

MAXIMO SISON, PETITIONER, VS. HON. FROILAN BAYONA, ET AL., RESPONDENTS.

G.R. No. L-13446. September 30, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Maximo Sison sometime in 1951 became the lessee of a parcel of land situated in Sampaloc, Manila, known as Lot No. 15-A, Block No. 37 of the Subdivision Plan of the Legarda Estate on which lot Sison erected a house where, he lived with his family.

On February 9, 1954, Mauro Prieto, the lessor, brought an action for ejectment against Sison before the Municipal Court of Manila for nonpayment of the agreed rental. On April 12, 1954, the municipal court rendered judgment sentencing Sison to pay the sum of P200.28 as unpaid rentals due up to February 1954, plus the rentals that may accrue from March 1, 1954, at the rate of P8.00 a month until the property is vacated, plus attorney's fees and costs. From this decision Sison appealed.

In his answer filed in the court of first instance Sison alleged that he has been occupying the property for approximately 10 years; that he has never refused to pay the rentals; and that he has made improvements thereon worth P6,000.00. Because of Sison's failure to file a supersedeas bond, plaintiff moved for the execution of the judgment, including the demolition of Sison's house.

The court gave Sison time within which to deposit with the court the amount of P137.00 representing rentals in arrears with the warning that should he fail to make that deposit the execution prayed for will be issued. In compliance with said order Sison made the deposit on September 23, 1957.

On December 3, 1957, because of Sison's failure to file a supersedeas bond as well as to deposit the rentals that were becoming due as embodied in the judgment of the municipal court, plaintiff again filed a motion for execution and demolition. This motion was granted in an order issued on December 10, 1957.

On December 15, 1957, Sison moved to quash the order stating that he has already deposited the proper amount to cover the rentals in arrears and those that were becoming due, while on the other hand the lot in dispute is already included in the expropriation proceedings instituted by the Land Tenure Administration pursuant to Section 1, Republic Act No. 1162, as amended by Republic Act No. 1599. The motion to quash was denied. Since the efforts made by Sison to have the order reconsidered failed, he interposed the present petition for certiorari.

It is contended that since petitioner has already complied with the order of the trial court dated September 12, 1957 wherein he was required to deposit with the clerk of court the amount of P137.00 within a period of 15 days, the trial court committed an abuse of discretion in issuing the order of execution of the judgment of the justice of the peace, including the demolition of petitioner's house, for the reason that the same has been issued without legal justification.

The order above referred to reads as follows:

"In the decision of the lower court, the defendant, is sentenced to pay the sum of P200.28 representing unpaid rentals computed to include the rentals up to February 1954 at the rate of P8.00 per month. The defendant started depositing the said rentals only in June 1954 without filing a supersedeas bond. Counting from March 1954 to August 1957 is 42 months, and at the rate of P8.00 per month, it would total P336.00 which should have been deposited with the Clerk of Court, but only P190.00 has so far been deposited, which was withdrawn by the herein plaintiff from this Court leaving still a balance of P137.00. It is clear, therefore, that the said defendant is in arrears by way of rentals in the said sum of P137.00

"Wherefore, the defendant is hereby ordered to deposit with the Clerk of Court the said amount of P137.00 within fifteen (15) days from today. If the payment of said sum is not made at the end of said period of 15 days, the defendant should vacate the premises and remove his house and other improvements belonging to him within sixty (60) days from today. In the event this order is not complied with, the City Sheriff of Manila is hereby authorized to demolish any. and all buildings and improvements belonging to the defendant in the premises of the plaintiff."

It is apparent that "the trial court did not properly interpret the law relative to the steps to be taken by defendant in an ejectment case against whom a judgment is rendered requiring him to pay back rentals and to restore the possession of the property to the plaintiff, which makes it necessary to restate herein the procedure to be followed by defendant should he desire to avert the execution of the judgment pending appeal.

