

LI KIM THO, PETITIONER, VS. CONRADO S. SANCHEZ, JUDGE OF FIRST INSTANCE OF MANILA, BRANCH VII, AND GO SIU KAO, RESPONDENTS.*G.R. No. L-2676. January 31, 1949*

Ponente: REYES, J.

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This is a petition for certiorari to review an order issued by the Court of First Instance of Manila to stay the execution of a judgment of the same court which had already become final, the petition alleging that the said court exceeded its jurisdiction and committed a grave abuse of discretion in issuing the said order.

There is no controversy as to the facts. The petitioner Li Kim Tho, lessee of a building administered by Fernandez Hermanos, Inc., sublet the ground floor of said building to the respondent Go Siu Kao, who, during the Japanese occupation, had been deprived of his own house by the military. Needing the entire building for himself after Liberation, the petitioner required the said respondent to vacate the portion sublet to him, and the demand having been refused, he brought suit in the Municipal Court of Manila to have him ejected from the premises. Judgment was rendered in favor of petitioner; but respondent appealed to the Court of First Instance and, having again lost in that court, took an appeal to the Court of Appeals. After an adverse judgment in that court, he took the case to the Supreme Court, but met with failure when his petition for certiorari was dismissed. Undaunted, respondent sought to prevent his ouster when the case was remanded to the Court of First Instance for execution. As a means to that end, he there filed an action to have himself declared as the direct lessee of the premises in question by virtue of an alleged contract with Fernandez Hermanos, with a petition for a writ of preliminary injunction to suspend the execution of the decision of the Court of Appeals in so far as his ouster was concerned. Defendants in said action are Li Kim Tho, the Sheriff of Manila, and Fernandez Hermanos, Inc. The preliminary injunction was granted but was, upon a motion for reconsideration, lifted, with the result that the respondent was ejected from the premises by the Sheriff of Manila. Upon a motion for reconsideration, however, filed by said respondent, the same court, now acting through another Judge, issued a writ of mandatory injunction to restore him in the possession of the premises, thereby putting into effect again the writ of preliminary injunction which another Judge had ordered lifted. That writ of mandatory injunction is now the subject matter of the present petition for certiorari.

To complete the narration of facts, it should be stated that while the detainer case was in the Court of Appeals, the respondent Go Siu Kao filed a motion for new trial on the ground that he had already entered into a contract with Fernandez Hermanos, making him the lessee of the ground floor of the building in question. Passing upon said motion, the Court of Appeals, in the very decision which affirmed the judgment of the Court of First Instance, declared the motion to be without merit, holding that, as long as the lease to the petitioner subsisted, he was the one that had control over the sublease to the respondent, so that any action or attitude taken by Fernandez Hermanos, Inc., on the continuation of the sublease had no bearing on the result of the case.

Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.

It is, of course, settled that the stay of execution of a final judgment may be authorized whenever it is necessary to accomplish the ends of justice as, for instance, where there has been a change in the situation of the parties which makes such execution inequitable. But we are persuaded that such is not the case here. The filing by respondent Go Siu Kao of a new action to litigate again his right to continue in the possession of the premises in controversy as an alleged basis for suspending the execution of a final judgment which denies him such right, savours of a mere scheme to delay or frustrate the execution of the judgment in question. Obvious is the fact that the issue raised in the new case is something that has already been passed upon by the Court of Appeals in connection with the denial of respondent's motion for new trial based on an alleged contract of lease between him and Fernandez Hermanos. And it is significant that, while respondent claims that such a lease in his favor has been entered into, nowhere does it appear that Fernandez Hermanos has given notice to the petitioner Li Kim Tho of its decision to terminate the lease in favor of the latter or made any demand for him to vacate the premises. As the lease to Li Kim Tho is from month to month and the lessee has not given up the lease, tacit renewal thereof must be presumed until the lessor gives proper notice to terminate it.

It is, therefore, our opinion that the respondent Judge was not justified in issuing the writ of mandatory injunction which, if carried out, would set at naught a final verdict rendered by our courts, from the lowest to the highest, and make a mockery of the administration of justice. The issuing of said writ constitutes that abuse of discretion which is correctable by certiorari.

Wherefore, the order complained of is revoked and the preliminary injunction heretofore issued by this Court to restrain the enforcement of said order is made permanent, with costs against the respondent Go Siu Kao.

Moran, C.J., Paras, Pablo, Perfecto, Bengzon, Briones, and Tuason, JJ., concur.

I hereby certify that Mr. Justice Feria voted to revoke the order complained of and to make the preliminary injunction, heretofore issued, permanent.-Moran, C. J.

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