

ECONOMIC INSURANCE CO., INC., PETITIONER, VS. UY REALTY COMPANY, HONORABLE GAUDENCIO CLORIBEL, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH VI, AND ...*G.R. No. L-28056. August 31, 1970*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/238628237ff7/>**FERNANDO, J.:**

In this special proceeding for prohibition, petitioner Economic Insurance Co., Inc. would impute a grave jurisdictional defect to an order of the then respondent Judge Gaudencio Cloribel granting a motion of the other respondent Uy Realty Company for a writ of execution against petitioner for the amount represented by its supersedeas bond "covering rentals rightfully due" the other respondent as plaintiff in an ejectment case. By its stress on the claim that the above order of August 26, 1967 was issued notwithstanding the finality of a previous order of dismissal of the case by respondent Judge, it was enabled not only to have this Court give due course to such petition, but also to obtain a writ of preliminary injunction upon posting a bond of P1,000.00. The answer filed by respondents, however, altered the picture thus sedulously sought to be created by petitioner. It was apparent therein that previous to such order of dismissal, there was a motion by respondent Uy Realty Company for the dismissal of the case and for the payment of the back rentals secured by the supersedeas bond filed by petitioner. Respondent Judge, however, limited his first order to ordering the dismissal, apparently overlooking the prayer for the payment of the back rentals guaranteed by the supersedeas bond. Thereafter, within the thirty-day period, respondent sought for an amendment of the above order to include execution on the bond filed to cover the past rentals due. The order now challenged was the result thereof. It was issued at a time when the matter was still subject to cognizance by respondent Judge. It would thus appear that this petition lacks merit. We find for respondents. The order granting the writ of execution by respondent Judge is sustained.

As shown by the petition itself, there was a complaint for ejectment dated August 12, 1966 filed by now respondent Uy Realty Company against a certain Co Hing.[1] There was an answer by defendant on August 27, 1966, seeking dismissal of such a suit as well as a counterclaim for reimbursement in the amount of P15,000.00 for alleged improvements made on the leased premises and for damages in the amount of P5, 000.00 for alleged bad faith on the part of the lessor.[2] The decision of the City Court of Manila of October 20, 1966 ordered the defendant and those claiming under him to vacate the premises as well as to pay the sum of P4,100.00 representing rents in arrears plus the sum of P1,500.00 a month beginning September, 1966 for the use and occupation of such premises.[3] Upon an appeal being taken, which fell to the sala of respondent Judge, a supersedeas bond was executed by such defendant as well as by the petitioner, the Economic Insurance Co., Inc.[4]

During the pendency of such appeal, under date of July 31, 1967, a motion for dismissal of the case and for payment of the supersedeas bond was filed by the plaintiff, respondent Uy Realty Co. It was alleged therein: "1. That on June 23, 1967, upon failure of the defendant to make the required rental deposits to comply with the

provisions of Sec. 8, Rule 70 of the Rules of Court, this Honorable Court, upon motion of undersigned counsel, issued a Writ of Ejectment Execution against the defendant; 2. That counsel for the defendant did not raise any objection to the enforcement of said writ of execution by the Sheriff of Manila whereupon said Officer placed the plaintiff in possession of the leased premises subject of this appeal; 3. That defendant having vacated the leased premises and possession thereof having been surrendered to the plaintiff, the legal issues subject of this appeal have therefore become moot and the continuation of the trial set for August 2, 1967 will not serve any purpose; 4. That defendant, upon surrender of the premises to the plaintiff, manifested that he has no longer any interest in the further prosecution of this case and would have no objection to the dismissal thereof; 5. That on November 23, 1966, defendant filed Supersedeas Bond No. 567 for P8,800.00 thru the Economic Insurance Company, Inc. to enter the action into this Honorable Court, said bond having for its purpose to guarantee the payment to the plaintiff of the accrued rentals up to the time of judgment in the City Court of Manila, including damages, attorney's fees and costs; 6. That plaintiff is, as of right, entitled to the withdrawal of the amount covered by the aforementioned supersedeas bond in view of the dismissal of this appealed case."[5] It sought in the prayer that "(a) this appealed case be dismissed; and (b) that the Economic Insurance Co., Inc. be ordered to pay to herein plaintiff the amount of P8, 800.00 guaranteed by the Supersedeas Bond No. 567 filed in this case representing rentals, damages and costs as adjudged by the City Court of Manila in Civil Case No. 151874 in favor of plaintiff."[6]

Then came this order of respondent Judge of August 2, 1967: "Upon motion of the plaintiff in view of the fact that the possession of the property, subject matter of this litigation, has been restored to the plaintiff, the defendants having vacated the same, this case is hereby ordered dismissed without costs."[7] It was noted in the answer that on August 22, 1967, the aforesaid order of dismissal of respondent Judge being received by respondent Uy Realty Company only on August 15, 1967, there was a manifestation and motion to execute bond to this effect: "1. That on August 1, 1967, the undersigned counsel filed with this Honorable Court their 'Motion for Dismissal and For Payment of Supersedeas Bond'; 2. That on August 2, 1967, this Honorable Court issued an Order dismissing the instant case as prayed for by undersigned counsel but did not resolve the prayer for the payment of the amount represented by the Supersedeas Bond in this case; 3. That the records of this case will show that on November 23, 1966, defendant filed with this Honorable Court through the Economic Insurance Company, Inc. Supersedeas Bond No. 567 for the amount of P8,800.00 which represents accrued rentals due the herein plaintiff up to the time of judgment in the ejectment case rendered by the City Court of Manila; 4. That considering the dismissal of this case, plaintiff is entitled as right to the payment of the amount represented by the aforementioned Supersedeas Bond as rentals due and owing to the plaintiff before this case was elevated to this Honorable Court on appeal; 5. That the Economic Insurance Co., Inc. has been duly notified of plaintiff's Motion for the payment of the Supersedeas Bond as of August 1, 1967 and the undersigned counsel has not been served with any opposition thereto."[8] The prayer was for a writ of execution to be issued against now petitioner for the amount represented by its supersedeas bond covering rentals rightfully due respondent Uy Realty Company. That was the basis. The result thereof was the challenged order of August 26, 1967, granting the prayer for a writ of execution against petitioner "for the amount represented by its Supersedeas Bond covering rentals rightfully due to the plaintiff."[9]

