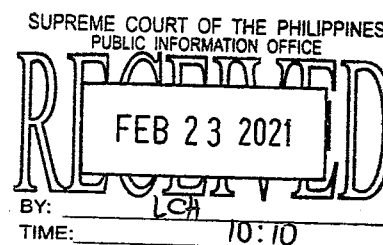




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 1, 2020, which reads as follows:

“G.R. No. 224500 (Romeo T. Saavedra, Petitioner, v. Rosario Punzalan and Virginia Rosales, Legal Heirs of Primo Eustaquio, Respondents). – This Petition for Review on *Certiorari*¹ assails the 21 July 2015 Decision² and the 11 May 2016 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 136857.

Antecedents

In 1983, Primo Eustaquio (Primo) obtained a loan from petitioner Romeo T. Saavedra (petitioner) in the amount of P50,000.00 subject to the payment of liquidated damages in case of non-payment, fixed at 10% per month from December 1983 until full payment of the loan. The loan was secured by a real estate mortgage on a parcel of land in Quezon City with an area of 5,797 square meters, and covered by Transfer Certificate of Title No. 94415.⁴ Primo delivered a duplicate owner’s copy of the title to petitioner.⁵

Primo failed to pay the loan, prompting petitioner to file an action with the Regional Trial Court (RTC) for foreclosure of mortgage. Pending trial, Primo died and was subsequently substituted by his legal heirs, Rosario Punzalan and Virginia Rosales (respondents), as party-defendants. However, the counsel for the respondents failed to furnish the RTC with their addresses.⁶

¹ *Rollo*, pp. 9-23.

² *Id.* at 35-45; penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Magdangal M. De Leon and Zenaida T. Galapate-Laguilles of the Special Fourteenth Division, Court of Appeals, Manila.

³ *Id.* at 24-25.

⁴ *Id.* at 89-91.

⁵ *Id.* at 36.

⁶ *Id.* at 36-37.

In its Decision,⁷ the RTC dismissed the action for foreclosure of mortgage on the ground that the case involves a money claim which should be included in the settlement of the estate of Primo.

Petitioner appealed to the CA. In its 17 September 2001 Decision, the CA reversed the RTC Decision and held that the case should be considered as an action for foreclosure of mortgage. The CA then ordered respondents to pay within 100 days from the entry of judgment the mortgage debt plus liquidated damages with legal interest. In default of such payment, the CA ordered that the mortgaged property be sold by public auction to satisfy the judgment. The CA Decision became final and executory on 19 February 2003, as stated in the Entry of Judgment.⁸

When respondents failed to pay, petitioner filed with the RTC Motions for Execution on 10 February 2004⁹ and on 30 March 2004.¹⁰ On 21 April 2004, the RTC granted the motions and issued a Writ of Execution. Thereafter, a provisional registration or notice of levy was annotated on the title of the mortgaged property on 25 October 2006. The registration was only provisional since the original copy on file of the certificate of title was not yet reconstituted.¹¹

On 09 September 2013, petitioner filed with the RTC a "Motion for Public Auction Sale of Foreclosed Property of Defendant Primo Eustaquio Levied Upon by Court Sheriff for the Satisfaction of CA Decision in Favor of Plaintiff."¹² Petitioner prayed for the RTC to authorize the Sheriff to negotiate with respondents for the voluntary settlement of the mortgage loan, plus all the liquidated damages and interests, in accordance with the CA Decision.¹³

In its 26 November 2013 Order,¹⁴ the RTC denied the motion, ruling that the Motion to Enforce the Writ of Execution via a foreclosure sale had already prescribed since it was filed beyond ten years from the entry of judgment on 19 February 2003.¹⁵ Petitioner moved for reconsideration, which the RTC denied in its 20 June 2014 Order.¹⁶

⁷ Id. at 37.

⁸ Id. at 69-70.

⁹ Id. at 72-73.

¹⁰ Id. at 76-77.

¹¹ Id. at 37.

¹² Id. at 92-95.

¹³ Id. at 38.

¹⁴ Id. at 67-68.

¹⁵ Id. at 38.

¹⁶ Id. at 60.

On 27 August 2014, petitioner filed a Petition for *Certiorari* and *Mandamus*¹⁷ with the CA, seeking the annulment of the Orders of the RTC.

Ruling of the CA

The CA denied the petition and affirmed the Orders dated 26 November 2013 and 20 June 2014 of the RTC.¹⁸

It agreed with the ruling of the RTC that petitioner failed to enforce the writ of execution within the prescribed period. The CA held that the prevailing party may move for the execution of a final and executory judgment within five years from the date of entry of judgment. If the prevailing party failed to enforce the decision after the lapse of five years, the judgment must be enforced by instituting a complaint in a regular court within ten years from the time the judgment became final. The five-year period for filing a motion and the ten-year period for filing an action is reckoned from 19 February 2003, the date when the CA Decision became final and executory. Since the five-year period has already lapsed, petitioner can no longer seek execution of the final judgment via a motion. Petitioner also failed to file a complaint to revive the judgment within the ten-year period.¹⁹

Issue

Whether or not the CA erred in affirming the ruling of the RTC, dismissing petitioner's motion for being filed beyond the prescribed period.

