4. Amicus Motion filed by intervenor Civil Asia Realty and Development Corp., in its capacity as authorized representative of the heirs and beneficiaries of Don Esteban Benitez Tallano, Don Gregorio Madrigal Acop and Don Madrigal Acop through counsel Atty. Edisto E. Soriano seeking the issuance by this court of a corresponding order's to:

- a) Direct the Register of Deeds of Pasig City to reconstitute TCT No. T-408 under the

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name of Gregorio Madrigal A
copy and the Register of Deeds
of Malolos Bulacan to
constitute TCT No. T-498
under the name of Esteban
Benitez Tallano;

b) Directing the National
Treasurer of the Philippines
Bangko Sentral ng Pilipinas
(BSF) and the Land Bank of
the Philippines to effect the
P2 Billion disturbance,
compensation and
compensatory damages
payable to the intervenors by
the government covered by
the Interim Certificate Nos.
180-1, 180-2, 180-3,
and 180-4, all series of 1968
with these back real estate
taxes of the vast tract of lands,
only to those lands actually
and physically recovered and
identified;

5 Motion for the issuance of a Writ of
Execution filed by intervenor Esteban M. Tallano
as represented by his substitute Attorneys in
Fact Salvador A. Dacanay and Palomo A.
Dejode through counsel Atty. Prudente C.
Jovina.

The above enumerated Motions appear to have been predicated on
the existence and validity of the Clarificatory Decision of January 19, 1976, as well
as the Sheriff's Certificate of the Writ of Execution dated May 1, 1979 which,
according to intervenors-movants Tallano et al, said clarificatory decision
subsequently modified, revised and superseded the November 4, 1975 decision of
the Honorable Judge of Trial, now RTC Branch 111 of Pasay City. This court

The movants rely on the alleged existence of the Clarificatory
Decision of January 19, 1976 and move that due course be
respectively deny the

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At this juncture, this court would like to emphasize that the order rendered on July 7, 1997 exclusively pertains to the reconstitution of the decision dated November 4, 1975 rendered by CFI of Rizal Branch 2S now RTC Branch 111, nothing less, nothing more. Hence, the aforesaid order of this court (July 7, 1997) cannot be made to encompass the existence and or validity of matters not yet judicially proven.

The Clarificatory Order of January 19, 1976, assuming it validly exists and attained finality, is a judgment independently by itself notwithstanding the fact that it was rendered precisely to modify and revise the decision of November 4, 1975. As such, and under the Rules, (Sec. 6 of Rule 39, Rules of Civil Procedure as Amended 1997) it can no longer be enforced by a mere motion for more than five (5) years had already elapsed from the time it supposedly attained finality. Definitely, this court had ceased to have jurisdiction to execute by mere motion the dormant judgment, assuming it validly exists. (Vda. De Decena vs. Los Angeles, 29 SCRA 94).

It cannot also be revived by a new action because under Section 6 of Rule 39, the judgment sought to be revived must not be barred by prescription. Considering that more than ten (10) years had already elapsed counted from the time January 19, 1976 said judgment becomes final, the right to enforce the judgment had already prescribed (Art. 1144 (3), Civil Code) and any action which may be instituted to revive or enforce the said judgment is dismissible. (PNB vs. Senate Commission House, 27 SCRA 766).

Upon the other hand, to admit the Clarificatory Order as part of the extrajudicial record of the Decision of November 4, 1975 on the strength of the motion filed would be doing indirectly what cannot be done directly because that would tantamount to the judicial recognition of its existence or validity when, as yet, it still has to be judicially proven through competent evidence in an appropriate action or proceedings. Neither it could be reconstituted under Act No. 201 for the said act is applicable to pending judicial proceedings nor in the same manner as the Decision of November 4, 1975 was reconstituted because the Office of the Solicitor General, one of government's repository has not even have a copy of the subject Clarificatory Order of

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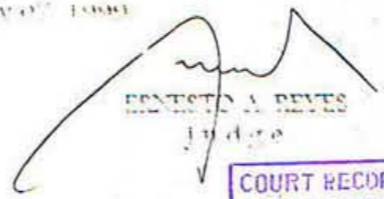
While it is also of judicial and public notice that most of the judicial records of the Regional Trial Courts of Pasay City were destroyed as a result of the fire that gutted the Old City Hall in January 1992, it is also most unlikely that the Office of the Solicitor General was not furnished any authentic copy of the subject clarificatory order which was supposedly rendered and issued six (6) years before the blaze.

Considering, therefore, that the existence and validity of the Clarificatory Order of January 19, 1976 as well as the Sheriff's Certificate of Writ of Execution of May 4, 1979, upon which all the other motions brought to fore herein are hinged, has not yet been judicially proven, it would be premature and baseless to legal base as well for the other motions to stand alone. Necessarily, they must also fail.

WHEREFORE, all the above enumerated motions are hereby DENIED.

SO ORDERED.

Pasay City, Metro Manila, July 27, 1998.


ERNESTO A. REYES
Judge

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