

VALENTIN A. FERNANDO, PETITIONER, VS. HON. CONRADO M. VASQUEZ, JUDGE PRESIDING BRANCH V, COURT OF FIRST INSTANCE OF MANILA; PELAGIA FERNANDO SANTOS AND PABLO G. SANTOS, RESPONDE...

G.R. No. L-26417. January 30, 1970

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

This case projects the well-established principles that only errors of jurisdiction, not errors of judgment, are entertainable in a petition for certiorari; that certiorari will not lie where an appeal may be taken or is lost through petitioner's fault; and that moot questions are not decided by this Court.

This case had its beginning prior to October 1961, when certain lessees of market stalls erected on the premises denominated as Folgueras Remnants Center located at Nos. 922-926 Folgueras Street, Tondo, Manila, found themselves in a quandary as to who was the lawful owner thereof and entitled to receive their rental payments. Because of this, they commenced suit for interpleader in the Court of First Instance of Manila against petitioner Valentin A. Fernando and his children Pelagia Fernando Santos, respondent, and Urbana Fernando Cruz.[1] The judgment of October 10, 1961 declared Valentin A. Fernando owner of the property to whom the tenants must pay the rents. On appeal,[2] the Court of Appeals affirmed. The petition to review the appellate court's decision was dismissed by this Court's resolution of October 1, 1965.[3] The move to reconsider was denied. This Court, on December 21, 1965, refused to grant leave to file a second motion for reconsideration. This denial terminated said case.

Respondents Pelagia Fernando Santos and her husband Pablo G. Santos had all the while been occupying the second floor of the building standing on the property involved. Petitioner asked them to vacate the premises, orally at first in the early part of 1965, then in writing in April and May of the same year. The spouses Santos refused to leave. Thus, on May 24, 1965, petitioner lodged a complaint for unlawful detainer in the City Court of Manila[4] against the spouses. Averment was there made that the latter's occupation of the premises was upon petitioner's sufferance. The city court's decision of November 11, 1965 ordered the spouses to vacate the premises and to pay petitioner P1, 000 per month beginning January 1965 as reasonable compensation for the use thereof, P500 as attorneys' fees, and the costs. A writ of execution was thereafter issued by the city court.

On November 12, 1965, respondent spouses registered a petition for prohibition in the Court of First Instance of Manila.[5] The petition assailed the jurisdiction of the city court over the unlawful detainer case. Ground therefor was that the spouses had been in adverse possession of the premises in question for more than one year prior to the filing of the complaint. The Manila Court of First Instance issued a restraining order.

Came the decision on the merits of March 25, 1966. Herein respondent judge found that the spouses Santos had been unlawfully withholding possession for more than one year prior to the filing of the complaint, and ruled that the proper action for recovery of possession was accion publiciana, not unlawful detainer. The judge, accordingly,

declared the city court with-out jurisdiction over the unlawful detainer case and nullified the proceedings therein, including the writ of execution.

Petitioner herein attempted to appeal from this judgment. He filed his notice of appeal and appeal bond on April 25, 1966. However, on January 11, 1967, this Court dismissed his appeal for failure to pay the docket fee on time.[6]

On August 17, 1966, petitioner started before this Court the present proceedings for certiorari.

However, on October 1, 1966, before the case on the merits could be decided, counsel for private respondents brought to the attention of this Court the fact that on September 20, 1966, the parties herein amicably settled their differences. He advanced the information that respondent spouses had already left the premises and posited the view that the present case had, therefore, become moot and academic. Mention was made of a case between the parties in the Court of Appeals docketed as CA-G.R. No. 38033-R, entitled "Pablo G. Santos and Pelagia Fernando Santos vs. Hon. Placido C. Ramos, The Sheriff of Manila, and Valentin A. Fernando." There the Court of Appeals (First Division), on September 20, 1966, after the hearing on the same day, resolved:

"x x x Petitioner Pablo G. Santos and counsel for the respondents declared before the Court an agreement the parties had reached, as follows: (1) the petitioners agreed to withdraw their petition, (2) the petitioners agreed to vacate the premises in question today, September 20, 1966, and (3) the respondents agreed to retain the tenants who have followed the petitioners all along, which tenants will pay the corresponding rentals to the respondents, as of this date. Counsel for the respondents prayed that the writ of preliminary injunction be dissolved, and the Court DECLARED it DISSOLVED.

