THE CURIOUS CASE OF NUNC PRO TUNC

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There is nothing more punctuating in litigation than when a decision becomes final and executory which under the *rule on finality of judgment,* once a decision attains the status of finality, the same becomes immutable and unalterable. This doctrine of finality and immutability of judgments is grounded on fundamental considerations of public policy and sound practice to the effect that, at the risk of occasional error, the judgments of the courts must become final at some definite date set by law. The reason is that litigations must end and terminate sometime and somewhere; and it is essential for the effective and efficient administration of justice that once a judgment has become final the winning party should not be deprived of the fruits of the verdict.[2]

Finality of judgment beckons the closure and signals the time when the victor would reap the fruits of his labor. A fruition, as it were, of all the tribulations, the end of the line after a long and tedious legal journey. At times, it is considered as a vindication, a final redemption, the unraveling of the truth, a closure of some sorts, wherein in life, as much as in law, the time has come to move on … *or is it*?

In the case of *Nuñal vs. CA*[3]*,* the High Court citing *Manning International Corporation v. NLRC*[4]*,* ruled that "… *nothing is more settled in the law than that when a final judgment becomes executory, it thereby becomes immutable and unalterable. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the Court rendering it or by the highest Court of the land*…."

The foregoing notwithstanding, the rule on finality of judgment is the general rule and just like anything else in law, and which has been always the fountain of gray areas where lawyers would always thrive on, there are

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[2] *Rolando Sofio, et. al. vs. Albeto I. Valenzuela, et. al*., G.R. No. 157810, February 15, 2012.

[3] G.R. No. 94005. April 6, 1993.

[4] G.R. No. 83018, March 13, 1991.

exceptions, and they are: "*a) clerical errors; b) nunc pro tunc entries which cause no prejudice to any party; and c) void judgments*."[5]

There is nothing bewildering about the exceptions pertaining to clerical errors and void judgments for any well-meaning law student would easily discern when and how they are applied. It is, however, the remaining exception, i.e. *nunc pro tunc* entries which poses an enigma, somewhat like a monkey wrench, as those in the bench and the bar, frequently enough, have been most tentative on the timely and accurate application of the same which has proven itself to be ambiguous as the nomenclature of it depicts.

A Latin expression for "now for then", *nunc pro tunc* generally pertains to "the common law power of the Court to permit that to be done now which ought to have been done before."[6]

Nunc pro tunc may apply when "a judgment is entered, or document enrolled, so as to have the same legal force and effect as if it had been entered or enrolled on an earlier day."[7] The first record of an order *nunc pro tunc* seems to be of one made by Lord Clarendon in a private case, Ex parte Robert Devenish and Henry Devenish v Richard Bernford.8 Thereafter, the use of an order nunc pro tunc becomes prevalent in judicial decisions as in the case of Donne v. Lewis9 where Lord Eldon said, "The Court will enter a Decree nunc pro tunc, if satisfied from its own official documents, that it is only doing now what it would have done then".[10]

In our jurisdiction, *nunc pro tunc* judgments have been defined and characterized by the Supreme Court in the following manner:

> The office of a judgment *nunc pro tunc* is to record some act of the court done at a former time which was not then carried into the record, and the power of a court to make such entries is restricted to placing upon the record evidence of judicial action which has been actually taken. *It may be used to make the record speak the truth, but not to make it speak what it did not speak but ought to have spoken. If the court has not rendered a judgment that it might or should have rendered, or if it has rendered an imperfect or improper judgment, it has no power to remedy these errors or omissions by ordering the entry nunc pro tunc of a proper judgment. Hence a court in entering a judgment nunc pro tunc has no power to construe*

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[5] *One shipping Corp., et. al. vs. Imelda Penafiel*, G.R. No. 192406, January 21, 2015.

