

JOAQUIN R. BOGAYONG, PETITIONER, VS. CONRADO SANCHEZ, JUDGE OF FIRST INSTANCE OF MANILA, ET AL., RESPONDENTS.

G.R. No. L-1497. November 25, 1947

Ponente: HILADO, J.

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HILADO, J.:

Respondents Juan D. Salvador, Remigia Z. Salvador, Alfredo Javellana, and Gloria S. Javellana being purchasers pendente lite of the premises involved in civil case No. 1870 of the Court of First Instance of Manila, an ejectment case, became plaintiffs therein in substitution for Lucia Y. Matias Vda. de Tinio, former plaintiff therein in substitution for Oceanic Commercial, Inc., original plaintiff in the same case. Petitioner was the defendant in that case. The said premises are numbered 1127-1129, Rizal Avenue, Manila, and are destined for commercial purposes and used by petitioner in his business.

The case had been appealed to the Court of First Instance from the Municipal Court of Manila (being Civil Case No. 2540 of the latter court). The municipal court had rendered judgment in the case on February 10, 1947, disposing as follows:

"* * * finding that the defendant (herein petitioner) failed to pay the corresponding rents for the months of September, October and November, 1946, and should, therefore as he is hereby ordered to vacate the premises in question and restore the possession of the same to the plaintiff; ordering said defendant to pay the rents due for said months at the estimated reasonable rate of P450 a month, and to pay at the same monthly rate such other rents as may be due until he actually vacates the premises; and to pay the costs * * *."

As already stated, and while the case was pending in the Court of First Instance by reason of the appeal interposed by petitioner from the aforementioned judgment of the municipal court, the instant respondents above named became the last substitute plaintiffs. That substitution was prayed for by said respondents in a motion dated June 10, 1947, filed by them with the Court of First Instance for said purpose and at the same time for the purpose of praying, as they actually did, for the execution of the judgment above referred to on the ground that the defendant, now petitioner, failed to pay or to deposit with the court any amount for rentals which, by the said judgment, he had been ordered to pay. Four days thereafter, to wit, on June 14, 1947, the court, His Honor Conrado Sanchez presiding the corresponding branch, granted said motion both as to the substitution and the execution prayed for therein, in the words and figures following:

"Upon consideration of the motion filed by Lucia Y. Matias Vda. de Tinio in connection with a similar motion filed by Juan D. Salvador, Remigia Z. Salvador, Alfredo Javellana and Gloria S. Javellana, which last motion prays first, that the latter be substituted as parties plaintiff in lieu of Lucia Y. Matias Vda. de Tinio, and second, for the execution of the judgment appealed from, and it appearing that as to the first prayer of the motion counsel for the defendant has no objection and it further appearing that as to the second point raised in the motion upon proper admission of counsel for the defendant the said defendant has not deposited the rentals in Court in accordance with the provision of section 8, Rule 72 of the Rules of Court,

"Both petitions granted,

"Let a writ of execution issue directing the defendant to vacate the premises, the subject of this suit." (*Italics ours*).

Petitioner now complains against the respondent judge having granted the prayer for execution in the same order as the prayer for substitution, alleging as reason for his complaint that at the time the prayer for execution was granted "the movants did not yet have the legal personality as parties of the case to obtain said execution" (petition, par. VII), and that at the time the prayer for execution was granted said respondents "did not as yet have legal personality to obtain said relief because they have just presented on said moment the motion for substitution" (petition, par. VIII).

The Court deems the order of Judge Sanchez as perfectly legal and proper. He had to decide the motion in view of the existing state of things at the time it was filed, and finding that at that time said respondents had already acquired *pendente lite* the rights and obligations of the former substitute plaintiff who had derived title from the original plaintiff in the same case, which fact gave said respondents not only the right to be substituted but also the right to have execution on the judgment, His Honor could not have correctly decided the motion otherwise. For all practical purposes, there would be no substantial difference between a motion such as that filed by said respondents and two separate motions, one for substitution and another for execution of judgment, which they could certainly have rightfully filed on the same date, the second attached to the first. Moreover, the principle of liberality in the interest of just, speedy and inexpensive determination of judicial controversies and administration of substantial and practical justice permeates the present Rules of Court, if indeed it did not already permeate the former Code of Civil Procedure (Rule 1, section 2).

Another ground alleged for the petition for certiorari is that petitioner had filed a supersedeas bond, and it is alleged that said bond was sufficient to stay execution without need of satisfying the rentals, particularly the current ones. Apart from the circumstance that said bond did not specify any amount (although it may be stated that it did stipulate the obligation of the principal and the surety to "pay all rents, damages: and costs which may be awarded" against the appellant on appeal or on the dismissal thereof), it is not correct to say that payment or deposit at the times marked by Rule 72, section 8, of the current rents during the pendency of the appeal might be dispensed with. The supersedeas bond does not relieve from the obligation to make such timely payment or deposit (*Zamora vs. Dinglasan and Hilario*, 77 Phil., 46).

Wherefore, finding the instant petition devoid of merit, the Court hereby denies the same, with costs. So ordered.

Paras, Perfecto, Briones, and Tuason, JJ., concur.

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