

**HON. PIO B. FERANDOS, PETITIONER, VS. HON. JUAN Y. REYES,  
LEOCADIO VERDEFLORES AND ATTY. MARCIAL A. EDILLON,  
RESPONDENTS.**

*G.R. No. L-38502. March 25, 1975*

Ponente: AQUINO, J.

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**AQUINO, J.:**

Judge Pio B. Ferandos of the Court of First Instance of Cebu, assigned to Branch IX at Toledo City, filed these special civil actions of certiorari, mandamus and prohibition against his colleague, Judge Juan Y. Reyes, assigned to Branch I at Cebu City, because Judge Reyes denied the motion of Judge Ferandos to dismiss the action for damages and annulment of judgment instituted against him by Leocadio Verdeflor and his lawyer, Marcial A. Edillon (Civil Case No. R-13779).

According to the record, on June 1, 1972 Judge Ferandos issued an order in Civil Case No. 150-T, entitled "Leocadio Verdeflor vs. Antonia Montero et al.", dismissing the complaint (nonsuit) for nonappearance of plaintiff Verdeflor and his counsel, Edillon at the pre-trial. In that same order, the defendants were allowed to present evidence on their counterclaim.

On July 20, 1972 Judge Ferandos rendered an amended decision in that case, ordering Verdeflor to pay the defendants four hundred fifty pesos as damages and attorney's fees and requiring Verdeflor to remove an artesian well within thirty days from notice of the judgment, with the warning that, should he fail to do so, then the defendants could remove the artesian well at Verdeflor's expense.

After Verdeflor's motion for the reconsideration of that decision was denied, he filed a notice stating that he desired "to appeal by writ of certiorari" to the Court of Appeals. Judge Ferandos directed the Clerk of Court "to transmit the original record" to the Court of Appeals together with the oral and documentary evidence.

The Court of Appeals, in a resolution dated February 22, 1973, dismissed the appeal because it was not in conformity with the procedure laid down by that Court in its resolution en banc, dated August 12, 1971, regarding the review of decisions of the Court of First Instance in cases falling under the original and exclusive jurisdiction of municipal and city courts, as prescribed in Republic Act No. 6031, amending section 45 of the Judiciary Law. (The Verdeflor case originated from the municipal court of Balamban, Cebu and was appealed to the Court of First Instance, Toledo City Branch).

According to that resolution of the Court of Appeals, the aggrieved party should file a verified petition for review of the decision of the Court of First Instance, a requirement which was not followed by Verdeflor (UDC No. 4588).

On January 29, 1974 Verdeflor and his counsel, Edillon, as plaintiffs, filed an action in the Court of First Instance of Cebu against Antonia Montero and Judge Ferandos, in his official capacity, praying that the judgment in Civil Case No. 150-T be declared void, that Montero and Judge Ferandos be ordered to pay solidarily damages to

Verdeflor and Edillon and that the execution of the judgment in the said case be enjoined. The case was assigned to Judge Reyes (Civil Case No. 13779).

It was alleged in the complaint that Verdeflor was the winning party in the municipal court of Balamban in the case which was later appealed to the sala of Judge Ferandos; that Judge Ferandos had previously announced that he was inhibiting himself in all cases wherein Attorney Edillon was the counsel allegedly because of the certiorari and administrative cases filed against the Judge by the lawyer and that, by reason of the said inhibition, Verdeflor and his counsel, Edillon did not appear at the pre-trial of the aforementioned case.

Judge Ferandos filed a motion to dismiss on the ground of lack of cause of action. He contended that there was no cause of action against him because of the principle which "exempts judges of courts of superior or general authority from liability in a civil action for acts done by them in the exercise of their judicial functions" (*Alzua and Arnalot vs. Johnson*, 21 Phil. 308, 333).

As already stated, Judge Reyes denied the motion to dismiss. He also "momentarily denied" the motion for reconsideration filed by Judge Ferandos. After the latter had answered the complaint, he instituted the instant actions for certiorari, mandamus and prohibition. The petition was given due course. Judge Reyes answered the petition.

In the meanwhile, in Civil Case No. R-13779, Verdeflor filed a motion praying that his name be stricken out as a co-plaintiff of Edillon. Verdeflor alleged in his motion that he had discovered that he was nonsuited in the case decided by Judge Ferandos because Edillon had failed to appear on the day of the hearing. Verdeflor admitted that he had no cause of action for damages against Judge Ferandos.

Acting on Verdeflor's motion, Judge Reyes, in an order dated July 26, 1974, dismissed Civil Case No. R-13779. In his opinion Verdeflor was the real party in interest and Edillon, as a lawyer, was not an indispensable or necessary party in the case. Judge Reyes reserved the right of Judge Ferandos and Antonia Montero to prove their counterclaims.

Edillon's motion for the reconsideration of the order of dismissal was denied by Judge Reyes. He did not appeal from the order of dismissal.

Counsel for Judge Ferandos admitted in his manifestation to this Court that, with the dismissal of the complaint against Judge Ferandos in Civil Case No. R-13779, the instant case had become ipso facto moot and academic. That observation is correct.

WHEREFORE, this case is dismissed. No costs.

**SO ORDERED.**

Makalintal, C.J., Fernando, Barredo, and Antonio, JJ., concur.

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