

UNAHCO, INC. (FORMERLY UNIVET AGRICULTURAL PRODUCTS, INC. AND SARIMANOK FEEDS COMPANY), TAN WAN LIAN, ARMANDO R. BAJACAN, WINSTON T. YOUNG AND JOVENCIANO D. CORTEZ, PETITIONERS,...

Ponente: SADANG, J.

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SADANG, J.:

Records show that private respondent Pathways Trading International, Inc. (hereafter, Pathways) filed a Motion to Dismiss Petition,[1] dated June 4, 2014, contending that the petition is premature because it was filed in spite of a pending motion for reconsideration by petitioners. Pathways also stated that respondent judge, Judge A. Florentino R. Dumlao Jr., issued an Order, dated May 23, 2014, setting aside the orders subject matter of the present petition for certiorari.

Petitioners UNAHCO, Inc., Tan Wan Lian, Armando R. Bajacan, Winston T. Young, and Jovenciano D. Cortez (hereafter, petitioners) filed a Manifestation,[2] dated June 5, 2014, stating that they received from their lawyer, Atty. Geraldine Baniqued, the May 23, 2014 Order of respondent judge and, in view thereof, they are withdrawing their application for temporary restraining order and writ of preliminary injunction with a reservation to apply for injunctive reliefs anew until the records are transmitted and jurisdiction has been transferred to the Court of Appeals. Petitioners quoted the dispositive portion of the May 23, 2014 Order, thus:

WHEREFORE, the Court hereby SET ASIDE, ANNUL and RECALL the following orders and issuances: (a) the ORDER dated April 1, 2014; (b) the ORDER to the Sheriff for Execution dated April 25, 2014; (c) the Certificate of Finality/Entry of Judgment dated April 25, 2014, and (d) the Writ of Execution dated April 25, 2014.

Further, the Sheriff of this Court is hereby directed to recall all notices and other processes he has issued and served in relation to the instant case.

Also, the records of the instant case are hereby ordered to be transmitted to the Court of Appeals for the proper disposition of the defendants Notice of Appeal.

SO ORDERED.

In the Resolution, dated July 23, 2014, the foregoing Motion to Dismiss Petition of private respondent was noted without action while the Manifestation of petitioners was noted.

Petitioners also filed an Opposition with Motion to Expunge [Private Respondent's Motion to Dismiss Petition dated 4 June 2014] alleging that despite the pendency of their motion for reconsideration respondent judge issued the assailed orders and issuances, hence, the only remedy was to file the petition. They also contend that the Motion to Dismiss is a prohibited pleading and must be expunged from the records.

Petitioners correctly state that under Section 6, Rule 65 of the Rules of Court, a motion to dismiss is a prohibited pleading in petitions for certiorari, thus, the Motion to Dismiss Petition filed by private respondent must be

expunged from the records.

However, in view of the Manifestation of petitioners that respondent judge had issued an Order, dated May 23, 2014, whereby he set aside, annulled, and recalled his assailed orders and issuances which are the subject matters of this petition, the petition has been rendered moot and academic.

WHEREFORE, the Court RESOLVES to:

1)

GRANT petitioners' Motion to Expunge (Private Respondent's Motion to Dismiss Petition dated 4 June 2014); accordingly, private respondent's Motion to Dismiss Petition is declared EXPUNGED from the records.

2)

RECALL the Resolution, dated July 23, 2014 insofar as it declared the Petition, Comment and Reply submitted for decision;

3)

DISMISS the petition for certiorari on the ground of mootness and consider the case as CLOSED and TERMINATED.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Rollo, pp. 824-828.

[2] Rollo, pp. 829-832

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