

**LINKOD JUANE, RUPERTO SUÑGA AND FLORA ANTONIO,
PETITIONERS, VS. HON. GREGORIO N. GARCIA, AS PRESIDING JUDGE
OF BRANCH I OF THE MUNICIPAL COURT OF MANILA, HON.
GAUDENCIO CLORIBEL...**

G.R. No. L-21115. October 29, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The present action for certiorari, prohibition and mandamus, challenging the legality of the proceedings in the courts below has its roots in two ejectment suits.

On January 28, 1960, Manotok Realty, Incorporated (Manotok) sued petitioners Linkod Juane and Ruperto Suñga for ejectment. Manotok's complaint avers a month-to-month lease, non-payment of rentals and refusal to vacate.[1]

A similar action was lodged by Manotok against petitioner Flora Antonio.[2]

After answers to the ejectment suits were filed but before hearing on the merits, the Republic started court proceedings for the expropriation of Manotok's land (including the portions herein involved) for resale to tenants under Republic Act 1162.[3] By that law,[4] "ejectment proceedings against any tenant or occupant of any landed estates or haciendas or lands herein authorized to be expropriated, shall be suspended for a period of two years, upon motion of the defendant, if he pays his current rentals, and such suspension shall continue upon the filing of expropriation proceedings until the final determination of the latter".[5] Parenthetically, it may be stated that this Court, in a decision promulgated on July 31, 1964, has ruled that Manotok's said land may not be expropriated under Republic Act 1162, as amended by Republic Act 2342.[6]

Prior to our decision in the expropriation case, i.e., on July 11, 1960, after hearing the question of rents due and current, respondent city court judge Gregorio N. Garcia ordered the suspension of the ejectment proceedings against petitioners Linkod Juane and Ruperto Suñga and directed them to pay back and current rentals.

On July 23, 1960, a similar order was rendered in the other ejectment case against petitioner Flora Antonio.

Respondent judge Garcia disallowed the appeals lodged by Linkod Juane and Ruperto Suñga against the order of July 11, 1960 and by Flora Antonio against that of July 23, 1960.

It was at this point that petitioners joined hands and petitioned the Court of First Instance of Manila for mandamus, prohibition and certiorari with a prayer for prohibitory-mandatory injunction questioning the disallowance of their appeals.[7]

After hearing, Judge Gustavo Victoriano issued the preliminary injunction prayed for. But, on March 17, 1961 Judge Victoriano dismissed the petition because the July 11 and July 23 orders of respondent city judge Garcia are interlocutory. A last move to reconsider the judgment of Judge Victoriano was denied by respondent judge

Gaudencio Cloribel in his order of January 22, 1962.

Meanwhile - and with the injunction of the court of first instance out of the way - on December 12 and 18, 1961, respondent judge Garcia heard the two ejectment cases on the merits separately,[8] upon notices of hearing dated November 27, 1961. These notices were sent to petitioners' counsel at his address - Room 313 Cu Unjieng Building, Dasmariñas Street, Manila. But said notices were returned to the court by respondent sheriff because Room 313 was found vacant, closed and locked. Defendants in said ejectment suits (petitioners herein) did not appear on the respective dates of trial.

On the same dates, December 12 and 18, 1961, respondent judge Garcia promulgated two separate judgments ordering petitioners to vacate their respective premises and to pay rentals due.

Then, on March 21, 1962, petitioners lodged with the court of first instance a second petition for certiorari, mandamus and relief from judgment with preliminary injunction contesting the jurisdiction of the City Court of Manila.[9] But respondent judge Jose N. Leuterio of the Court of First Instance of Manila, in his order of April 16, 1962, refused to grant the preliminary injunction prayed for. Two motions for reconsideration of this order failed of their purpose.

This paved the way for the issuance of two demolition orders - both dated July 30, 1962 - by respondent city judge Garcia in execution of the two judgments aforesaid.

Petitioners came to this Court on September 3, 1962 on certiorari and mandamus with prohibitory-mandatory injunction.[10] We dismissed said petition.[11] Petitioners went to the Court of Appeals for the same purpose. They there prayed, inter alia, for a permanent injunction, declaration of nullity of the July 11 and 23, 1960 orders and the judgments of December 12 and 18, 1961 - all of respondent judge Garcia - and for a writ of preliminary injunction to restrain execution of the judgments and the demolition orders. The Court of Appeals, on January 31, 1963, dismissed the petition. Ground: The Court of Appeals had no appellate jurisdiction over the orders and decrees of city courts; consequently, it had no jurisdiction to entertain the petition aforesaid. Motions to reconsider and to amend their petition by including the CFI judges (respondents herein) as respondents therein were summarily rejected by the Court of Appeals.

