

**LIMPAN INVESTMENT CORPORATION, PETITIONER, VS. THE
HONORABLE JUDGE CARLOS L. SUNDIAM, PRESIDING JUDGE,
COURT OF FIRST INSTANCE, MANILA, BRANCH XXVIII AND JOSEPH
ARCACHE, RESPOND...**

G.R. No. L-37674. January 21, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This Petition seeks a review of an Order of the then Court of First Instance of Manila issued on September 14, 1973 in Civil Case No. 87276.

On April 10, 1970, the petitioner filed an ejectment suit against the private respondent with the then City Court of Manila. The suit was docketed as Civil Case No. 190019. Trial on the merits ensued, the proceedings of which were not recorded. On October 8, 1971, the City Court rendered a Decision in favor of the petitioner and against the private respondent the dispositive part of which reads as follows —

“WHEREFORE, judgment is hereby rendered for the plaintiff and against the defendant ordering the latter to pay unto the former the sum of P3,200.00 representing rentals in arrears from November, 1968 up to July, 1970 with interest thereon at the rate of 1% per month from November, 1968 until fully paid; and to pay further the sum of P300.00 due as and for attorney’s fees, aside from the costs of this suit.”[1]

Thereafter, the private respondent brought an appeal to Branch XVIII of the then Court of First Instance of Manila presided by respondent Judge Carlos L. Sundiam. The trial court conducted a trial de novo.[2] On July 30, 1973, the Court of First Instance rendered a Decision dismissing the ejectment suit.[3]

On August 22, 1973, the petitioner filed its Appeal Bond, Notice of Appeal and Motion for Approval of Plaintiffs Appeal Bond with the Court of First Instance. On August 28, 1973, the petitioner filed its Record on Appeal with the same court. A hearing on the approval of the Record on Appeal was set for September 1, 1973.

On September 1, 1973, the private respondent submitted a Manifestation thereby opposing the approval of the Record on Appeal on the ground that the Decision of the Court of First Instance is not appealable. The matter was heard by the trial court on oral argument.

On September 17, 1973, the Court of First Instance issued an Order disapproving the Record on Appeal.[4] The trial court likewise instructed the petitioner to file a Petition for Review, not an ordinary Appeal, with the Court of Appeals pursuant to a Resolution promulgated by the said appellate court on August 12, 1971. The said Resolution prescribes that a Petition for Review is the proper procedure in seeking a review of judgments of the Courts of First Instance in cases falling under the original exclusive jurisdiction of the municipal and city courts.

The petitioner sought a reconsideration of said Order and the trial court denied the same.[5]

Petitioner now elevated this case to this Court by way of the instant Petition. The petitioner prays, inter alia, that

the Court of First Instance be ordered to approve the Record on Appeal.[6]

In support of the instant Petition, the petitioner invokes the provisions of Republic Act No. 6031, the law which converted the old municipal and city courts into courts of record.[7] The petitioner argues that inasmuch as the proceedings in the City Court were not recorded, the same amounts to a violation of Republic Act No. 6031 and as such, the proceedings in the City Court should have been considered null and void by the Court of First Instance, instead of conducting a trial de novo, following the procedural law in force before the effectivity of Republic Act No. 6031. The petitioner submits that if the trial de novo conducted by the Court of First Instance is valid, then, in the same light, the method of appeal from the Court of First Instance to the Court of Appeals should also be based on the old procedure which allows an Appeal. The petitioner concludes that on the basis of these arguments, the Record on Appeal should have been approved by the Court of First Instance.

The petitioner also maintains that inasmuch as the proceedings in the City Court were not recorded as required by the provisions of Republic Act No. 6031, the said proceedings are null and void. The petitioner cites the pronouncements of this Court in *Lozano v. Romero*,[8] *Esperat v. Avila*[9] and *Aquino v. Estenzo*[10] in support of this view.

Under Republic Act No. 6031 of August 4, 1969 an otherwise unrecorded decision of the inferior court as in this case is not null and void. In an appeal therefrom to the Court of First Instance, a trial de novo may be conducted. From a decision of the Court of First Instance, in such a case to the Court of Appeals (CA), the remedy is not an ordinary appeal but a petition for review in accordance with the resolution of the CA of August 12, 1971. Upon the enactment of Batas Pambansa Blg. 129 known as the Judiciary Reorganization Act of 1981, and the promulgation of the Interim Rules and Guidelines of this Court by way of the implementation of the said law, it was reiterated that a petition for review is the appropriate remedy in cases of this nature.[11]

The respondent court therefore was not in error when it held that the remedy of petitioner is not an ordinary appeal but by way of a petition for review.

However, in view of the long pendency of this case which is a simple ejectment case where the private respondent is now deceased but nevertheless the petitioner seeks a judgment on the merits of this case the Court finds that the greater interest of justice demands that the case should be disposed on the merits at this stage instead of returning the same to the lower court for further proceedings.

The records of the case disclose that the private respondent leased Room 201 of the Vicenta Bldg., Nueva St., Manila, from petitioner from November, 1968 at a monthly rental of P160.00 a month. Due to non-payment of rentals on April 30, 1970 a complaint for ejectment was filed by petitioner against private respondent in the City Court of Manila. On July 20, 1970, during the pendency of this suit private respondent vacated the premises so the action was converted into an action for collection of a sum of money. After due hearing a decision was rendered on October 8, 1971 in favor of petitioner ordering private respondent to pay the arrears in rental, plus interest, attorney's fees and costs of the suit.

Private respondent claims that he vacated the premises as early as October 30, 1968 so that he could not be made to pay the rentals for the period from November 1968 to July 30, 1970. This allegation of the private respondent is belied by the fact that his furniture remained in the premises up to the time the suit was filed in court and for sometime thereafter. Statements of account for rentals were sent to private respondent by petitioner on April 30, 1970, August 6, 1970 and September 25, 1970,[12] as well as demand letters to vacate the premises.[13] Petitioner would not have filed the complaint for ejectment but for the collection of a sum of money if private respondent had already vacated the premises.

WHEREFORE, the decision of the respondent court of July 20, 1973 is Reversed and set aside and the decision of the City Court of October 8, 1971 is hereby AFFIRMED in toto with costs against the private respondent.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Bidin, Sarmiento, and Cortes, JJ., concur.

Padilla, J., no part, wife of petitioner's counsel is related to me.

[1] Annex "E", Petition; page 35. Rollo.

[2] Trial de novo means a trial anew of the entire case, and that the process and pleadings must be of the same nature as those in the inferior court (*Carroll and Ballesteros v. Paredes*, 17 Phil. 94, 100 [1910]).

[3] Annex "C", Petition; Page 26, Rollo.

[4] Pages 16 to 19, Rollo.

[5] Page 20, Rollo.

[6] Page 12. Rollo.

[7] Republic Act No. 6031 took effect on August 4, 1969. It amended certain provisions of Republic Act No. 296, otherwise known as The Judiciary Act of 1948. A court of record is a court which is bound to keep a record of its proceedings for a perpetual memorial and testimony thereof (*Melgar and Noel v. Delgado and Alquizola*, 53 Phil. 223, 225 [1929]),

[8] 41 SCRA 247 (1971).

[9] 920 SCRA 596 (1967).

[10] 14 SCRA18 (1965).

[11] Section 22, BP Big. 129; Section 22(b) Interim Rules and Guidelines of the Supreme Court; *Lacsamana vs. 2nd Special Cases Division of the Intermediate Appellate Court*, 143 SCRA 543, 649 (1986).

[12] Exhibits B to B-2.

[13] Exhibits C to C-2.

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