

BALAGTAS REALTY CORPORATION, PETITIONER, VS. HON. MANUEL V. ROMILLO, JR., AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL IN PASAY CITY, BURT RAYMOND, YU CHUN HIAN, EDWARD FINL...

G.R. Nos. L-48376-85. May 22, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a petition for certiorari and prohibition with preliminary injunction seeking the reversal of the order dated March 30, 1978 which denied the separate but identical "Motions for Immediate Ejectment Execution" in Civil Case Nos. 5779-P to 5788-P of the Court of First Instance of Rizal, Seventh Judicial District, Branch XXVII, at Pasay City, entitled "Balagtas Realty Corporation vs. Burt Raymond, et al."

The antecedents of the case are as follows:

On May 11, 1976, Balagtas Realty Corporation, a corporation duly organized and existing under the laws of the Philippines and owner of a row of residential apartments located at Balagtas Street in Pasay City, filed nineteen (19) separate identical complaints for illegal detainer against each of the private respondents for refusal and failure to vacate their respective premises and to pay their rentals in arrears, as well as an increased monthly rental of P2,000.00 from May 1, 1976, notwithstanding valid and formal demand. Private respondents filed with said City Court their respective identical answers dated May 20, 1976 to said complaints. By agreement of all of the parties, the cases were consolidated and jointly heard in Branch IV of the Pasay City Court presided by City Judge Francisco R. Llamas.

On January 25, 1977, said City Judge Francisco R. Llamas rendered judgment in eleven (11) of these cases, eight of the cases having been terminated earlier. The dispositive portion of the decision states as follows:

"WHEREFORE, judgment is hereby jointly rendered, in all the above entitled eleven (11) cases sentencing each of the respective defendants hereunder named and all persons claiming under each of them in their respective apartment premises at Balagtas Street, Pasay City, Metro Manila herein set forth below, to immediately vacate said premises and to forthwith surrender its peaceful pos-session to the plaintiff; to each pay to the plaintiff their respective rental arrears up to April 30, 1976 as hereinunder set forth below; to each pay to the plaintiff Two Thousand Pesos (P2,000.00) monthly rentals from May 1, 1976 until each of them finally and respectively vacates his/her respective apartment-premises subject matter of these summary complaints; to each pay to the plaintiff as reasonable and conscionable recoverable liquidated damages the sum of Four Thousand Pesos (P4,000.00) and to pay the costs. The defendants' respective names, the civil case number and designation of the premises they correspondingly occupy and the rental arrearages up to April 30, 1976 each of them are (SIC) required to pay, are listed as follows:

Civil
Case

No.

Premises

Defendants

Renatal

Arrearages

up to April

30, 1976

11967

168

Burt Raymond

P 600.00

11968

154

Yu Chun Hian

none

11969

152

Edward Finlan

1,950.00

11970

178

George Gallent

1,650.00

11971

182

Jack Lerner

1,650.00

11973

202

Cornelius Breed

1,950.00

11975

196

Marsha Baecher

1,650.00

11976

198

Lourdes Ang

1,650.00

19977

204

Victoria Teves

2,050.00

11978

208

Pamela Gonzalez

3,450.00

11979

210

Josephine Ting

3,300.00

IT IS SO ORDERED."[1]

On January 26, 1977, petitioner filed with the Pasay City Court separate identical motions for immediate execution of the said Judgment under the provisions of the first paragraph of Sec. 8 of Rule 70 of the Rules of Court. To stay such immediate execution, ten (10) private respondents filed with the Pasay City Court a common notice of appeal dated February 10, 1977 and each private respondent posted his/her respective supersedeas bond covering (a) adjudged rental arrears prior to May 1, 1976, (b) adjudged liquidated damages, and (c) the P2,000.00 monthly rentals as found by the Judgment of the Pasay City Court to exist from May 1, 1976 and accruing down to the time of the Judgment in January, 1977, as follows:

City

Ct.

Case

No.

Apt.

No.

