

CHAMBER OF FILIPINO RETAILERS, INC., NA-TIONAL MARKET VENDORS ASSOCIATION, INC., AM-BROSIO ILAO, CRISPIN DE GUZMAN, JOSE J. LAPID, AND FELICISIMO LAS, PETITIONERS, VS. HON. ANTO...

G.R. No. L-29864. February 28, 1969

Ponente: DIZON, J.

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DIZON, J.:

Before Us is a motion for the reconsideration of our resolution of December 3, 1968 dismissing the present action for prohibition "for lack of merit; appeal in due time is the remedy".

It appears that on August 14, 1968 petitioners filed Civil Case No. 73902 against Antonio J. Villegas et al. in the Court of First Instance of Manila to question the validity of Ordinance No. 6696 - later superseded by Ordinance No. 6767 - increasing the rental fees of stalls in public markets in said city. A restraining order was issued by said court but the same was lifted on November 3, 1968 when, after hearing the parties, the court rendered judgment dis-missing the case and declaring the questioned ordinance valid. On November 16, 1968 the therein petitioners perfected their appeal to this Court (G. R. No. L-29819).

Petitioners now allege that upon the lifting of the restraining order mentioned heretofore, the respondents in the case - who are the same respondents in the present - immediately sought to enforce the provisions of Ordinance No. 6767 by making demands for the payment of the back dif-ferentials in market rates together with the rentals at the new rates, with the threat that petitioners would be ejected summarily from their respective stalls if they refused or failed to pay the rentals and back charges demanded. After receiving such demand petitioners filed the present action for prohibition to restrain collection of rentals and pos-sible ejectment.

Upon the above facts We reiterate our resolution dis-missing the present action for prohibition and, as a con-sequence, We deny the motion for reconsideration mentioned heretofore, for the reason that the relief sought by herein petitioners could be properly secured from the lower court in accordance with the provisions of Rule 41 of the Rules of Court, or from this Court in the appealed case - G. R. L-29864. As a matter of fact, petitioners' motion for re-consideration expressly states that on November 21, 1968 they filed in the latter case a motion to reinstate the restraining order herein before mentioned or to issue a writ of preliminary injunction pending appeal, which motion, however, was denied by this Court on the 26th of the same month and year. It would appear, therefore, that the present action was filed as an attempt to secure from this court the same relief that we had already denied to the same parties in G. R. No. L-29819.

PREMISES CONSIDERED, the motion for reconsideration filed by petitioners on December 1968 is hereby denied.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

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