

**GERONIMO DE LOS REYES, PETITIONER AND APPELLEE, VS.
ARTEMIO ELEPAÑO, IN HIS CAPACITY AS JUSTICE OF THE PEACE OF
THE MUNICIPALITY OF CALAUAN, PROVINCE OF LAGUNA AND
MARIA B. CAST...**

G. R. No. L-5282. May 29, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an appeal from a decision of the Court of First Instance of Laguna granting the petition for a writ of mandamus filed by petitioner directing respondent justice of the peace to give due course to the appeal interposed by petitioner in civil case No. 3 of the Justice of the Peace Court of Calauan, Laguna, entitled Maria B. Castro vs. Geronimo de los Reyes, for unlawful detainer and to elevate the record of the case to said court of first instance for the purposes of the appeal, without pronouncement as to costs.

Maria B. Castro filed an action for unlawful detainer in the Justice of the Peace Court of Calauan, Laguna against Geronimo de los Reyes to recover the possession of two parcels of land situated in said municipality and the rentals due thereon (Civil Case No. 3). On October 12, 1949, the court rendered judgment ordering Geronimo de los Reyes to vacate the property in litigation, to pay to Maria B. Castro the sum of P7,200 a year from August 31, 1945, plus the sum of P1,000 as attorney's fees, and the costs of action. On October 27, 1949, de los Reyes filed a motion for reconsideration, which was denied on November 10, and copy of the order of denial was received by him on November 15. On November 16, de los Reyes instituted an action for certiorari before the Supreme Court against the Justice of the Peace of Calauan with a prayer for the issuance of a writ of preliminary injunction to suspend the period of appeal and prohibit said justice of the peace from carrying out the execution of the judgment and from taking any further action in the case until further orders from the Supreme Court. On November 22, the Supreme Court issued a resolution granting the writ of preliminary injunction prayed for upon the filing by de los Reyes of a bond in the amount of P10,000. This bond having been filed, the Clerk of Court issued the writ on November 24, 1949.

On October 13, 1950, the Supreme Court denied the petition for certiorari holding that the remedy of petitioner was to appeal the case to the Court of First Instance. On the same date, de los Reyes filed a motion for reconsideration which was denied. On November 16, the second motion for reconsideration of de los Reyes was also denied, and on the same date de los Reyes gave notice of his intention to appeal from the decision of the Justice of the Peace Court of Calauan in civil case No. 3, depositing at the same time with said court the required docket fees and cash appeal bond. On November 17, 1950, Maria B. Castro filed in the same case a motion for the immediate execution of the judgment on the ground that the same has already become final. After due hearing, and after the parties had submitted their respective memoranda, the Justice of the Peace Court ruled that, the appeal having been filed out of time, the judgment had become final and executory. It, therefore, disallowed the appeal and granted the motion for immediate execution. De los Reyes filed a motion for reconsideration but this was denied.

Dissatisfied with the action taken by the justice of the peace, on January 25, 1951, De los Reyes filed in the Court of First Instance of Laguna a petition for mandamus against Maria B. Castro and the justice of the peace, praying that an order be issued directing the justice of the peace to give due course to his appeal and to elevate the record of the detainer case so that action on the petition may be taken, praying at the same time that a writ of preliminary injunction be issued ordering him to desist from executing the judgment, or from carrying out the writ of execution that may have been issued therein. On January 26, 1951, the court required Maria B. Castro to answer the petition, but instead of filing an answer, she filed a motion to dismiss, contending that the petition does not state a cause of action for the reason that the judgment of the justice of the peace had long become final and executory. On March 30, 1951, the court denied the motion to dismiss directing Maria B. Castro to answer the petition within 10 days from notice. The court, in the same order, granted the petition for preliminary injunction upon De los Reyes' filing a bond in the amount of P10,000. After the parties had submitted their respective memoranda, the court, on August 31, 1951, rendered decision on the merits wherein it upheld the petition for mandamus ordering the justice of the peace to give course to the appeal under the terms set forth in the early part of this decision. From the decision above adverted to, respondents interposed the present appeal.

The main issue to be determined is whether the judgment rendered by the Justice of the Peace Court of Calauan in the detainer case had already become final and executory in view of the alleged failure of Geronimo de los Reyes to perfect his appeal within the reglementary period. In the affirmative case, the lower court erred in granting the petition for mandamus; otherwise the decision appealed from should be affirmed and the appeal of De los Reyes should be given due course.

