

**RODOLFO DE GUZMAN, LUZ VERCELES, ALFONSO GARCIA,
VIRGILIO SANCHEZ, LITO LABIO, GINA CABASA-RES, AIDA
FERNANDEZ, MARISSA ELIZARES, JOSE LOPEZ, RUMUALDO ANCA,
CATALINA TASARA, EMI...**

Ponente: SABIO, JR., J.

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SABIO, JR., J.:

Subject of this petition for review under Rule 42 of the 1997 Rules of Civil Procedure is the December 23, 2005 order of the Regional Trial Court, Branch 217, Quezon City.

The material antecedents thus:

On April 2, 2004, respondents filed with the Metropolitan Trial Court of Metro Manila, Branch 42, Quezon City an Action for Ejectment against petitioners, denominated as Civil Case No. 32661.

On April 28, 2004, petitioners filed their answer with counterclaims and after submission of Pre-Trial Briefs and other pleadings filed, the court a quo rendered judgment, the decretal portion of which reads, thus:

“WHEREFORE, pursuant to Section 17, Rule 70, 1997 Rules of Civil Procedure, judgment is hereby rendered in favor of the plaintiff and against the defendants and all persons claiming rights under them ordering the latter.

A. To vacate the premises they are staying and demolish whatever structure they have introduced therein;

B. Pay attorney fees of P50,000.00 and P3,000.00 per court appearance; and

C. To pay the costs of suit.

SO ORDERED.

Quezon City, Philippines, 1 August 2005.”

(Rollo, pp. 35-36)

Unconvinced, petitioners filed a notice of appeal on August 23, 2005.

And on December 23, 2005 or after four (4) months from date appeal was taken, the Regional Trial Court, Branch 217, Quezon City issued the following order, to wit:

“Defendants-appellants having failed to file their respective memorandum as mandated under Section 7, Rule 40 of the Rules of Procedure, the separate appeals taken from the decision rendered by the court a quo by defendants-appellants Pacita Ragacho, et. al. Through counsel Atty. Evaristo Urbina and by the rest of the defendants-appellants, represented by Atty. Juan Moreno are hereby dismissed.

SO ORDERED.

Quezon City, Philippines, December 23, 2005.”

(Rollo, p. 22)

Unperturbed, petitioners now come to Us via this petition.

Petition dismissed.

Section 1, par. D of Rule 41 of the 1997 Rules of Civil Procedure clearly mandates that no appeal may be taken from an order dismissing an appeal. Since this petition for review seeks the annulment of the December 23, 2005 of the Regional Trial Court ordering the dismissal of petitioner's appeal, this Petition, perforce must be dismissed pursuant to the aforecited rule.

Additionally, since the order of the Metropolitan Trial Court has become final and executory, for failure to seasonably appeal therefrom, said decision can no longer be the subject of an appeal.

WHEREFORE, foregoing premises considered, the petition having no merit in fact and in law, is hereby ordered DISMISSED. With costs to petitioner.

SO ORDERED.

Asuncion-Vicente and Villon, JJ., concur.

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