[6] https://www.duhaime.org/Legal-Dictionary/Term/NuncProTunc; See also Krueger v. Raccah (1981)

[7] Mozley and Whiteley's Law Dictionary (11th ed.). ISBN 9780406014207. quoted in Emanuele v Australian Securities Commission [1997] HCA 20

[8] Emanuele v Australian Securities Commission [1997] HCA 20

[9] *Id.*

[10] *Id.*

> *what the judgment means, but only to enter of record such judgment as had been formerly rendered, but which had not been entered of record as rendered***.** In all cases the exercise of the power to enter judgments *nunc pro tunc* presupposes the actual rendition of a judgment, and a mere right to a judgment will not furnish the basis for such an entry.
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> The object of a judgment nunc pro tunc is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply nonaction by the court, however erroneous the judgment may have been.
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> A nunc pro tunc entry in practice is an entry made now of something which was actually previously done, to have effect as of the former date. Its office is not to supply omitted action by the court, but to supply an omission in the record of action really had, but omitted through inadvertence or mistake.
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> It is competent for the court to make an entry *nunc pro tunc* after the term at which the transaction occurred, even though the rights of third persons may be affected. But entries *nunc pro tunc* will not be ordered except where this can be done without injustice to either party, *and as a nunc pro tunc order is to supply on the record something which has actually occurred, it cannot supply omitted action by the court*[11](italics supplied)

The Supreme Court, in *Briones v. CA*[12], given the foregoing characterization of a *nunc pro tunc* entry, denied petitioner's (defendant below) petition for review assailing the decision of the Court of Appeals (CA), holding that there is nothing to clarify in its final and executory decision holding that the *Pacto de Retro* Sale between the parties of a real property is actually one of equitable mortgage. However, plaintiffs, in that case, refused to withdraw the amount deposited by the petitioner in order to discharge the mortgage. Whereupon petitioner filed an Omnibus Motion to declare the mortgage to have been discharged already and ordering the plaintiffs to turn over the possession of the real property in her favor which was denied by the trial court holding that *the Court of Appeals already ruled with finality that the Pacto de Retro* Sale as one of equitable mortgage and it is beyond its competence to alter or modify the same:

> "…it is clear that the judgment petitioner sought through the motion for clarificatory judgment is outside its scope. Petitioners did not allege that the Court of Appeals actually took judicial action and that such action was not included in the Court of Appeals' Decision by inadvertence. A *nunc pro*

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[11] (Luisa Briones vs. CA, et .al. G.R. No. 144882, February 04, 2005, italics supplied)

[12] *Id.*

> *tunc* judgment *cannot correct judicial error nor supply nonaction by the court."* (italics supplied)

Since the judgment sought to be amended through the motion for clarificatory judgment is not a *nunc pro tunc* one, the general rule regarding final and executory decisions applies. In this case, no motion for reconsideration having been filed after the CA rendered its decision on June 29, 1995, and an entry of judgment having been made on July 17, 1996, the same became final and executory and, hence, is no longer susceptible to amendment. It, therefore, follows that the Court of Appeals did not act arbitrarily nor with grave abuse of discretion amounting to lack of jurisdiction when it issued the aforementioned Resolution denying petitioner's motion for clarificatory judgment and the Resolution denying petitioner's motion for reconsideration.

In the *Manning International Corporation case*[13], the Supreme Court held that the National Labor Relations Commission(NLRC) cannot modify the Decision of the POEA fixing at P12,000.00 the workmen's compensation benefit of an overseas contract worker ("OFW") who figured in a vehicular accident in Saudi Arabia. Being final and executory, the NLRC cannot modify the same by entering a new judgment approving reimbursement of actual medical expenses from September 3, 1982 up to January 26, 1985.The Court held that:

> "The alteration made by the NLRC judgment on the final and executory judgment of the POE Administrator cannot in any sense be characterized as the correction of a clerical mistake, or a nunc pro tunc entry. Nor may the latter judgment be considered as void in any aspect. It is in truth the "new judgment" of the NLRC that is void ab initio, insofar as it attempts to vary the disposition of the final and executory decision of the POE Administrator. Said "new judgment" is utterly inefficacious to work any change in the Administrator's decision."