Private

Respondent

Rental Arrears

to 30

April ,76+

Rental fr. 1

May "76

to 31

Jan. '77

Liquidated

-Damages

Total

Posted

=Bonds

-

-

Bondsman

11967

168

Burt Raymond

P 600

P18,000

P4,000

P22,600

Mercantile

11968

154

Yu Chun Hian

P18,000

P4,000

P22,000

Pioneer

11969

152

Edward Finlan

1,950.00

P18,000

P4,000

23,950

Mercantile

11971

182

George Gallent

1,650.00

P18,000

P4,000

23,650

FGU

11973

202

Cornelius Breed

1,950.00

P18,000

P4,000

23,950

Mercantile

11975

196

Marsha Baecher

1,650.00

P18,000

P4,000

23,650

Mercantile

11976

198

Lourdes Ang

1,650.00

P18,000

P4,000

23,650

Mercantile

11977

204

Victoria Teves

2,050.00

P18,000

P4,000

24,050

Pioneer

11978

208

Pamela Gonzalez

3,450.00

P18,000

P4,000

26,450

Pioneer

11979

210

Josephine Ting

3,300.00

P18,000

P4,000

25,300

Mercantile

The City Court of Pasay City approved the supersedeas bonds, stayed the immediate execution and thereafter elevated the ten cases to the Court of First Instance of Rizal where they were docketed with Branch XXVII of the said Court, presided by respondent Hon. Judge Manuel V. Romillo, Jr.

On October 11, 1977, petitioner filed for the second time separate identical "Motions for Immediate Ejectment Execution" against the ten respondents on the ground that respondents failed to deposit to the Court of First Instance their monthly rentals for the period from February 1, 1977, in the amount of P2,000.00 monthly "as found by the judgment" of the City Court of Pasay City, on or before the tenth day of each succeeding month under Section 8 of Rule 70 of the Rules of Court.

Petitioner contends that from February, 1977 to September, 1977 is eight (8) months, and the total deposit of each private respondent at P2,000.00 monthly should have been P16,000.00 on or before October 10, 1977. But based on the admission in the pleadings of private respondents, they effected up to October 10, 1977 only the following total deposits for the said eight (8) month period from February, 1977 to September, 1977:

Respondent

With

City
Court

With CFI

Total

Raymond

P5,400

P4,800

P10,200

Hian

5,250

5,850

11,000

Finian

6,300

1,800

8,100

Breed

5,400

5,600

11,000

Lerner

6,000

4,200

10,200

Baecher

3,600

3,600

7,200

Ang

5,400

4,200

9,600

Teves

4,800

4,900

9,700

Gonzales

4,200

3,600

7,800

Ting

4,200

6,000

10,200

Private respondents presented oppositions (Annex "G" and "I" of the petition) and a manifestation (Annex "J" of the petition) to said motions for immediate execution alleging that they are up-to-date in depositing with the Clerks of Court of the City Court and of the Court of First Instance the monthly rentals from and after February, 1977, contrary to what is alleged by plaintiff-appellee in its motions.

On March 30, 1978, respondent Judge denied petitioner's Motions for Immediate Ejectment Execution stating that "[d]efendants-appellants' aforesaid claim finds support in the records, thus belying the pretensions of plaintiff-appellee."^[2]

Alleging that the aforesaid order subject of review is a patent nullity, petitioner forthwith instituted the instant proceeding with this Court and submitted for resolution the following issues:

1. Whether or not respondent Judge acted without and/or in excess of his jurisdiction and/or with grave abuse

of discretion in denying outright petitioner's Motions for Immediate Ejectment Execution.

2. Whether or not appellants-tenants' failure to timely effect full monthly rental deposits with the appellate court constitute clear insincerity or abandonment of appeal.

Stated otherwise, the resolution of the present petition, therefore, boils down to the issue of whether the petitioner is entitled to immediate execution of the decision in the light of the prevailing facts and in the affirmative, whether or not the execution would constitute a bar to the appeal taking its course.

