

CATALINO CAMINONG, PETITIONER, VS. JUDGE ALBERTO Q. UBAY, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH XXXII, THE SHERIFF OF CALOOCAN CITY, AND JOVITA PUNZALAN, RES...*G.R. No. L-37900. February 14, 1980*

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4d3afb507e10/>**CONCEPCION, JR., J.:**

Petition for certiorari, with preliminary injunction, to annul and set aside the order of the respondent Judge, dated November 28, 1973, dismissing the complaint in Civil Case No. C-3011 of the Court of First Instance of Rizal, entitled: "Catalino Caminong, petitioner, versus Hon. Judge, City Court of Caloocan City, et al., defendants," which sought to restrain the defendants therein from enforcing the writ of execution and order of demolition, dated October 8, 1973, is-sued in Civil Case No. 6676 of the Caloocan City Court, en-titled: "Jovita D. Punzalan, plaintiff, versus Mariano Atizado, et al., defendants."

In Civil Case No. 6676 of the Caloocan City Court, the herein petitioner, Catalino Caminong, and three others, were sued by the herein private respondent, Jovita D. Punzalan for ejectment and damages.[1] After trial, the City Court rendered judgment, "in favor of the plaintiff and against the defendants, ordering the latter and all other persons claiming rights or title under them to forthwith vacate the above-described land by re-moving all their constructions thereon or otherwise restoring plaintiff to the possession thereof; ordering each defendant to pay the plaintiff the monthly sum of ONE HUNDRED (P100.00) PESOS from April, 1967 up to the date they actually vacate the premises; to pay the plaintiff, jointly and severally the sum of THREE HUNDRED (P300.00) PESOS as and for attorney's fees; and to pay jointly and severally the costs of the suit." [2] Catalino Caminong did not appeal therefrom and upon the plain-tiff's motion, a writ of execution was issued, [3] and Caminong was ordered to vacate the premises. [4] Caminong, some-how, was able to defer the execution of the judgment.

On January 6, 1971, Catalino Caminong filed a petition for certiorari, with preliminary injunction, with the Court of First Instance of Rizal, docketed therein as Civil Case No. C-2005, against the Judge of the City Court of Caloocan, Jovita Punzalan, and the City Sheriff of Caloocan, to annul and set aside the writ of execution issued, claiming that the judgment rendered in Civil Case No. 6676 of the Caloocan City Court was a patent nullity for the reason that the same had been rendered without jurisdiction or with grave abuse of discretion. [5] The demolition of the petitioner's house was consequently temporarily stayed. On January 26, 1973, the court, after proper hearing, dismissed the petition and the temporary restraining order was ordered lifted and set aside. [6] No appeal was taken therefrom.

On June 14, 1973, the Citizens Bank and Trust Co., as receiver in Civil Case No. C-424 of the Court of First Instance of Rizal, filed an action with the Court of First Instance of Rizal, docketed therein as Civil Case No. C-2837, against the herein private respondent, Jovita D. Punzalan, for the recovery of ownership and possession of the disputed parcel of land. [7]

On July 23, 1973, Catalino Caminong filed a complaint with preliminary injunction against Jovita Punzalan with the Court of First Instance of Rizal, docketed therein as Civil Case No. C-2878, to restrain the execution of the judgment rendered in Civil Case No. 6676 of the Caloocan City Court upon the ground that he had paid to the Citizens Bank the sum of P1,500.00, as deposit to purchase that portion of land occupied by him.[8] The court, however, dismissed the complaint on October 31, 1973 for the reason that there is no valid cause of action against Jovita Punzalan since the land involved in Civil Case No. 6676 of the Caloocan City Court is Lot 195-C, while those litigated in Civil Case No. C-2837 are Lots 194-A and 195-B.[9] Again, Catalino Caminong did not appeal from the judgment.

On November 3, 1973, Catalino Caminong filed another complaint with the Court of First Instance of Rizal, docketed therein as Civil Case No. C- 3011, against the Caloocan City Judge, the Sheriff of Caloocan, and Jovita Punzalan, to restrain the execution of the judgment rendered in Civil Case No. 6676 of the Caloocan City Court, claiming that he had acquired from the Citizens Bank & Trust Co. that portion occupied by him so that there was a change in the situation of the parties, after the rendition of the judgment, which would render the judgment in said Civil Case No. 6676 unjustifiable.[10] The court, however, dismissed the complaint on November 28, 1973,[11] upon the motion of Jovita Punzalan.[12] Whereupon, Catalino Caminong filed the instant petition for certiorari, with preliminary injunction, to annul and set aside that order dismissing his complaint.

As prayed for, the Court issued a temporary restraining order, directing the Sheriff of Caloocan City to cease and desist from carrying out the writ of execution and order of demolition, both dated October 8, 1973, issued in Civil Case No. 6676 of the City Court of Caloocan, entitled, "Jovita Punzalan, plaintiff, versus Catalino Caminong, et al., defendants;" and from enforcing and/or implementing the order dated November 28, 1973, issued in Civil Case No. C-3011 of the Court of First Instance of Rizal, entitled, "Catalino Caminong, petitioner, versus Hon. Judge, City Court of Caloocan, et al., defendants." [13]

There is no merit to the petition. The judgment ordering the eviction of the petitioner, Catalino Caminong, from the lot of the private respondent, Jovita Punzalan, has already become final so that the respondent Judge acted properly in granting the writ of execution and the order of demolition. Besides, the legality of said orders had been challenged by the petitioner twice before in Civil Case Nos. C-2005 and C-2878 of the Court of First Instance of Rizal and the orders were found to be valid.

The claim of the petitioner that he had purchased that portion of land occupied by him from the Citizens Bank which had filed an action for the recovery of ownership and possession of the same parcel of land against Jovita Punzalan, so that there was a change in the situation of the parties which would render the judgment in Civil Case No. 6676 of the City Court of Caloocan unjustifiable, had also been raised and decided in Civil Case No. C-2878. The court therein ruled that the petitioner has no valid cause of action against the private respondent, Jovita Punzalan, because the land involved in Civil Case No. 6676 of the City Court of Caloocan involves Lot 195-C, while those litigated in Civil Case No. C-2837 between the Citizens Bank and Jovita Punzalan are Lots 194-A and 195-B.

At any rate, the complaint filed by the Citizens Bank against Jovita Punzalan in Civil Case No. C-2837 has already been dismissed and the judgment was affirmed by the Court of Appeals, on appeal.[14] Since the petitioner's claim hinges upon the outcome of this litigation and the case had been decided adversely against the Citizens Bank and in favor of Jovita Punzalan, there is no more obstacle to the enforcement of the decision rendered in Civil Case No. 6676 of the City Court of Caloocan. And this is final.

WHEREFORE, the petition should be, as it is hereby, dismissed. The temporary restraining order heretofore issued is lifted and set aside. With costs against the petitioner.

SO ORDERED.

Barredo, Antonio, Aquino, and Abad Santos, JJ., concur.

[1] Rollo, p. 17.

[2] Id., p. 22.

[3] Id., p. 26.

[4] Id., pp. 16, 27.

[5] Id., p. 89.

[6] Id., p. 97.

[7] Id., p. 28.

[8] Id., p. 101.

[9] Id., p. 107.

[10] Id., p. 32.

[11] Id., p. 52.

[12] Id., p. 39.

[13] Id., p. 57.

[14] Rollo, pp. 259, 269.

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