In the case of *Ramos vs. CA*[14], the Supreme Court acceded to the motion for clarificatory judgment via a *nunc pro tunc* amendment. There, the private respondents sought to clarify the final and executory Decision of the Supreme Court, which sustained the judgment of the CA affirming *in toto* the judgment rendered by the Court of First Instance of Tarlac in Civil Case No. 4168. When possession of the real properties was wrested away from them, private respondents filed a complaint for the nullification of the titles of the petitioners. The trial court, ruling in favor of private respondents, held that ownership and possession should be reverted to the private respondents as the deeds of conditional with *pacto de retro* sale to which the subject properties were

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[13] Supra note 3.

[14] G.R. No. L-42108 May 10, 1995.

used as collaterals were actually equitable mortgages. The said judgment, albeit nullifying orders, resolutions and decisions leading to the consolidation of ownership in petitioners' names, did not include an order for the cancellation of the titles and restoration of possession to private respondents.

Thus, the Supreme Court, in acceding to the motion, held that:

> "…As correctly pointed out by the movant heirs, the declaration of nullity by the then Court of First Instance of Tarlac in its decision in Civil Case No. 4168 of the earlier orders of approval and consolidation of dominion marked as Exhibits "D", "D-1", "I", "I-1" and "I-2" necessarily carries with it the restoration by petitioners of the physical possession of the subject properties to Adelaida Ramos, now represented by her heirs...
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> It should, of course, be emphasized and noted that the amendment now being sought by the movants, although coming long after the subject judgment had matured into finality, would not at all be unauthorized or improper considering the peculiar but compelling circumstances under and by reason of which such an amendment is necessitated. We need only to advert to what this Court emphatically pronounced in *Republic Surety and Insurance Co., Inc., et al. vs. Intermediate Appellate Court, et al.*, on which the movant heirs also rely, in support of and to demonstrate the validity and regularity of such amendment in the present situation, thus:
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> > 'What is involved here is not what is ordinarily regarded as a clerical error in the dispositive part of the decision of the Court of First Instance, which type of error is perhaps best typified by an error in arithmetical computation. At the same time, what is involved here is not an erroneous judgement or dispositive portion of judgment. What we believe is involved here is in the nature of an inadvertent omission on the part of the Court of First Instance (which should have been noticed by private respondents' counsel who had prepared the complaint), of what might be described as a logical follow-through, or translation into, operation or behavioral terms, of the annulment of the Deed of Sale with Assumption of Mortgage, from which petitioner's title or claim of title embodied in TCT 133153 flows. The dispositive portion of the decision itself declares the nullity ab initio of the simulated Deed of Sale with Assumption of Mortgage and instructed the petitioners and all persons claiming under them to vacate the subject premises and to turn over possession thereof to the respondent-spouses.'
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> By the same token, the legal bases for the issuance of certificates of title to the lots in favor of petitioners and third persons having been set aside by the judgment of the trial court in said Civil Case No. 4168, with its recognition of corresponding rights thereover by private respondents, this again ineluctably implies that the corresponding certificates of title thereover be issued in favor of private respondents or their successors, and

> that the certificates of title of petitioners and their transferees be consequently canceled.
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> Stated elsewise, the Court is now being asked to merely clarify via this *nunc pro tunc* amendment, *what in fact it did actually affirm and as a logical follow through of the express or intended operational terms of said judgment* in Civil Case No. 4168. In any event, just to write *finis* to what in actuality is an unnecessary dispute between the parties and to forestall the possibility of another one, contrived or otherwise, we accede to the supplication of movants for what amounts to a clarificatory judgment explicitly articulating what was already implicitly assumed." (Italics supplied)