The pertinent provision of Rule 70 of the Revised Rules of Court is as follows:

"Section 8. If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected, and the defendant to stay execution files a sufficient bond, approved by the municipal or city court and executed to the plaintiff to enter the action in the Court of First Instance and to pay the rents, damages and costs accruing down to the time of the judgment appealed from, and unless during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as found by the judgment of the municipal or city court to exist. In the absence of a contract, he shall deposit with the court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment, on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the municipal or city court, with the other papers, to the clerk of the Court of First Instance to which the action is appealed.

"xxx xxx xxx

Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the appellate court, upon motion of the plaintiff, of which the defendant shall have notice, and upon proof of such failure, shall order the execution of the judgment appealed from with respect to the restoration of possession, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on its merits." (underscoring supplied)

Under this rule, judgment in favor of the plaintiff must be executed immediately in order to prevent further damage to him arising from continued loss of possession. However, the defendant may stay execution (a) by perfecting an appeal and filing a supersedeas bond, and (b) by paying promptly from time to time either to the plaintiff or depositing with the Court of First Instance the adjudged reasonable value of the use and occupation of the property. This rule is mandatory, the exception being when the delay is due to fraud, accident, mistake or excusable negligence.[3]

In the case at bar, it is uncontradicted that private respondents posted their respective supersedeas bonds to answer for rentals and damages accruing down to the time of the perfection of their appeals in January, 1977. What is controverted is whether or not there is compliance with the second requisite to stay execution, namely, the payment of the monthly rentals as they fell due.

Petitioner contends that none of the respondents deposited in court the monthly rentals of P2,000.00 each on or before the tenth day of the succeeding month. Respondents, however, claim that they are making monthly deposits conformably with the existing contract between the parties. The seat of controversy, therefore, lies in what is the correct amount of the rentals to be deposited regularly in court by private respondents.

In support of its stand that the monthly rental of each respondent is P2,000.00, petitioner cites the dispositive portion of the decision dated January 25, 1977 of the Pasay City Court in Civil Case Nos. 11967-11979, adjudging, among other things, each private respondent ---

"x x x to each pay to the plaintiff Two Thousand Pesos (P2,000.00) monthly rental from May 1, 1976 until

each of them finally and respectively vacates his/her respective apartment-premises subject matter of these summary complaints."

On the other hand, private respondents Burt Raymond and Lourdes Lukban Ang submit that the current monthly rental is P1,000.00 if paid on time. They contend that the Letter-Contract dated April 21, 1976 (Exhibit A), which was sustained and upheld by the Pasay City Court as the new lease contract governing the relations between the petitioner and private respondents, provides explicitly that ---

"2. Rental. P2,000.00 per month period payable by you to us, through our collector, within the first three days of each corresponding month period; provided, however, that you shall be granted by us an initial discount of P1,000.00 for each monthly rental paid on time, but this discount shall not in anywise amend the aforesaid rental, x x x" (underscoring supplied by private respondents)

They argue that this aforesaid crucial provision of the Letter-Contract, as fully explained and amplified by the building administrator of petitioner during the trial of the case, must be consulted and examined and that the rentals to be deposited in court by private respondents must be the amount explicitly stated therein, namely: P2,000.00, except when it is paid within the first three (3) days of each month, in which latter case, the rental is P1,000.00. Accordingly, they pray that the P2,000.00 rental payment in the dispositive portion of the Judgment must be harmonized and interpreted con-formably with the afore-quoted provision of the said Letter-Contract between petitioner and private respondents.

In the same vein, private respondents Yu Chun Hian, Edward Finlan, Jack Lerner, Cornelius Breed, and Marsha Baecher maintain that although in the dispositive portion of the appealed judgment the City Court of Pasay City ordered private respondents to pay the monthly rentals of P2,000.00, said dispositive portion must be read and interpreted in the light of the findings stated in the decision or judgment. They further contend that the right to immediate execution may be waived, as in fact said right was waived by petitioner when it failed to object to the deposits of P750.00 or P600.00 by private respondents for the period from May, 1976 to September, 1977.

