

100 Phil. 910

[G. R. No. L-9515. February 20, 1957]

MARIA B. CASTRO, PETITIONER, VS. HON. BIENVENIDO A. TAN, (JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH XIII AND WILLIAM L. BURR, RESPONDENTS.

D E C I S I O N

BENGZON, J.P., J.:

In a detainer suit in the Manila municipal court, William L. Burr was ordered to pay Maria B. Castro accrued rents amounting to P9,225 plus P1,000 as attorneys fees.

Burr appealed to the Court of First Instance and filed a supersedeas bond in the amount of P10,225 "to secure the payment to the plaintiff (Castro) of the rents, damages and costs adjudicated to the plaintiff in the appealed decision up to the rendition thereof in the event the said decision be affirmed by the appellate court". It was subscribed by him as principal, and by the Associated Insurance & Surety' Co., Inc. as surety.

After a regular hearing, the Hon. Bienvenido A. Tan, Judge of the Manila court of first instance, found that full enjoyment of his mental-faculties. It should be stated reversed the decision, and awarded Burr P2,000 as attorneys fees to be paid by plaintiff after deducting the corresponding rent for five days. About a week later, Burr submitted a motion to cancel the supersedeas bond, for being *functus officio*, in view of the decision favorable to him, Maria B., Castro objected, contending that the Court's decision had not yet become final, and that the bond answered for rents "down to the time of final judgment in the action".

The judge granted the motion explaining (1) there was no reason for the bond to subsist, inasmuch as the decision it sought to stay had become *functus oflicio* and (2) the supersedes bond should continue only when "it is the defendant who appeals from the decision of the court of first instance"- which was not the case.

Having failed in a motion to reconsider, Maria 8. Castro instituted this special civil action to

vacate the order of cancellation, alleging want of jurisdiction and/or abuse of discretion.

Thereafter she brought to the Court of Appeals the main case, insisting on her right to collect rents. And she won: she got in that Court judgment for rents in the sum of P9,225. But the quashing of the bond was not discussed in such appeal.

Answering the complaint before us, William L. Burr as respondent defended his corespondent's order on the very grounds hereinbefore stated. He also argued that petitioner should have appealed the order in due time to the Court of Appeals, instead of starting this new litigation.

One thing is noticeable: the Associated Insurance & Surety Co., Inc. is not a party before this Court. Therefore any judgment in this case revoking Judge Tan's order and/or reviving the supersedeas bond will not affect said Surety Co. To direct its inclusion will not do; because, as to such surety the cancellation order has become final long ago.

On the other hand, a judgment herein against Burr would entail no material advantage to petitioner. Bond or no bond, she is entitled to recover rents from him in accordance with the decision of the Court of Appeals.

Now, then, as the other respondent is merely a nominal party, the issues framed for our resolution become no more than academic, of no practical effect.

“* * *, as a general rule it is not within the function of a court to act upon and decide a moot question or speculative, theoretical, or abstract question or proposition, or a purely academic question, * * *. The application of the rule that a court will not determine moot questions or abstract propositions has resulted in other expressions or roles to the effect that the court will not express an opinion in a case in which no practical relief can be granted, or which can have no practical effect; * * *.’ (1 C. J. S. pp. 1015-1015.)

This case is moot and should be, as it is hereby dismissed¹ without costs. So ordered.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angela, Labrador, Conception, Reyes, J, B. L., Endenda and Felix, JJ., concur.

Date created: October 13, 2014