Petitioner does not deny, possibly because it could not deny, its liability on the supersedeas bond. It did not even oppose the motion for its execution. Its objection is that the order of August 26, 1967 was issued at a time when the matter was outside the jurisdiction of respondent Judge, the case having been dismissed. It is on that legal proposition, and that proposition alone, that it seeks to make out a case for prohibition. If the motion of respondent Uy Realty Co. sought merely the dismissal of the case, the premises having been vacated, then perhaps the case for petitioner, such as it is, would have been bolstered. As clearly pointed out, however, the motion precisely sought that petitioner be ordered to pay the amount of P8,800.00 guaranteed by the supersedeas bond.

Unfortunately, through haste or inadvertence, respondent Judge ignored that portion and merely ordered that the appealed case be dismissed. Within the period, however, before such order attained the stage of finality, a modification thereof was secured as a result of a manifestation and a motion of respondent Uy Realty Co. to execute on the bond filed by petitioner. Under the circumstances, what respondent Judge did was clearly within his authority, and the challenged order can stand the test of the most exacting scrutiny. Hence, this petition should fail.

One last observation. It is understandable for a party in the situation of petitioner to make full use of every conceivable legal defense the law allows it. In the appraisal, however, of such attempts to evade liability to which a party like petitioner should respond, it must ever be kept in mind that procedural rules are intended as an aid to justice, not as a means for its frustration. Even if the petition were impressed with a greater degree of plausibility, it would be, considering all the circumstances, to crown with success an unworthy scheme to evade a just obligation by perverting the ends procedural requisites are intended to accomplish. Not once but several times, from *Alonso v. Villamor*,^[10] we have stressed that we are not to lend the imprimatur of our approval to any such effort, the result of which would be to render illusory substantive rights. We do so again. Technicalities, in the appropriate language of Justice Makalintal, "should give way to the realities of the situation."^[11]

WHEREFORE, the writ of preliminary injunction issued by us by virtue of our resolution of September 25, 1967 is set aside, and this petition for prohibition is denied. With costs against petitioner Economic Insurance Co., Inc.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Barredo, Villamor, and Makasiar, JJ., concur.

Castro, J., concurs in the separate opinion of Mr. Justice Teehankee.

Teehankee, J., concurs in a separate opinion.

[1] Petition, Annex A.

[2] *Ibid.*, Annex B.

[3] *Ibid.*, Annex C.

[4] *Ibid.*, Annex D.

[5] *Ibid.*, Annex E.

[6] *Ibid.*

[7] *Ibid.*, Annex F.

[8] Answer, Annex 2.

[9] Petition, par. 9.

[10] 16 Phil. 315 (1910). Cf. *Blanco v. Bernabe*, 63 Phil. 124 (1936); *Potenciano v. Court of Appeals*, 104 Phil. 156 (1958); *Marcelo v. Mencias*, 107 Phil. 1071 (1960).

[11] *Urbayan v. Caltex (Phil.) Inc.*, L-15379, Aug. 31, 1962, 5 SCRA 1016.

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CONCURRING OPINION

TEEHANKEE, J.:

I concur in the result, by virtue of petitioner's failure to timely oppose in the lower court respondents' "Manifesta-tion and Motion to Execute Bond" of August 23, 1967, notwithstanding due notice thereof and the lower court's earlier order of August 2, 1967 dismissing the case, given in open court and at respondent's instance.

Had petitioner not thus waived its right and placed itself in estoppel as having agreed to an implied withdrawal of appeal and to execution of its bond,[1] its present action might have met with success due to the erroneous procedure adopted by respondent. Defendant-lessee's perfected appeal from the city court's judgment for ejectment and back rentals operated, under Rule 40, section 9 of the Rules of Court, to vacate the said judgment, which "shall be deemed revived and shall forthwith be remanded to the justice of the peace or mun-icipal court for execution" only "if the appeal is withdrawn or dismissed for failure to prosecute."

The lower court's dismissal of the case itself (not the appeal) at respondent-plaintiff's instance due to its having secured the restoration of possession of the leased premises by writ of execution pending appeal on account of defendant-lessee's failure to pay current rentals, would have written finis to the case itself without revival of the city court's vacated judgment and would have left respondent without any money judgment to execute against defendant-lessee nor against petitioner on its supersedeas bond. As provided in Rule 40, section 9 quoted above, it is only where the appeal itself from the municipal court's judgment is withdrawn or dismissed for non-prosecution that the vacated judgment is deemed revived and execution thereof lies with the municipal court and not with the court of first instance which has not rendered any judgment.

[1] See 2 Martin's Rules of Court, 1970 Ed., 456.

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