

**SPOUSES CHRISTOPHER AND MARIBETH CORDOVA,
COMPLAINANTS, VS. JUDGE RICARDO F. TORNILLA, PRESIDING
JUDGE, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 6, BACOLOD
CITY, RESPONDENT.**

A.M. No. MTJ-94-997. July 17, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is an administrative complaint filed by the spouses Christopher and Maribeth Cordova against Judge Ricardo F. Tornilla, presiding judge of the Municipal Trial Court in Cities, Branch 6, Bacolod City in relation to a writ of demolition he issued in Civil Case No. 18761.

I

On September 5, 1991, Tomas and Marietta Laguardia (Laguardias) filed an ejectment case against Luz Cordova and Rudy Kubchan, docketed as Civil Case No. 18761, before the Municipal Trial Court in Cities, Branch 6, Bacolod City. A decision was rendered in favor of the Laguardias. The defendants appealed the decision to the Regional Trial Court, which affirmed the decision of the inferior court.

The Court of Appeals and the Supreme Court both affirmed the decision of the Regional Trial Court.

The writ of execution was implemented with the delivery of the premises subject of the case to the Laguardias.

Luz Cordova died after the writ of execution was issued by the Regional Trial Court.

On March 2, 1994, the Laguardias filed a motion for the issuance of a writ of demolition, alleging that the defendants failed to remove their house from the premises.

On March 7, 1994, the heirs of Cordova, complainants herein, opposed the motion for issuance of a writ of demolition.

On April 6, 1994, respondent issued the writ of demolition.

Complainants charged that respondent, in granting the motion for the issuance of a writ of demolition over the house, had issued an unjust order and committed gross ignorance of the law. They claimed that they were not parties to the case and the court never acquired jurisdiction over their persons.

Respondent, in his comment, claimed that complainants voluntarily submitted themselves to the jurisdiction of the court by representing themselves as the heirs and successors-in-interest of Cordova.

II

It is the duty of the lawyer to inform the court of his client's death, incapacity or incompetency during the pendency of the action and to give the name and address of the executor, administrator, guardian or other legal representatives of the decedent. The court, if the action survives, shall then order upon proper notice the legal representatives of the decedent to appear and be substituted for him within the time granted in said order (*Bonifacio v. Dizon*, 177 SCRA 294 [1989]; *Ferreira v. Vda. de Gonzalez*, 104 Phil. 143 [1958]).

In the absence of a formal order of substitution, the court can acquire jurisdiction over the person of the decedent's representative if he voluntarily submits himself to said jurisdiction. There are two ways of making a voluntary appearance, the formal and the informal. The formal method is to file a written notice requesting the clerk of court to enter the appearance of the subscribing party. The informal method is to file a motion or pleading which does not question the jurisdiction of the court over the person of the pleader (*Quiason*, *Philippine Courts and Their Jurisdictions* 149 [1993], citing *Flores v. Zurbito*, 37 Phil. 746 [1918]).

Complainants have voluntarily appeared albeit by the informal method, when they filed an opposition to the motion for the issuance of a writ of demolition, alleging therein that they were substituting for defendant Luz Cordova.

The complainants also executed a compromise agreement promising to vacate and demolish the structure they were occupying. The pertinent portion of the agreement reads as follows:

"That Maribeth Cordova and Christopher Cordova, together with their agents and/or authorized representative and other persons acting in their behalf will vacate the premises of the aforecited building specifically the annex utility structure which they may opt to remove and/or demolish, on or before July 30, 1993, on such date Spouses Laguardia will take actual possession of the premises" (Order, p. 4, Annex "J").

Finally, the case law is that a judgment of eviction can be executed against a third party who has derived his right of possession of the premises from the defendant (*Ng Siu Tam v. Amparo*, 80 Phil. 921 [1948]; *De la Cruz v. Roxas*, 42 O.G. 458), particularly when such right was acquired only after the filing of the ejectment suit.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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