

FRANCISCO COCOTANO, MARCIANO LABORA, AND ANGEL MALALAY, PETITIONERS-APPELLANTS, VS. REPUBLIC OF THE PHILIPPINES AND HON. CELEDONIO SALVADOR, PRESIDING JUDGE OF THE MUNICIPAL COU...

G.R. No. L-29576. November 21, 1980

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

This is an appeal from an order of the Court of First Instance dismissing a petition for writ of certiorari on the ground that the Municipal Court should not pass on a motion for the reconsideration of its own order denying a motion to dismiss. The matter was elevated to the Court of Appeals. Thereafter, there was a certification by its Fifth Division to this Court as only legal questions were presented. On the merits of the petition, namely, the competence of a City Court to pass on a motion for the reconsideration of its order denying a motion for dismissal, it is quite apparent from its interlocutory character that no valid objection could be made. So it was made quite clear in the brief for respondents as appellees.[1] Such a patent error evident on the face of the record could have justified dismissal by the Court of Appeals, but, nonetheless, it chose to certify the matter to this Court on the belief that it had no choice, the questions raised being legal in character.

There is, however, an even greater justification why this petition should be dismissed. For as set forth in the brief for appellees: "Moreover, we wish to invite the attention of this Honorable Court to the fact that the respondent Judge has already rendered a decision on the merits on January 18, 1966 in Civil Cases Nos. R-10746, R-10747 and R-10748 of the City Court of Cebu. It will please be recalled that the questioned order, dated November 20, 1965, of respondent Judge which was brought to the Court of First Instance on Certiorari originated from these three civil cases. The said decision of respondent Judge on these three civil cases has long since, become final and executory for no appeal was taken therefrom. While the execution of the said decision was sought to be enjoined by petitioners-appellants, their original action for prohibition with motion for preliminary injunction (CA-G.R. No. 37389-R) was dismissed by this Honorable Court in its Resolution promulgated in April 21, 1966. In the present appeal, petitioners-appellants again seek to enjoin the execution of the January 18, 1965 decision of respondent Judge in the aforementioned three civil cases when on April 30, 1966 they filed their Motion for Preliminary Injunction which was likewise denied by this Honorable Court in its Resolution dated August 10, 1966. On September 12, 1966, petitioners-appellants appealed from this Resolution dated August 10, 1966 of this Honorable Court to the Supreme Court by certiorari, which appeal was docketed in the latter court as SC-G.R. No. L-26570. In its Resolution dated December 23, 1966 the Supreme Court dismissed for lack of merit said appeal by certiorari. In view of these significant developments particularly the January 18, 1966 decision of respondent Municipal Judge which has long become final and executory, and therefore disposed of finally in Civil Cases Nos. R-10746, R-10747 and R-10748 of the Cebu City Court, it is respectfully submitted that present appeal is now moot and academic. The issue or issues involved in the present appeal only arose from the proceedings had in said three civil cases." [2]

No attempt was made to refute such allegations decisive of this controversy. It is quite understandable as they were matters of public record. This appeal clearly was bereft of any merit.

WHEREFORE, this case is dismissed for being moot and academic.

Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Barredo, J., did not take part as he was the then Solicitor General who handled this appeal.

[1] Republic of the Philippines and then Presiding Judge of the City Court of Cebu, Celedonio Salvador.

[2] Brief for Respondents-Appellees, 13-15.

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