The pertinent law is Rule 72, Section 8, from which the following procedure may be inferred: If the judgment is in favor of defendant there is no judgment for possession that may be executed because defendant is entitled to continue in possession of the property. But when the judgment is in favor of plaintiff the rule requires that it be executed immediately in order to prevent further damages to him caused by the loss of his possession.[1] However, defendant may stay execution (a) by perfecting an appeal and filing a supersedeas bond; and (b) by paying from time to time either to plaintiff or to the court of first instance, during the pendency of the appeal; the amounts of rentals or the reasonable value of the use and occupation of the property as may be fixed by the justice of the peace court in its judgment This rule is mandatory,[2] the only exception being when the delay is due to fraud, accident, mistake or excusable negligence.[3]

A supersedeas bond, on the other hand, has for its purpose to secure payment of the rents, damages and costs that may have been adjudged in the appealed judgment, which bond becomes unnecessary if defendant deposits in court the amount of back rentals fixed in the judgment.[4] In other words, the supersedeas bond answers only for back rentals as fixed in the judgment and not for those that may accrue during the pendency of the appeal which are guaranteed by the periodical deposits to be made by defendant.[5]

It would, therefore, appear that the trial court erred in denying the motion for execution by allowing petitioner to deposit the amount necessary to complete not only the back rents fixed in the judgment but also the current rentals that had accrued during the pendency of the appeal, because such action is contrary to the procedure laid down in the law.[6] As already stated, if petitioner wanted to stay the execution he should have put up a supersedeas bond or should have deposited the amount necessary to pay the back rents. This he failed to do, although he made partial deposits to cover current rentals which always fell short of those required in the judgment. Verily, under the law, plaintiff became entitled to the writ of execution prayed for, which the court should have granted outright, instead of issuing the order quoted above. But the court rectified its mistake when it issued later a writ of execution. Hence, the present petition has no merit.

While it may be true that during the pendency of the ejectment case special proceedings were started by the Land Tenure Administration for the expropriation of several lots including the lot in question pursuant to the provision of Section 1, Republic Act No. 1162, as amended by Republic Act No. 1599, which action may have the effect of

suspending for a period of two years the present ejectment case, it should be noted that under Section 5 of said Act No. 1162 this benefit of suspension is only accorded to a defendant who pays his current rentals, and is not extended to one who is delinquent. Here petitioner has proven to be a frequent delinquent tenant and as such is not entitled to the benefit of the law.

Wherefore, petition is denied. The writ of injunction issued by this Court is dissolved. No pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] Pascua vs. Nable, 71 Phil., 186; Yu Tiong Tay vs. Barrios, 79 Phil., 597; Surointac vs. Court, 71 Phil., 445; Arcilla vs. Del Rosario, 74 Phil., 445.

[2] Arcilla vs. Del Rosario, supra; Cunanan vs. Rodas, 78 Phil., 800.

[3] Cunanan vs. Rodas, supra.

[4] Mitschiener va. Barrios, et al., 76 Phil., 55; Sogueco vs. Natividad, 80 Phil., 829.

[5] Aylon vs. Jugo, et al., 78 Phil., 816; University of Sto. Tomas vs. Ocampo, 85 Phil., 144; Hilado vs. Tan, L-1964. August 23, 1950; See also Bagtas vs. Judge Tan, et al., 93 Phil., 804; 49 Off. Ga2. (10) 4370.

[6] Lapuz vs. Ct. of First Instance of Pampanga, 46 Phil., 77; Arcega vs. Dizon, 76 Phil., 164; Ysrael vs. Court of Appeals and La Perla de la India, 78 Phil., 831; Meneses vs. Dinglasan, 81 Phil., 470; Carbungco vs. Amparo, 83 Phil., 638; 46 Off. Gaz., Supp. (11) 91; Trivino vs. Gubatan, et al., L-3556, Jan. 31, 1950; Lim Ching vs. Sandoval, G. R. No. 49227, August 4, 1944.

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