Order of Denial

October 8, 2001

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

WILSON ORFINADA, ET AL.,
PIaifltiffs

- versus- LRC/CIVIL CASE NO. 3957-P

MACARIO J. RODRIGUEZ ET AL.,
Defendants.

x----------x

ANACLETO MADRIGAL ACOP &
JULIAN M. TALLANO.
Intervenors.

x----------x

O R D E R

This resolves Motion for reconsideration filed by the Office of the Solicitor General on July 31, 2001 seeing inter alia that the Order of July 11 2001 be set aside.

The said motion was duly heard on August 10, 2001, and movant, represented by Solicitor Tomas M. Navarro and intervenors through counsel c extensively argued their case in court, including those contentions issues which engendered this court to direct the parties to submit their respective memoranda in order that this court will be afforded a more clearer perspective of what really the essential issue or issues tobe resolved

Both the OSG and the intervenors submitted their respective memoranda.

After a thorough evaluation of their respective arguments this court was able to pin down the crucial and most contentious issue at bar which is whether or not scription has already set in and in fact barred the enforcement of the decretal prdnouncements embodied in the orders and judgments. which intervenors now seek to be admitted and reconstituted as part of the records of this case.

The Office of the Solicitor General is apprehensive and in fact appears eery that intervenors would not only want to have the set of documents admitted into the records for admission sake but it is flicely that it may also venture using It for purposes of executing the subject court processes. Thus it invokes Sec. 26 of Rule 39 of the Revised Rules of Civil Procedure as already barred by the

statue of limitation and asked this court to uphold its previous ruling in the order of July 7, 1999, declaring that thesse final orders and judgment are no longer enforceable.

Upon the other hand, intervenors insist that Sec. 6 of Rule 39 of the Revised Rules of Civil Procedure is not applicable on the ground that this consolidated action at bar is a special proceeding it being a land registration case which for reconstitution of titles. As such, it is governed by special law (R.A. No. 26) and it is explicit that the Rules of Court is not applicable (Rule 1, Sec 1) to land registration, cadastral, naturalization, cadastral, naturalization, etc., “except by analogy or in suppletory character whenever practicable and convenient.”

Intervenors then invoked the ruling of the Supreme Court in the case of Sta. Ana vs. Menla (G.R. No.L-115564, April 20, 1961) to the effect that Rule 39, Sec. 6 does not apply to a land registration case like the present case.

To further buttress its position, Intervenors contend and stressed that OSG undeniably waived the application of Sec. 6,Rule 39 of the Rules of Court when it entered into a compromise agreement as reflected in the Decision with Compromise Agreement of February 4, 1972 which has, among its provision the exemption of the 5 year prescription period for no other than the Solicitor General at that time was a party to the agreement and this was succinctly embodied in paragraph No. 17 of the dispositive portion of the said Decision and reiterated in Third Alias Writ of Execution Possession and Demolition with Dismissal to Motion for Relief of the National Government dated May 28, 1989 and issued by then Presiding Judge Sofronio G.Sayo (Exh. “A”). Moreover, partial execution of the judgments has been had by the issuance of the Writ of Execution, Demolition and Possession on September 10, 1974 and the Certification of Sheriff’s Return dated November 17, 1974. Thus, intervenors postulate that the government is now estopped to assail the propriety of the execution of the reconstituted decisions (citing U.S. and Phil. Cases).

Upon the other hand, OSG argued that the State or the government for that matter is not bound or estopped by the mistakes or inadvertence of its officials and employees (citing Cudia vs. CA, 284 SCRA 173). Then it endeavored to reinforce its stand by stating that any participation by the government in the alleged compromise agreement must have been in the exercise of its sovereign function not in its propriety capacity.

There are other collateral Issues raised by both parties but this court does not intend to delve on those matters now. This court would like, however, to point out, that in its resolute determination to resolve the crucial issue at bar, it will no longer disturb its final order as to the

existence and validity of the Decision of November 4, 1975, wherein no less than former Solicitor General Cariaso admitted it and as a result of which, this court had issued the Order of July 7, 1997, declaring the validitY, existence and efficacy of the said judgment which is also substantially entertwined to the existence of the documents which intervenors now sought to be admitted as part of records and were the actual subject matters of the pronouncements made in the Order of July 11, 2001 which this instant motion for reconsideration week to waylay or set aside.

This court would like to stress that the existence and validity of the Third Alias Writ of Execution, Possession and Demolition issued on May 28, 1989 was confirmed by no less than the judge who then issued the same, retired Judge Sofronio G. Sayo, in his deposition last June 6, 2001. His confirmation is not only essential but also crucial because it could be reasonably inferred that the documents which were admitted and reconstituted as part of the records were precisely the basis upon which the writ so issued was founded.

More importantly, it is not correct much less absolute that the government cannot be estopped or bound by the mistakes or inadvertence of its official or employer.

The state can be put in estoppel by the mistakes an error of its officials or agents. The government may not be allowed to deal dishonorably or capriciously with its citizens and as such may be held in estoppel for irregular acts and mistakes of its officials [R.P. vs. CA Spouses Santos, St. Jude Enterprises, Inc., et al., G.R. No. 116111, January 21, 1999, citing Republic vs. Sandiganbayan (226, SCRA 314)].

In this instant case, it would be palpably unfair to downplay the Decision with Compromise Agreement of February 4, 1972 of which the Solicitor General was then party to that agreement. Besides, that judgment granting exemption of the five (5) year prescription period for execution has long become final executory. Whether the judgment so rendered and Compromise Agreement entered or agreed upon by and between the parties was correct or erroneous is of no moment by now because it became the law of the case. As succinctly pronounced by the Supreme Court, in the case of Masa vs. Baes (28 SCRA 263), viz:

> ”Where the Decision of the trial courts is not appealed and allowed to become final, the same <u>becomes the law of the case</u> and cannot anymore be set aside by the judge.”
> (Underscoring ours)

In fact, the highest court virtually reiterated this doctrine in the later case of Neria vs. Vivo (29 SCRA 701), viz:

> "Where the cases arose of the same facts and the ruling in the latter case has become final, the latter ruling must be deemed to be the law of the case."

Indeed, it simply means that whatever is once irrevocably established as the controlling legal rule of decision between the same parties in the case continue to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to the facts of the case before the court (Sim vs. Ofiana 135 SCRA 124; Miranda vs. CA, 141 SCRA 302; Balais vs. Balais, 159 SCRA 37;San Juan vs. Cuneto, 160 SCRA 277).

The Office of the Solicitor General wants this court to sustain its previous ruling in the Order of July 7, 1999, wherein it declared that the judgment dated November 4, 1975 can no longer be executed by mere motion on the ground that it was already barred by prescription pursuant to Section 6 of Rule 39 of the Revised Rules of Civil Procedure as Amended.

This court would like, however, to point out that the documents, subject of assailed order of July 11, 2001, were not yet at hand as were never presented or adduced in the course of the proceeding that was had then. Had they been presented or adduced at that time, then the ruling of this court would have been different.

However, it is not yet all too late in the day for this court to reverse or modify its posture. Under existing jurisprudence, it is the inherent powers of the court to amend and control its process and orders so as to make them conformable to law and justice. This power includes the right to reverse itself, specially when in its honest opinion it has committed an error or mistake in judgment, and to adhere to its decision will cause injustice to a party-litigant (Astraquillo vs. Javier, 13 SCRA 125).

In view of the foregoing, the Instant Motion for Reconsideration of the July 11, 2001 Order is hereby **DENIED**.

SO ORDERED.

Pasay City, 8 October 2001.

ERNESTO A. REYES
Judge