We now come to the case before us. Petitioners seek to annul: (1) the city court orders of July 11 and 23, 1960, (2) the decision of the Court of First Instance of Manila in Civil Case 44339 refusing certiorari to nullify the foregoing orders, (3) the order of the Court of First Instance of Manila in Civil Case 49929 denying petitioners' petition for preliminary injunction to stave off demolition and its refusal to hear and try the merits of the petition for certiorari filed before it, and (4) the Court of Appeals' resolution dismissing their petition for certiorari, mandamus and prohibition.

On April 22, 1963, we granted the writ of preliminary injunction prayed for by petitioners.

This Court, on November 19, 1963, allowed Manotok to intervene.

1. As we assess the merits of the petition before us, we find it convenient to first dispose of petitioners' argument that it was wrong both for the city court and the court of first instance to disallow appeal from the orders of July 11 and 23, 1960. Said courts below ruled that these orders were interlocutory and therefore not appealable. We agree.

We first go to the nature of these two orders. Since the rate of monthly rentals is disputed, it became necessary for the city court to ascertain "the current rentals", payment of which is required as a condition precedent for the suspension of the ejectment proceedings upon the provisions of Section 5, Republic Act 1162 as amended, and

our ruling in *Samia vs. Reyes*, L-14760, May 31, 1963. The city court's orders of July 11 and 23, 1960 besides ordering suspension of the proceedings also fixed the amount of rentals in arrears as well as the current rentals to be paid by petitioners to Manotok, their lessor.

By no stretch of the imagination may the disputed orders be placed in the category of final and appeal-able. Precisely, those orders were issued in the course of the proceedings for the suspension of the ejectment suits. Suspension itself connotes the idea of work unfinished. Unfinished because the ejectment suits at that time had yet to be decided on their merits. The questioned orders did not completely dispose of the controversy. Further court action - a substantial one - must take place. Said orders then are clearly inter-locutory. No appeal lies therefrom.[12]

More to this. The ejectment litigations were only finally decided by the city court in its judgments on the merits of December 12 and 18, 1961.

The orders of July 11 and 23, 1960 being inter-locutory and therefore unappealable rejection of the appeal both by the city court and the court of first instance was proper.

2. Petitioners seek annulment of the city court judgments of December 12 and 18, 1961. They gripe that their counsel did not receive notices of trial in the two ejectment cases. We do not go along with petitioners.

There is no question that the address of record of counsel for petitioners, Atty. Ruperto Suñga, is Room 313 Cu Unjieng Building, Dasmariñas Street, Manila. Respondent sheriff tried to serve said notices of trial at the address just mentioned. He found the room vacant, closed and locked. So, the notices were unserved. This is a situation brought about by the negligence of counsel. He did not inform the court of his change of address. It is a duty incumbent upon him to do so.[13]

The time has come, we believe, for this Court to remind the members of the Bar that it is their inescapable duty to make of record their correct address in all cases in which they are counsel for a suitor. For, instances there have been in the past when, because of failure to inform the court of the change of address, litigations were delayed. And this, not to speak of inconvenience caused the other parties and the court. Worse still, litigants have lost their cases in court because of such negligence on the part of their counsel. It is painful enough for a litigant to suffer a setback in a legal battle. It is doubly painful if defeat is occasioned by his attorney's failure to receive notice because the latter has changed the place of his law office without giving the proper notice therefor. It is only when some such situation comes about that the negligent lawyer comes to realize the grave responsibility that he has incurred both to his client and to the cause of justice. It is then that the lawyer is reminded that in his oath of office he solemnly declared that he "will conduct" himself "as a lawyer according to the best of his knowledge and discretion". Too late. Experience indeed is a good teacher. To a lawyer, though, it could prove very expensive.

3. The considerations just adverted to deter us from nullifying the judgments of the city court of December 12 and 18, 1961 in the ejectment cases. Clearly, there was no abuse of discretion on the part of the city court. Of no importance is petitioners' charge that respondent city judge had personal knowledge of Suñga's change of address. It has no basis in fact. His petition for certiorari in Civil Case 44339, CFI, Manila, does not reflect the new address, as Suñga claims. Anyway, notices of hearing are ordinarily taken care of by clerks, who are naturally guided by addresses of record. To require the judge himself to look after the simple ministerial function of sending notices is to add another burden to an already heavily burdened position.

Opportunity to be heard was given. Petitioners lost that opportunity because of their lawyer's negligence. There was due process. The city court had jurisdiction to decide the case. Certiorari to annul said judgments filed with

the Court of Appeals on behalf of said petitioners will not prosper. Neither will a plea for the other extraordinary writs.