It appears that respondent justice of the peace rendered his decision on October 12, 1949, copy of which De los Reyes received on October 15, 1949; that on October 27, 1949, or 12 days after he received copy of said decision, appellant filed a motion for reconsideration which was denied on November 10, 1949; that on November 15, 1949, appellant received copy of the resolution of the court denying said motion; that on November 16, 1949, or on the thirteenth day from the receipt of the decision, appellant filed with the Supreme Court a petition for certiorari with preliminary injunction wherein he prayed that the period to appeal be suspended; that on November 22, 1949, the Supreme Court granted his petition for a writ of preliminary injunction, and on November 24, 1949, the Clerk of Court issued the writ as directed; that on October 13, 1950, the petition for certiorari was denied by the Supreme Court; that appellant's first motion for reconsideration was filed in due time which was denied, and his second motion for reconsideration was also denied, having been notified of the resolution of denial on November 16, 1950; that on the same date, November 16, appellant filed a notice of appeal with the justice of the peace court depositing at the same time the required docket fees and cash appeal bond as required by the Rules of Court; and that on November 17, 1950, respondent-appellee Maria B. Castro moved for the immediate execution of the judgment claiming that the same has already become final.

Appellant now contends that, upon the foregoing facts, the appeal he has interposed was still within the reglementary period for the reason that, when on November 16, 1950, upon denial of his second motion for reconsideration in the certiorari case, he filed his notice of appeal with the justice of the peace court, the same, technically speaking, must be deemed to have been filed on the fourteenth day upon the theory that the filing of said petition for certiorari has had the effect of interrupting the running of the period to appeal. In this connection, it should be recalled that when the petition for certiorari was filed with the Supreme Court, only thirteen days of the reglementary period had transpired, and if we assume that the time during which the certiorari case was pending before said court become suspended or interrupted, it would seem clear that the notice of appeal was filed in due time, or within the fifteen-day period provided by the Rules of Court.

Respondents, on the other hand, sustain the view that the notice of appeal filed by appellant was out of time for

the reason that it was filed more than one year after the decision of the justice of the peace had been rendered, and the fact that on the thirteenth day from receipt by him of the copy of the decision he filed with the Supreme Court a petition for certiorari, furnishes no excuse or justification for the delay. Respondents contend that such petition did not have the effect of interrupting the period to appeal for the reason that the same does not have the nature or effect of a motion for reconsideration. Respondents further contend that, even if it be considered that the writ of the preliminary injunction issued by the Supreme Court could have the effect of suspending the period to appeal, such suspension would be of no avail to appellant for the reason that, when such writ was issued, the period of twenty-one days from the receipt of the copy of the decision had already elapsed. It is evident under these facts, respondents contend, that the appeal of appellant has been filed out of time.

We do not subscribe to this view. It should be noted that the petition for certiorari filed by appellant with this court with the purpose of obtaining the revocation of the decision of the justice of the peace, was coupled with a petition for preliminary injunction which includes not only a directive enjoining the justice of the peace from taking any further step or action in the case, but also a directive to suspend the period for the running of the period to appeal. We should note here that the writ of preliminary injunction was granted by the court as prayed for in the petition, which includes not only the suspension of further proceedings but the running of the period to appeal as well, inasmuch as both petitions are included in the same paragraph. And considering the very nature of a writ of preliminary injunction, one cannot but conclude that its legal effects are not only to enjoin the justice of the peace from issuing the writ of execution of the judgment rendered by him but also from taking any action on the petition to appeal.

It may be argued that the writ as issued by the Clerk of Court pursuant to the directive of this court does not make any mention of the suspension of the running of the period to appeal, but while this may be true, it cannot be denied that this result comes well within the purview of the directive, for it stands to reason that when the Justice of the Peace is enjoined to desist from further proceeding in the case, it means that he cannot also act on any move to appeal from the case.

An injunction, by its very nature, has the effect of staying the hand of the court. The petition for certiorari having been filed before the expiration of the reglementary period, the granting of the writ of preliminary injunction, even beyond that period, should be given a retroactive effect if it is to subserve the purpose for which an injunction is granted. For, as it has been aptly held, the "purpose of preliminary injunction is to preserve status quo until parties' rights can be fairly and fully investigated and determined by strictly legal proofs according to principles of equity" [Sinclair Refining Company vs. Midland Oil Company, 55 F. (2d) 42]. It is a provisional remedy to which "parties litigant may resort for the preservation of their rights and interests, and for no other purpose, during the pendency of the principal action" [Calo vs. Roldan, [*] 42 Off. Gaz., (No. 12), pp. 3174, 3179]. And under our own rules, the purpose of preliminary injunction is "the preservation of the rights of the parties pending such (judicial) proceedings" (section 7, Rule 67).

We are therefore of the opinion that, under the circumstances of this case, the notice of appeal of appellant was filed in due time and that the decision of the justice of the peace had not yet become final and executory.

Wherefore, the decision appealed from will be affirmed, with costs against respondent Maria B. Castro.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

[*] 76 Phil. 445.

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