The *Ramos ruling* invoked by the petitioners in the case of *Rolando Sofio case* (*supra*) was, however, rejected by the Supreme Court. In that case, petitioners' Emancipation Patents were set aside by the Provincial Agrarian Reform Adjudicator ("PARAD") but was reversed on appeal by the Department of Agrarian Reform and Adjudication Board ("DARAB"). However, the CA, which decision became final and executory, reverted to the PARAD's decision holding that petitioners are not qualified agrarian beneficiaries as they were not able to prove the existence of a valid tenancy relationship. Consequently, private respondents moved for the issuance of a writ of execution which was granted by the PARAD. Petitioners, through their new counsel, filed a motion for relief from judgment, motion for reconsideration and motion to recall writ of execution grounded on the fact that they learned the May 27, 1998 decision of the CA only on December 11, 2001, through their receipt of the November 27, 2001 order of the PARAD granting the respondents' ex parte motion for execution. PARAD denied the motion for relief from judgment holding that it had no authority to grant the motion due to its subject matter being a judgment of the CA, a superior court. The petitioners then filed in the CA a motion to recall entry of judgment with motion for leave of court to file a motion for reconsideration. Finding the negligence of the petitioners' former counsel being matched by their own neglect (of not inquiring about the status of the case from their former counsel and not even taking any action against said counsel for neglecting their case), the CA denied on February 13, 2003 the motion to recall entry of judgment.

In denying petitioners' Petition for Review , the Supreme Court held that:

> "Ramos v. Court of Appeals, which the petitioners cited to buttress their plea for the grant of their motion to recall entry of judgment, is not pertinent. There, the Court allowed a clarification through a nunc pro tunc amendment of what was actually affirmed through the assailed judgment "as a logical follow through of the express or intended operational terms" of the judgment.
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> "In this regard, we stress that a judgment *nunc pro tunc* has been defined and characterized thuswise:

> "The object of a judgment *nunc pro tunc* is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply nonaction by the court, however erroneous the judgment may have been. (Wilmerding vs. Corbin Banking Co., 28 South., 640, 641; 126 Ala., 268.)
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> Based on such definition and characterization, *the petitioners' situation did not fall within the scope of a nunc pro tunc amendment, considering that what they were seeking was not mere clarification, but the complete reversal in their favor of the final judgment and the reinstatement of the DARAB decision*. (Italics supplied)

In *Filipinas Palmoil Processing, Inc. et. al. vs. Joel P. Depeja, etc.*[15], the Supreme Court ruled, in no uncertain terms, that a *nunc pro tunc* amendment is not meant to resurrect what has been already factually resolved as if it is being litigated once more for the first time. In that case, petitioner was declared the employer of private respondent who was found to have been illegally dismissed, and that Tom Madula, who assigned private respondent to petitioner, is merely a labor only contractor. The dispositive portion of the final decision of the Court of Appeals which reversed the NLRC, and affirmed by the Supreme Court provides:

> "WHEREFORE, premises considered, the assailed Decision dated December 29, 1999, as well as the Resolution dated April 28, 2000 in NLRC NCR CASE No. 0005-03748-97 (NLRC NCR CA No. 016505-98) are hereby REVERSED and SET ASIDE.
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> "Petitioner (herein respondent) is ordered REINSTATED without loss of seniority rights with payment of backwages, including his salary differentials, overtime pay, 13th month pay, service incentive leave pay and other benefits from the time his salary was withheld, or from December 1, 1997 until actual reinstatement. However, if reinstatement is no longer feasible, private respondent company is ordered to pay separation pay equivalent to one (1) month for every year of service where a fraction of six (6) months shall be considered as one whole year. Private respondent company is likewise ordered to pay ₱10,000.00 as moral damages and ₱10,000.00 as exemplary damages. In addition, private respondent company is ordered to pay attorney's fees in the amount equivalent to 10% of the total monetary award.

To implement the CA's decision, a writ of execution was issued resulting in the garnishment of petitioner's deposit with UCPB in the amount of ₱736,910.10. Petitioners moved to quash the writ arguing that it can only be

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[15] G.R. No. 167332, February 7, 2011.

held liable in so far as the reinstatement aspect and other monetary award but not to backwages.