Viewing the matter quite differently, private respondents Victoria Teves, Pamela Gonzales and Josephine Ting admit that the amount of current rental to be deposited is normally that fixed by the judgment of the City or Municipal Court but argue that the dictum should not apply to a case where the City Court Judge acted arbitrarily and without jurisdiction in fixing the amount of the current rental to be deposited. They contend that the subject matter hereof being one not capable of pecuniary estimation, as it calls for interpretation of the contract, it is the Court of First Instance that has jurisdiction. But assuming, *arguendo*, that the Pasay City Court could fix the right amount to be deposited as current monthly rental, they submit that it would be more in keeping with equity and justice if it fixed the amount of ONE THOUSAND (P1,000.00) PESOS as the current monthly rental.

Considering all the foregoing, We find for petitioner. It is settled doctrine that the judgment of a case is what is contained in the dispositive portion:

"The portion of the decision that becomes the subject of execution is that ordained or decreed in the dispositive part thereof." [4]

"Execution of judgment must conform to that ordained or decreed in the dispositive portion of the decision." [5]

"Dispositive portion of decision controls in execution of judgment." [6]

We hold that since the dispositive part of the decision of the Pasay City Court adjudged and ordered the respondents "to each pay to the petitioner Two Thousand Pesos (P2,000.00) monthly rentals from May 1, 1976 until each of them finally and respectively vacates his/her respective apartment-premises subject matter of these summary complaints," anything said in the body of the opinion about the P1,000.00 discount if a lessee pays

his/her rental within the first three days of the month, is merely an obiter.

"Where there is conflict between the dispositive part and the opinion of a decision, the former must prevail over the latter." [7]

"The rule is that when the dispositive part of a final order or decision is definite, clear and unequivocal and can be wholly given effect without the need of interpretation or construction, the same is considered as the judgment of the court, to the exclusion of anything said in the body thereof." [8]

"Statements made in the opinion are 'informal expressions of the view of the court' and cannot prevail against its final order or decision." [9]

"For purposes of res judicata or execution the dispositive part of judgment controls expressions made in the body of the opinion." [10]

Consequently, when respondents effected monthly deposits of less than P2,000.00, they violated the condition imposed by Section 8, Rule 70 of the Revised Rules of Court, hereinbefore quoted, anent the deposit of the amount of rent due, as found by the judgment of the city court to exist. Our jurisprudence on the matter is overwhelming. Time and again, this Court has unswervingly held:

"The law providing that in case the defendant appeals, he must pay to the plaintiff or into the CFI the amount fixed as rent on or before the 10th day of each calendar month, and that failure to do so shall cause the judgment to be executed, is mandatory and cannot be evaded. The court has no discretion to give or not to give effect to such failure to pay." [11]

"Failure of the defendant x x x to deposit on time the monthly reasonable value of the use and occupation of the property or the rents fixed in the judgment is a ground for execution of such judgment," [12] as a matter of right [13] the duty of the court to order such execution being ministerial and imperative." [14]

"In fact, even delayed payment of the rentals alone, unless excused by mistake, accident or fraud, would have already rendered the function of the court of executing the judgment ministerial and imperative." [15] "A deposit made out of time though prior to the order of the court cannot be accepted as an excuse for not ordering execution of the judgment [16] and so with a deposit made after the motion for execution was filed." [17]

Moreover, respondents are in estoppel to claim that P2,000.00 is not the monthly rental because their respective supersedeas bond posted with and approved by the lower court is on the basis of P2,000.00 monthly rental. It may be argued that the supersedeas bond covers rentals in arrears and hence, the discount given when rental is paid on time is not applicable but the discount may be availed of with respect to the current rentals as long as they are paid within the first three days of each month. Looking into the records, however, We find that except for Yu Chun Hian, all the other respondents had not been vigilant either in the payment of the rentals according to the letter-contract. At some point during the pendency of their respective appeals, they failed to pay their rentals within the first three days of the month. Hence, respondents may not in all sincerity claim that they have been depositing their current rentals according to the letter-contract.

