

**GENERAL OFFSET PRESS, INC., PLAINTIFF-APPELLEE, VS. APOLONIA ANATALIO AND JUAN FEDERICO, DEFENDANTS-APPELLANTS;
APOLONIA ANATALIO AND JUAN FEDERICO,
PETITIONERS-APPELLANTS, VS. ...**

G. R. No. L-20467-68. July 26, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is a motion for reconsideration of this Court's resolution dated April 20, 1966.

On May 7, 1960, General Offset Press, GOP for short, filed with the Municipal Court of Quezon City, under Case No. 7329, a complaint for ejectment against Apolonia Anatalio et al., the appellants herein. To this suit, the defendants-appellants Interposed only one defense, to wit: that they were the owners of the disputed land. The said court, however, rejected the defendants' claim of ownership, sustained the plaintiff's complaint, and on November 15, 1960 rendered a decision directing the defendants to vacate the premises in question. Upon ration of the plaintiff, the same court issued an order for the Immediate execution of the said judgment. To restrain the enforcement of this order for immediate execution, however, the defendants filed with the Court of First Instance of Rizal, under Civil Case No. Q-5576, a petition for certiorari with preliminary injunction. The Court of First Instance issued on December 21, 1960 the writ of preliminary injunction prayed for.

In the meantime, the defendants appealed to the same Court of First Instance, under Civil Case No. Q-5541, the aforementioned decision of the Municipal Court of Quezon City in Case No. 7329.

After due trial on the merits, a joint decision was rendered by the Court of First Instance of Rizal on the above two cases—the petition for certiorari under Case No. Q-5576 and the appeal from the decision of the Municipal Court of Quezon City under Civil Case No. Q-5641—in favor of the plaintiff-appellee herein (GOF). In this decision, the said court expressly ruled that the appellants' singular defense of ownership could not be entertained because the plaintiff had a Torrens Title over the disputed land, the validity of which could not be assailed in an ejectment suit. This is the joint decision subject of the present appeal. In other words, the present appeal refers to the decision of the Court of First Instance of Rizal in the above two cases finding GOP the real owner of the premises in dispute and the defendants-appellants to be unlawfully occupying the same.

While their appeal from the decision of the Municipal Court of Quezon City was pending in the Court of First Instance of Rizal, the herein appellants filed with the same court, at its Quezon City Branch, an action for quieting of title against the GOP. This latter suit, Civil Case No. 5942, involved the very same land that was the subject matter of the ejectment proceedings. On December 21, 1963, however, the latter court rendered a decision dismissing Civil Case No. 5942. From this decision the appellants then went to the Court of Appeals but their appeal was once again dismissed for failure to file their brief on time. This dismissal by the Court of Appeals was elevated by the said appellants to this Court on a petition for certiorari under G. R. No. L-25598 which petition, however, was likewise dismissed by this Court for having been filed out of time. Thus, the decision in the quieting

of title case became final.

As a consequence of the finality of the above decision in the quieting of title case, GOP filed with this Court on April 4, 1966 a petition to dismiss the instant appeal. In brief, GOP maintained that inasmuch as the present appeal involves only the issue of ownership over the land in dispute, since the appellants' only defense to the suit for ejectment was that they were the owners of disputed property, then this issue became moot and academic with the finality of the decision in the quieting of title case. To this petition to dismiss, the appellants herein filed an opposition upon the sole ground "that justice does not require" the dismissal of the appeal at bar. By a minute resolution of this Court on April 20, 1966, however, GOP's petition or motion of April 4, 1966, for the dismissal of the appeal at bar, was granted. Hence, the instant motion.

We find no reason for reconsidering our resolution of April 20, 1966. With the dismissal by this Court of G. R. No. L-25598, the title and ownership of GOP over the disputed property, as against a similar claim thereto by the herein appellants, became an established, settled and incontestible fact. Thus, the one and sole issue raised by the same appellants in the appeal at bar is indeed now moot and academic. To be sure, no fair or useful purpose can be realized by either of the parties hereto if the present appeal were still to be maintained. For, if this Court were to allow appeal to take its regular course and decide the same on the merits in favor of the appellants, then it would have caused the promulgation of two utterly conflicting decisions, namely: its resolution dismissing G. R. No. L-25598 and its decision on the merits finding the appellants the real owners of the land in dispute. On the other hand, if this Court were to decide this appeal on the merits in favor of the appellees, then exactly the same result would have been realized as were this case to be dismissed, as we do dismiss it now.

It is true that this Court dismissed G. R. No. L-25598 for having been filed out of time and that, therefore, it has had no occasion to rule on the merits of the quieting of title case. But a dismissal on a technicality is no different in effect and consequences from a dismissal on the merits.

WHEREFORE, the resolution of this Court dated April 20, 1966 is hereby affirmed and the appeal in this instance is hereby dismissed. The motion for reconsideration is denied.

Concepcion, C. J., Reyes, J.B.L., Barrera, Dizon, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

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