The Motion to Quash was partially granted by the Labor Arbiter (LA)such that the liability for reinstatement and backwages is adjudged against Tom Madula. Consequently, the LA ordered the garnished account of petitioner to be released to the extent of P266,757.85.

Private respondent then filed a Very Urgent Motion for Clarification of Judgment, praying that the CA Decision be clarified to the effect that petitioner be made solely liable to the judgment award and, as a consequence thereof, to order the NLRC and the Labor Arbiter to implement the same.

On December 10, 2004, the CA rendered the assailed Resolution granting respondent's motion for clarificatory judgment, the dispositive portion of which states:

> "WHEREFORE, in view of the foregoing, in accordance with petitioner's supplications, this Court renders, nunc pro tunc, the following clarification to the decretal portion of this Court's August 29, 2002 decision.
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> WHEREFORE, premises considered, the assailed Decision dated December 29, 1999 as well as the Resolution dated April 28, 2000 in NLRC NCR CASE NO. 0005-03748-97 (NLRC NCR CA NO. 016505-98) are hereby REVERSED and SET ASIDE.
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> Private respondent Filipinas Palmoil Processing Inc. (Asian Plantation Phils., Inc.) is hereby ordered to REINSTATE petitioner Joey Dejapa without loss of seniority rights and to pay him his backwages including his salary differentials, overtime pay, 13th month pay, service incentive leave pay and other benefits from the time his salary was withheld or from December 1, 1997 until actual reinstatement. If reinstatement is no longer feasible, private respondent Filipinas Palmoil Processing, Inc. (Asian Plantation Phils., Inc.) is likewise ordered to pay separation pay in addition to the payment of backwages and other benefits equivalent to one (1) month pay for every year of service, where a fraction of six (6) months shall be considered as one whole year.
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> Private respondent Filipinas Palmoil Processing Inc. (Asian Plantation Phils., Inc.) is likewise ordered to pay petitioner ₱10,000.00 as moral damages, ₱10,000.00 as exemplary damages, and attorney's fees in the amount equivalent to 10% of the total monetary award."
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> Private respondent Tom Madula is hereby relieved from any liability under the judgment.
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> Labor Arbiter Lilia S. Savari is hereby directed to implement the final judgment of this Court strictly in accordance with the foregoing, and to order the UCPB to release the garnished amount of ₱736,910.10 to the NLRC Sheriff for further disposition."

Hence, the petition for review on certiorari by petitioners assailing the CA Resolution dated December 10, 2004, which the CA issued upon respondent's filing of a Very Urgent Motion for Clarificatory Judgment. It bears noting that the CA Resolutions petitioners sought to annul were only issued to clarify the CA Decision dated August 29, 2002, which had already become final and executory in 2004.

The Supreme Court, finding the petition unmeritorious, held that petitioners' action is only a subterfuge to alter or modify the final and executory Decision of the CA, to wit:

> "As a general rule, final and executory judgments are immutable and unalterable, except under these recognized exceptions, to wit: (a) clerical errors; (b) nunc pro tunc entries which cause no prejudice to any party; and (c) void judgments. *What the CA rendered on December 10, 2004 was a nunc pro tunc order clarifying the decretal portion of the August 29, 2002 Decision.*
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> *In Briones-Vazquez v. Court of Appeals*, nunc pro tunc judgments have been defined and characterized as follows:
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> *The object of a judgment nunc pro tunc is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply nonaction by the court, however erroneous the judgment may have been.*
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> By filing the instant petition for review with us, petitioners would like to appeal anew the merits of the illegal dismissal case filed by respondent against petitioners raising the same arguments which had long been passed upon and decided in the August 29, 2002 CA Decision which had already attained finality.
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> It should be sufficiently clear to private respondents (herein petitioners) that the December 10, 2004 Resolution was issued merely to clarify a seeming ambiguity in the decision but as stressed therein, it is neither an amendment nor a rectification of a perceived error therein. The instant motion for reconsideration has, therefore, no merit at all." (italics supplied)