Anent the argument of private respondents Victoria Teves, Pamela Gonzales and Josephine Ting re: lack of jurisdiction of the Pasay City Court, We hold that the judgment of said court subsists until reversed. Hence, during the pendency of their respective appeals, respondents must strictly comply with what is ordained in the judgment, which is payment of current rentals in order to stay execution with respect to possession of the leased premises. Respondents may not avoid the provisions of Section 8, Rule 70 of the Revised Rules of Court by simply assailing the lower court's jurisdiction. They may not determine for themselves what constitutes the right amount of current rental to be deposited.

On the question of whether or not execution would constitute a bar to the appeal taking its course, We rule in the negative. The provision of the Revised Rules of Court on the matter is explicit. There is no room for deviation. The respective appeals of respondents should continue notwithstanding their ejectment due to said non-deposit of current rentals.

WHEREFORE, judgment is hereby rendered setting aside respondent Judge's order dated March 30, 1978 in Civil Cases Nos. 5779-P to 5788-P and ordering immediate execution of the judgment of the Pasay City Court in Cases Nos. 11967, 11968, 11969, 11971, 11973, 11975, 11976, 11977, 11978 and 11979 without prejudice to the appeals taking their due courses.

Costs against respondents.

SO ORDERED.

Barredo, (Chairman), Aquino, Abad Santos, and De Castro, JJ., concur.
Escolin, J., in the result.
Concepcion, Jr., on leave.

[1] Rollo, pp. 52-53.

[2] Rollo, p. 76.

[3] Laurel vs. Abalos, 30 SCRA 281, citing 3 Moran, Comments on the Rules of Court (1963 ed.) 298--299; Acibo vs. Macadaeg, et al., L-19710, June 30, 1964, citing Sison vs. Bayona, et al., L-13440, Sept. 30, 1960. See also Acierto vs. Laperal, L-15966, April 29, 1960, 58 O.G. 4853.

[4] Castillo vs. Nagtalon, L-17079, Jan. 29, 1962, 4 SCRA 49.

[5] Philippine American Accident Insurance Company, Inc. vs. Flores, L-47180, May 19, 1980, 97 SCRA 811.

[6] Presto vs. Galang, L-45629, Aug. 31, 1977, 78 SCRA 534.

[7] Magdalena Estate, Inc. vs. Caluag, L-16250, June 30, 1964, 11 SCRA 333.

[8] Board of Liquidators vs. Ricma Trading Corp., L-24318, Aug. 29, 1969, 29 SCRA 397.

[9] City of Manila vs. Entote, L-24776, June 28, 1974, 57 SCRA 497.

[10] Romero vs. Court of Appeals, L-27659, July 30, 1971, 40 SCRA 172.

[11] Guillena vs. Borja & Sumampnan, 53 Phil. 379.

[12] Igama vs. Soria, 42 Phil. 11; Tomboc vs. Court of First Instance of Pangasinan, 46 Phil. 851; Cura vs. Rodas, 79 Phil. 595; Pangilinan vs. Pena, L-4143, May 28, 1951; Samia vs. Reyes, 8 SCRA 135; Geronimo Realty Co. vs. CA, 83 SCRA 542; Banzon vs. Ubay, 94 SCRA 454.

[13] De Pages vs. Canonoy, 6 SCRA 583.

[14] Galewsky vs. De la Rama, 79 Phil. 583; Ang Ching Gi vs. De Leon, 79 Phil. 580; Lee Tian Po & Co. vs. Rodas, 81 Phil. 395; Basilio vs. Natividad, 80 Phil. 52; Meneses vs. Dinglasan, 81 Phil. 470; De la Cruz, et al. vs. Burgos, et al., 28 SCRA 977; Dehesa vs. Macalalag, 81 SCRA 543.

[15] Borden vs. Hontanosas, 42 SCRA 401.

[16] Lim Ching vs. Sandoval, G.R. No. 49227, Aug. 4, 1944.

[17] Meneses vs. Dinglasan, *supra*.

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