At any rate, certiorari or similar writs may not issue from the Court of Appeals. For, the Court of Appeals does not have jurisdiction. In *Philippine Products Co. vs. The Court of Appeals*,^[14] we ruled that by statute the Court of Appeals may only issue a writ of certiorari and similar writs in aid of its appellate jurisdiction. That is to say, if the main case is appealable to the Court of Appeals, a special civil action for certiorari on a matter incidental thereto may be brought to said court. The main cases here are for ejectment. The city court's judgments in said cases are appealable to the Court of First Instance, not to the Court of Appeals. Petitioners' belated attempt - after dismissal of their case by the Court of Appeals - to include as party respondents in the Court of Appeals the judges of the Court of First Instance of Manila here involved does not change the picture. It is enough to say once again that those judges committed no abuse of discretion. Accordingly, there is no infirmity in the Court of Appeals' decision dismissing petitioners' petition therein.

The net result of all the foregoing is that no error exists in any of the proceedings taken by respondents which would call for the exercise of this Court's supervisory powers.

Accordingly, the petition for certiorari, prohibition and mandamus herein is hereby dismissed; and, in consequence, the writ of preliminary injunction heretofore issued is dissolved.

Costs against petitioners.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., on leave.

[1] Civil Case 74769, Municipal Court of Manila, Branch I, entitled "Manotok Realty, Inc., Plaintiff, versus Linkod Juane and Ruperto Suñga, Defendants".

[2] Civil Case 78529, Municipal Court of Manila, Branch I, entitled "Manotok Realty, Inc., Plaintiff, versus Flora Antonio, Defendant".

[3] Civil Case 43275, Court of First Instance of Manila.

[4] Section 5 of Republic Act 1162, as amended by Republic Act 1599 enacted without executive approval on June 17, 1956.

[5] See: *Prieto vs. Enriquez*, 106 Phil. 1103, 1109.

[6] *Republic of the Philippines vs. Manotok Realty, Inc.*, L-20204, July 31, 1964.

[7] Civil Case 44339, Court of First Instance of Manila, Branch VI, entitled "Linkod Juane, Ruperto Suñga and Flora Antonio, Petitioners, versus Hon. Gregorio N. Garcia, as Presiding Judge of the Municipal Court of Manila and Manotok Realty, Incorporated, Respondents."

[8] On December 12, 1961 Manotok's Case against Flora Antonio was heard. The other case against Linkod Juane and Ruperto Suñga was heard on December 18, 1961.

[9] Civil Case 49929, Court of First Instance of Manila, Branch II, entitled "Linkod Juane, Ruperto Suñga, and Flora Antonio, Petitioners, versus Hon. Gregorio N. Garcia, as Presiding Judge of Branch I of the Municipal Court of Manila, The Sheriff of the City of Manila, and Manotok Realty, Incorporated, Respondents".

[10] L-20214, entitled "Linkod Juane, et al., versus Hon. Gregorio Garcia, etc., et al."

[11] See: Resolution of this Court in L-20214, dated September 6, 1962.

[12] See: Salazar vs. de Torres, 58 O.G. No. 9, pp. 1713, 1717, where we held: "Courts have defined a final order or judgment which is appealable as one which either terminates the action itself or operates to vest some right in such manner as to put it out of the power of the court making the order to place the parties in their original condition". Citing Fuentebella vs. Carrascoso, Lawyers' Journal, Vol. XIV, p. 305. See also: Bairan vs. Tan Siu Lay, 18 Supreme Court Reports Anno. 1235, 1239, where we ruled: "It is settled that a court order is final in character if it puts an end to the particular matter resolved, leaving thereafter no substantial proceeding to be had in connection therewith except its execution; and, contrary wise, that a given court order is merely of an interlocutory character if it is provisional and leaves substantial proceedings to be had in connection with its subject in the court by whom it was issued"; and Allied Free Workers' Union vs. Estipona, 3 Supreme Court Reports Anno. 780, 783, where we held: "Consequently, when the order or judgment does not dispose of the case completely but leaves something to be done upon the merits, it is merely interlocutory".

[13] See: Enriquez vs. Bautista, 79 Phil. 220, 222, where we held: "It is noteworthy that the registered letter of the Clerk of the Court of First Instance of Bataan containing a copy of the order in question was sent to the very address given by petitioners' attorney in the petition for intervention, and there is no showing that the clerk of court was ever notified by him of any change of address. The excuse that the attorney did not stay in one place permanently, cannot be accepted, inasmuch as an attorney owes it to himself and to his clients to invariably adopt a system whereby he can be sure of receiving promptly all judicial notices during his absence from his address of record". See also: Martinez vs. Martinez, 90 Phil. 697, 700.

[14] 21 Supreme Court Reports Anno. 870, 874.

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