In *Juanito Cardoza vs. Hon. Pablo S. Singson*[16], a decision was rendered by the Court of First Instance of Maasin, Leyte which was affirmed with modification in the decision of the CA promulgated on December 6, 1939, and had long become final and executory. Plaintiffs allegedly acquired knowledge of the appellate court's decision only on November 11, 1974, because before the death of their original counsel in 1944 they were not informed of the said

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[16] G.R. No. L-59284, January 12, 1990.

decision. They moved for the issuance of a writ of execution but subsequently moved for the deferment of its resolution contending that during one of the hearings, they allegedly discovered that no entry of judgment had been made and that nobody could tell whether the parties or their counsel received a copy of the decision of the CA. Plaintiffs therefore, prayed for the recording of the decision of the CA in the book of entries of Judgment.

On July 6, 1981, the trial court issued an order that "*a nunc pro tunc judgment be entered pursuant to the decision of the Court of Appeals in Civil Case No. C.A. G.R. No. 3645"*. For the satisfaction of the judgment it likewise ordered the issuance of a writ of execution. On July 21, 1981, the writ of execution was issued directing the Provincial Sheriff of Southern Leyte or his deputies to enforce and execute the decision of the trial court as modified by the appellate court whereupon the subject property was delivered by the Sheriff in favor of the private respondents.

Petitioner filed a petition a petition for *certiorari*, prohibition and *mandamus* with preliminary injunction seeking (a) to annul and set aside the writ of execution issued by respondent Judge Pablo S. Singson (b) to restore to petitioner possession of the three parcels of land in controversy; and (c) to nullify the proceedings leading to the issuance of the order and writ of execution.

However, the petition proved unsuccessful as the High Court ruled that:

> "The decisive issues to be resolved in the instant case are (1) whether or not the decision of the trial court as modified by the Court of Appeals can still be enforced and (2) whether or not the trial court committed a grave abuse of discretion when it made the entry of judgment *nunc pro tunc* and issued the writ of execution…
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> Acting not only as a court of law but also as a court of equity, the trial court correctly made the entry of a judgment nunc pro tunc pursuant to the decision of the Court of Appeals in Civil Case No. C.A. G.R. No. 3545. In so doing, the lower court merely ordered the judgment of the, Court of Appeals to be executed.
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> The issuance of a nunc pro tunc order was recognized by this Court in *Lichauco v. Tan Pho,* where an order or judgment actually rendered by a court at a former time had not been entered of record as rendered. There is no doubt that such an entry operates to save proceedings had before it was made.
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> Contrary to what the petitioner claims, the lower courts action—decreeing the entry of a judgment nunc pro tunc—was not done arbitrarily nor capriciously. The petitioner was allowed to oppose the motions in open court and was even required to submit a memorandum to support his position. The petitioner, however, failed to submit a memorandum. Neither

> did he adduce sufficient evidence to support his claims over the properties in question.
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> Finally, well settled is the rule that a judgment which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes. In such a situation, the trial court loses jurisdiction over the case except to execute the final judgment, as in this case."

In *Hermogenes Maramba vs. Nieves de Lozano, et. al.*[17] a couple was adjudged liable for sum of money, the dispositive portion of the decision of the trial court dated June 23, 1959 provides:

> "WHEREFORE, the court hereby renders judgment, sentencing the defendants herein, Nieves de Lozano and Pascual Lozano, to pay unto the herein plaintiff, Hermogenes Maramba, the total sum of Three Thousand Five Hundred Pesos and Seven Centavos (P3,500.07), with legal interest thereon from date of the filing of the instant complaint until fully paid."