The petition is hereby considered WITHDRAWN, and this case accordingly TERMINATED; and the writ of preliminary injunction issued by the Court on September 9, 1966 is DISSOLVED."[7]

Petitioner, however, in his memorandum filed on October 19, 1966, asked that his present certiorari petition be not dismissed because of his belief that if it is dismissed, "the decision of the respondent Judge" under review "will become final and per-manent."[8]

An overall view of the present case convinces us that the points vehemently urged by petitioner are vulnerable to criticism from different directions.

1. A line must be drawn between errors of judgment and errors of jurisdiction. An error of judgment is one which the court may commit in the exercise of its jurisdiction. An error of jurisdiction renders an order or judgment void or voidable. Errors of jurisdiction are reviewable on certiorari; errors of judgment, only by appeal.[9] Let us not lose sight of the true function of the writ of certiorari - "to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess of jurisdiction." [10] And, abuse of discretion must be so grave and patent to justify the issuance of the writ.[11] At this point, it would seem pertinent to lean back on the early [1913] case of *Herrera vs. Barretto*, 25 Phil. 245, 271, where we find the following passage: "The office of the writ of certiorari has been reduced to the correction of defects of jurisdiction solely and cannot legally be used for any other purpose. It is truly an extraordinary remedy and, in this jurisdiction, its use is restricted to truly extraordinary cases - cases in which the action of the inferior court is wholly void; where any further steps in the case would result in a waste of time and money and would produce no result whatever; where the parties, or their privies, would be utterly deceived; where a final judgment or decree would be nought but a snare and a delusion, deciding, nothing, protecting nobody, a judicial pretension, a recorded falsehood, a standing menace. It is only to avoid such results as these that a writ of certiorari is issuable; and even here an appeal will lie if the aggrieved party prefers to prosecute it." [12]

The question the herein certiorari petition presents is whether or not respondent judge of first instance erred in

holding that the city court had no jurisdiction over the unlawful detainer case. If error there was, it was simply an error of judgment in his appreciation of the facts and the law. Petitioner does not convince us that when the judge so decided, he acted in grave abuse of discretion and/or exceeded or acted without jurisdiction. The judge concededly had the jurisdiction to render the judgment under review. If ever he committed a mistake on the merits of the case, it was in the exercise of such jurisdiction. The error being one of judgment, not of jurisdiction, petitioner's remedy is appeal, not certiorari. And, the petition for certiorari fails of its purpose.

2. Plainly written in Section 1, Rule 65, Rules of Court, is the familiar general rule that certiorari is available where "there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law." Conversely, where another such remedy like an appeal may be taken, certiorari does not lie.[13] And, it is by now abundantly clear that certiorari may not be utilized to offset the adverse effect of failure to appeal.[14]

Here, petitioner had the remedy of appeal from the judgment of respondent judge. In fact, he did attempt to appeal. But his appeal was dismissed by this Court for failure to pay the docket fee on time. He cannot revive his appeal. He had lost it through his own fault. Certiorari is no substitute for appeal.

We are not unmindful of the fact that cases there are where petitions for certiorari had been entertained by this Court despite the existence of the remedy of appeal. But in those cases, either public welfare and the advancement of public policy so dictate,[15] or the broader interests of justice so require,[16] or the orders complained of were found to be completely null and void,[17] or appeal was not considered the appropriate remedy, such as in appeals from orders of preliminary attachment or appointment of receiver.[18]

No potent reason, none of those suggested in the juris-prudence just adverted to, would place the present case within the exception. The general rule still obtains. Certiorari does not lie.

3. As fatal to petitioner's cause is the judicial amicable settlement entered into between petitioner and respondent spouses earlier in this opinion related. That amicable settlement was submitted to and acted upon by the Court of Appeals in a case between the same parties herein at the time pending in said court. It stipulated that respondents would leave the premises (they have already in fact left), and that petitioner agreed to retain the tenants on the property. Such amicable settlement, in the nature of a judicial compromise, has the effect and authority of *res judicata*. [19]

We are then faced with a situation whereby all the judicial proceedings relative to the controversy between petitioner and respondent spouses have become moot and academic. These are the ejectment case in the city court, the prohibition case in the Court of First Instance, and the present certiorari proceedings before this Court. To nullify the decision of Judge Vasquez would be an idle ceremony. That decision has become *functus officio*. Nullification of that decision would but be aimed at the revival of the judgment of ejectment and writ of execution issued by the city court. Which obviously have become useless. Because, respondent spouses have already vacated the premises from which they are sought to be ejected. No intimation there is in the amicable settlement that petitioner would want to recover from respondent spouses (his daughter and son-in-law) damages for their use and occupation of the premises. Suggestion there is none that such damages were not obliterated by the amicable settlement between the parties.