Ruling of the Court

The petition is without merit.

Verily, the judgment of the CA, ordering the payment of the mortgage debt plus liquidated damages, or in default of payment, the public auction of the mortgaged property, became final and executory on 19 February 2003, the date of entry of judgment. Under Section 6, Rule 39 of the Rules of Court, in relation to Articles 1144 (3) and 1152 of the Civil Code, petitioner

¹⁷ Id. at 46-59.

¹⁸ Id. at 45.

¹⁹ Id. at 38-45.

may move for the execution of a final judgment within five (5) years from the entry of judgment, and if the judgment remains unenforced within five (5) years, it can still be enforced by instituting a complaint for the revival of judgment in a regular court within ten years from finality of judgment.²⁰

The pertinent provisions governing the execution of final judgments read:

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.²¹;

Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

x x x

(3) Upon a judgment²²; and

Art. 1152. The period for prescription of actions to demand the fulfillment of obligations declared by a judgment commences from the time the judgment became final.²³

In this case, although petitioner filed Motions for Execution on 10 February 2004 and on 30 March 2004, and the RTC issued a Writ of Execution on 21 April 2004, there was no auction sale which followed to enforce the writ. It was only on 09 September 2013, or more than ten (10) years from the time the judgment became final on 19 February 2003, that petitioner filed a “Motion for Public Auction Sale of Foreclosed Property of Defendant Primo Eustaquio Levied Upon by Court Sheriff for the Satisfaction of CA Decision in Favor of Plaintiff.” Since five (5) years have already lapsed from the date of entry, the judgment can no longer be executed by motion. Neither can the judgment be enforced by an action to revive the judgment since it is already barred by the statute of limitations, which under Article 1144(3) of the Civil Code is ten (10) years from the

²⁰ See *Bangko Sentral ng Pilipinas v. Banco Filipino Savings and Mortgage Bank*, G.R. Nos. 178696 & 192607, 20 July 2018; *Villareal, Jr. v. Metropolitan Waterworks and Sewerage System*, G.R. No. 232202, 28 February 2018, 857 SCRA 162; *Basilonia v. Villaruz*, 766 Phil. 120 (2015); G.R. No. 191370-71, 10 August 2015.

²¹ RULES OF COURT, Rule 39, Sec. 6.

²² CIVIL CODE, Art. 1144, par. (3)

²³ Id., Art. 1152.

finality of judgment. Clearly, the right to enforce the judgment, which became final on 19 February 2003, had already prescribed when petitioner filed the motion for the public auction sale of the property on 09 September 2013.

The Court has allowed for the execution of a final and executory judgment even if prescription has already set in if the delay was caused by the judgment obligors for their benefit or advantage.²⁴ After all, it is a better rule that courts, under the principle of equity, will not be guided or bound strictly by the statute of limitations or the doctrine of laches when to do so, manifest wrong or injustice would result.²⁵

Petitioner, invoking the liberality of the Court, asserts that the delay in the enforcement of the writ of execution on respondents was due to the latter's failure to state their address in their motion for substitution *ex parte*. Petitioner claims that it was only in May 2005 that he learned of the current address of respondents.²⁶ Furthermore, petitioner avers that respondents refused to participate in the reconstitution of the original title, and that the court sheriff refused to schedule the public auction without the reconstituted title.²⁷

The Court is not persuaded. The flimsy excuse offered by petitioner cannot interrupt or extend the five-year and ten-year periods within which a judgment may be executed on motion or enforced by action. Even if petitioner only learned of respondents' address in May 2005, that would still give petitioner at least seven (7) years within which to enforce the judgment before it is barred by prescription. It is quite telling that petitioner hardly did anything thereafter to enforce the judgment, and his negligence in asserting his right to enforce the judgment militates against his case. Petitioner, who is a lawyer, should know that actions prescribe by the mere lapse of time fixed by law.²⁸

WHEREFORE, the petition for review is hereby **DENIED**. Accordingly, the 21 July 2015 Decision and the 11 May 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 136857 are **AFFIRMED**.

²⁴ See *Piedad v. Bobilles*, G.R. No. 208614, 27 November 2017.

²⁵ *Bausa v. Heirs of Dino*, 585 Phil. 526-536 (2008); G.R. No. 167281, 28 August 2008.

²⁶ *Rollo*, pp. 71, 122-123.

²⁷ *Id.* at 124.

²⁸ CIVIL CODE, Art. 1139.

SO ORDERED.”

Very truly yours,

Mis DCR Batt
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Division Clerk of Court
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