The trial court's decision became final after it was affirmed by the Court of Appeals. Consequently, the couple's property was levied on execution and during its execution sale, the wife, Nieves de Lozano, made a partial satisfaction of the judgment in the amount P2,000.00, and filed a motion requesting for an adjournment of the sale alleging that during the pendency of the case, her husband Pascual Lozano died and that the property levied *upon was her paraphernal property*. Moreover, Nieves demanded that her liability be fixed at one-half (½) of the amount awarded in the judgment and that pending the resolution of the issue, an order be issued restraining the Sheriff from carrying out the auction sale. The trial court issued the questioned order, the dispositive part of which is as follows:

> "WHEREFORE, the court hereby grants the motion of counsel for defendant Nieves de Lozano, dated October 5, 1960, which was amended on October 14, 1960, and holds that the liability of the said defendant under the judgment of June 23, 1959, is only joint, or P1,750.04, which is one-half (½) of the judgment debt of P3,500.07 awarded to the plaintiff and that the writ of execution be accordingly modified in the sense that the liability of defendant Nieves de Lozano be only P1,750.04 with legal interest from the date of the filing of the complaint on November 5, 1948 until fully paid, plus the amount of P21.28 which is also one-half (½) of the costs taxed by the Clerk of Court against the defendant spouses. Let the auction sale of the above-mentioned property of defendant Nieves de Lozano proceed to satisfy her liability of P1,750.04 with legal interest as above stated and the further sum of P21.28 representing the costs, unless she voluntarily pays the same to the judgment creditor (herein plaintiff)."

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[17] G.R. No. L-21533, June 29, 1967.

Plaintiff interposed an appeal from the above-quoted order and presented, among others, the issue of whether the decision of the lower court dated June 23, 1959 could still be questioned.

Plaintiff-appellant submits that a "*nunc pro tunc*" order should have been issued by the trial court dismissing, as of November 11, 1952, the case against the late Pascual Lozano by reason of his death, and that the lower court should have corrected its decision of June 23, 1959, by striking out the letter "s" in the word "defendants" and deleting the words "and Pascual Lozano.

In affirming the assailed order, The High Court ruled:

> "We do not think that the action suggested would be legally justified. It would entail a substantial amendment of the decision of June 23, 1959, which has long become final and in fact partially executed. *A decision which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes, and however erroneous it may be, cannot be disobeyed; otherwise litigations would be endless and no questions could be considered finally settled. The amendment sought by appellee involves not merely clerical errors but the very substance of the controversy. And it cannot be accomplished by the issuance of a "nunc pro tunc" order such as that sought in this case. The purpose of a "nunc pro tunc" is to make a present record of an which the court made at a previous term, but which not then recorded. It can only be made when the ordere has previously been made, but by inadvertence not been entered. In the instant case there was no order previously made by the court and therefore there is no now to be recorded*. (Italics supplied)

In *Llanes & Company vs. Hon, Juan L. Bocar*[18]**,** judgment was rendered against husband and wife as judgment debtors and were ordered to pay petitioner the sum of P16,778.94. On motion of the petitioner, the trial court issued an order for the sale of the mortgaged property, and on October 25, 1963, the Sheriff of Manila sold at public auction the real property covered by Transfer Certificate of Title No. 8814 to the petitioner for the sum of P18, 950.00. The Sheriff's Sale was confirmed by the same court on November 4, 1963.After the Sheriff's Certificate of Sale was registered in the land records of the City of Manila on January 20, 1964 and a new transfer certificate of title was issued to the petitioner, the latter moved for the issuance of the writ of possession which was opposed by the spouses but was nonetheless granted by the trial court.