All these funnel down to the conclusion that any decision now on the merits of the present case would be of no practical value and effect.[20] This has been made so by the amicable settlement of the parties.[21] This Court is left with no further controversy to adjudicate.[22] Surely, it is not the function of this Court to furnish an answer to a purposeless question that no longer exists.[23] Because of the supervening circumstance of an amicable settlement between the parties, this Court has no alternative but to dismiss the present petition for certiorari.[24]

So it is, that either on the merits or because this case has become moot and academic, the result is the same - the

petition must fail.

For the reasons given, the petition for certiorari is hereby dismissed. No costs allowed.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Civil Case 45841, Court of First Instance of Manila, Branch III, entitled "Tirso T. de Guzman, Mauro Domingo, Carmen Talavera and Jorge Escota, Plaintiffs, versus Valentin A. Fernando, Pelagia Fernando Santos and Urbana Fernando Cruz, Defendants."

[2] CA-G.R. No. 30251-R.

[3] G.R. L-24970, entitled "Pelagia Fernando-Santos and Urbana Fernando-Cruz, Petitioners, versus Court of Appeals and Valentin A. Fernando, Respondents."

[4] Civil Case 136057, City Court of Manila, entitled "Valentin A. Fernando, Plaintiff, versus Pelagia Fernando Santos, herein joined by her husband, Pablo Santos, Defendants."

[5] Sp. Proc. 63274, Court of First Instance of Manila, entitled "Pelagia Fernando Santos and Pablo G. Santos, Petitioners, versus Hon. Ambrosio Geraldez, Judge, City Court of Manila, Branch VII, and Valentin A. Fernando, Respondents.

[6] Undocketed. See this Court's Minutes of January II, 1967.

[7] See: Rollo, p. 58.

[8] Rollo, pp. 66-67.

[9] 3 Moran, Comments on the Rules of Court, 1963 ed., pp. 144145, citing cases; 2 Martin, Rules of Court in the Philippines, 1964 ed., pp. 477-478. See: Arches vs. Bellosillo (1967), 20 SCRA 32, 35, citing cases; Tirona vs. Nanawa (1967), 21 SCRA 395, 397.

[10] Estrada vs. Sto. Domingo (1969), 28 SCRA 890, 915, citing cases.

[11] Palma vs. Q. and S., Inc. (1966), 17 SCRA 97, 100.

[12] Quoted in, Albert vs. Court of First Instance of Manila (Br. VI), (1968), 23 SCRA 948, 965-966. See also: Pads vs. Averia (1966), 18 SCRA 907, '914-915.

[13] 3 Moran, op. cit., p. 147, citing cases; 2 Martin op. cit., p. 480. See: Republic vs. Maglanoc (1966), 16 SCRA 724, 726; Tirona vs. Nañawa, supra, at p. 397; Sarmiento vs. Endaya (1968), 25 SCRA 818, 822; Estrada vs. Sto. Domingo, supra, at p. 916.

[14] Tolentino vs. Escalona (1969), 26 SCRA 613, 617, citing numerous cases.

[15] Yu Cong Eng vs. Trinidad (1925), 47 Phil. 385, 390, cited in People vs. Zulueta (1951), 89 Phil. 752, 756.

[16] Tirona vs. Nañawa, supra, at p. 400, citing numerous cases.

[17] Perlas vs. Concepcion (1916), 34 Phil. 559, 561; Director of Lands vs. Santamaria (1923), 44 Phil. 594, 596; Director of Lands vs. Gutierrez David (1927), 50 Phil. 797, 802; Clemente vs. Lukban (1928), 53 Phil. 931, 934.

[18] Rocha vs. Crossfield (1906), 6 Phil. 355, 360, citing Yangco vs. Rohde (1902), 1 Phil. 404, 412; Leung Ben vs. O'Brien (1918), 38 Phil. 182, 188)

[19] Article 2037, Civil Code.

[20] Vivo vs. Morfe (1967), 21 SCRA 1309, 1314.

[21] Luzon Glass Factory vs. Court of Industrial Relations (1968), 25 SCRA 437, 441.

[22] Vivo vs. Cloribel (1968), 25 SCRA 616, 626.

[23] Remonte vs. Bonto (1966), 16 SCRA 257, 263-264, cited in Aragoness vs. Subido (1968), 25 SCRA, 95, 102.

[24] Kapisanan ng Mga Manggagawa sa Manila Railroad Co. vs. De Veyra (1965), 14 SCRA 352, 357-358

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