

**NARCISO NAKPIL, POTENCIANA CALMA, RICARDO CALMA AND
VICENTA CALMA, PETITIONERS, VS. HON. CRISANTO ARAGON, AS
JUDGE OF THE CITY COURT OF MANILA, ALBETZ INVESTMENTS,
INC., AND THE...**

G.R. No. L-24087. January 22, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the order of the Court of First Instance of Manila dated October 16, 1964, dismissing its Civil Case No. 58246, a petition for certiorari, and the order dated December 14, 1964 denying the motion for reconsideration thereof.

The brief appealed order reads thus:

"The verified petition in the instant case, considered along with its annexes, show, among others: (a) that the complaint in the City Court did not disclose that the defendant was a married woman; (b) the defendant was declared in default as she never filed an answer, or a motion to join her purported husband as a party, the City Court apparently taking her all the time as single; (c) the defendant allowed the judgment against her to become final by failure to appeal; (d) in fact a writ of execution was issued as early as July 1, 1964.

"As the failure to join the petitioner's husband as a defendant in said case is not jurisdictional (*Pacquing v. Maiquez*, SC-G.R. No. L-8826, May 18, 1956), the judgment of ejectment was validly rendered in said case, and became final for lack of appeal.

"In view of these facts shown in the record, the petition herein cannot be deemed as sufficient in substance to justify further processes in the instant case.

"WHEREFORE, this Court denies due course to the instant petition, and summarily dismisses this case, without finding as to costs.

"SO ORDERED." [1]

As already stated, the motion to reconsider this order was denied, hence this appeal.

Only appellants Ricardo Calma and Vicenta Calma filed their brief in this Court. But on July 31, 1970, counsel for respondents-appellees filed a manifestation with this Court stating that the order of demolition in Civil Case No. IV-119712 against Vicenta Calma had already been implemented, hence the instant appeal has already become moot and academic. Despite the resolution of August 10, 1970 asking appellants to comment on said manifestation, nothing has been filed by them.

WHEREFORE, the appeal herein is dismissed as to all the petitioners. No costs.

Antonio, Aquino, Concepcion, Jr., Santos, and Abad Santos, JJ., concur.

[1] The record indicates that this order refers only to the case of Vicenta Calma, Civil Case No. IV-119712 of the City Court of Manila. No mention is made in this order of Civil Case No. IV-119714 against Potenciana Calma. In above Civil Case No. 58246, in the Court of First Instance, Ricardo Calma and Narciso Nakpil were joined as petitioners alleging they are husbands of Vicenta and Potenciana, respectively.

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