About a year later, or on February 17, 1966, the petitioner filed a petition with the trial court, praying that the original decision of April 2, 1963 be amended to insert after the clause "*the Court shall order the sale at public auction of the property described in the complaint,"* the following*: "together with the building and other improvements thereon,"* and that the same clause be inserted in the Certificate of Sale dated October 25, 1963 after the words *"parcel of land."* This motion was

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[18] G.R. No. L-26992 February 12, 1976.

first granted by the trial court on February 21, 1966, but on April 13, 1966, the said court set aside its afore-mentioned order of February 21, 1966 on the ground that at that stage *"the decision of the Court could no longer be amended or corrected"*, as the same was not just a clerical error, considering that the description of the property in the complaint for foreclosure of the mortgage did not include the "building or other improvements." Similarly, in the Order of Execution, as well as in the Notice and the Certificate of Sale, "only the land is mentioned, and nothing is stated about the improvements". Petitioner's motion for reconsideration was denied by said court on June 20, 1966. In denying the petition, the Supreme Court held that:

> "The only issue is whether the non-inclusion of the "building and other improvements" in the decision of foreclosure, writ of execution, Notice of Sale and the Certificate of Sale as confirmed by the order of the court is a mere clerical error which may be corrected at any time…
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> While courts have the power to correct errors and misprisions in final judgments, such authority is limited to the correction of clerical errors. The office of a nunc pro tunc amendment to a judgment is not to correct judicial errors, however flagrant and glaring they may be, in the judgment rendered by the court. The test to determine "whether an error in a judgments a judicial one, not open to correction on motion in the court which made it, or a mere clerical one, which may be corrected any time on application in the court where it occurred, is whether the mistake relates to something the court did not consider and pass on, or considered and erroneously decided, or whether there was a failure to preserve or correctly represent in the record, in all respects, the actual decision of the court." The phrase "clerical error" has been employed in a broad sense to cover all errors, mistakes, or omissions which are not the result of the exercise of the judicial function. The "Power to correct clerical errors in judgments, orders or decrees, does not authorize the addition of terms never adjudged, or the entry of orders never made, although the court should have made such additions or entered such orders, and any error in that regard is a judicial error. It is obvious from the foregoing that the errors which petitioner seeks to correct are not clerical errors." (Italics supplied)

As aptly held in *Filipinas Palmoil Processing, Inc. case* [19] citing *Navarro v. Metropolitan Bank and Trust Company*[20], no other procedural law principle is indeed more settled than that once a judgment becomes final, it is no longer subject to change, revision, amendment or reversal, except only for correction of clerical errors, or the making of nunc pro tunc entries which cause no prejudice to any party, or where the judgment itself is void. The underlying reason for the rule is two-fold: (1) to avoid delay in the administration of justice

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[19] Supra note

[20] G.R. No. 165697 August 4, 2009.

and thus make orderly the discharge of judicial business, and (2) to put judicial controversies to an end, at the risk of occasional errors, inasmuch as controversies cannot be allowed to drag on indefinitely and the rights and obligations of every litigant must not hang in suspense for an indefinite period of time. As the Court declared in *Yau v. Silverio*[21],

> "Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be, not through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.
>
> Indeed, just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case by the execution and satisfaction of the judgment. Any attempt to thwart this rigid rule and deny the prevailing litigant his right to savor the fruit of his victory must immediately be struck down. Thus, in *Heirs of Wenceslao Samper v. Reciproco-Noble*, we had occasion to emphasize the significance of this rule, to wit:
>
> > It is an important fundamental principle in our Judicial system that every litigation must come to an end x x x Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then unscrupulous litigants will multiply in number to the detriment of the administration of justice."

But then again, the foregoing judicial edict is not cast in granite, the exceptions being founded on common law based as they are on justice and equity for courts would always spawn situations wherein there is an imperative need to make corrections in order to avoid miscarriage of justice and afford full retribution to the winning party if the decision, as it is, marred by ellipsis, would not be corrected. Though, as jurisprudence enunciates, the correction through *nunc pro tunc* amendments merely clarifies what courts, in their previous decisions, merely said and does not adjudged nor adjudicate new ones since at times, *courts might be meaning to say what it has in mind but came out saying differently*

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[21] G.R. No. 158848, February 4, 2008.

as it can, for all its quest for exactitude, likewise get lost in the wilderness of its legal reverie and delusions of clarity