

JUAN MERINO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND CIRILO ALARCON, RESPONDENTS.

G.R. No. L-38337. August 25, 1983

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petition to review a decision of the defunct Court of Appeals.

On January 18, 1972, Juan Merino filed a complaint for ejectment against Cirilo Alarcon in the City Court of Manila. The court decided against Merino on April 14, 1972, so he appealed to the Court of First Instance of Manila.

The Court of First Instance tried the case de novo and in a decision dated January 9, 1973, the court ordered the defendant to vacate the premises.

Defendant Alarcon filed a notice on February 16, 1973, that he was appealing the decision to the Court of Appeals "the findings of facts that are not supported by substantial evidence." The notice stated that the decision was received by his counsel only on January 17, 1973, in Baguio City where said counsel was receiving medical treatment. Alarcon also filed a cash appeal bond in the amount of P120.00, plus P5.00 legal research fee.

On March 7, 1973, defendant-appellant Alarcon filed the Record on Appeal. On March 31, 1973, Judge Mariano V. Agcaoili who inherited the case upon the retirement of Judge Mariano V. Benedicto approved the Record on Appeal. However, on April 12, 1973, Judge Agcaoili issued the following Order:

"On March 31, 1973, this Court inadvertently approved the record on appeal in this case and at the same time instructing the Clerk of this Court to transmit the record on appeal to the Court of Appeals for appropriate proceedings thereof. Inadvertently, because the attention of the Court was not called by the Clerk of Court of Branch XXX that this is an appealed case from the City Court.

"Under existing laws, the decision of this Court under the circumstances is already final and not appealable to the Court of Appeals. Moreover, it appears that on February 7, 1973 a motion for the issuance of a writ of execution has been filed and according to the Constancia of the Clerk of Court the hearing and consideration of the said motion was cancelled in view of the retirement of the Honorable Mariano V. Benedicto.

"WHEREFORE, let this case be scheduled for hearing on April 23, 1973 at 8:30 o'clock in the morning for the parties to argue on whether or not this case is still appealable and whether or not the motion for execution should be granted. Pending said hearing, the approval of the said record on appeal is in the meantime cancelled."

On May 30, 1973, Judge Agcaoili issued still another Order which reads as follows:

"On March 31, 1973, this Court approved the Record on Appeal filed by the defendant.

"On April 12, 1973, an order was issued by this Court scheduling for hearing the matter on the approval of said

Record on Appeal on April 23, 1973 to enable the parties to argue on whether or not the Motion for Execution should be granted and whether or not this case is still appealable.

"It appearing that this case was appealed to Branch XXX from the decision of the City Court and, therefore, under existing laws, the decision of this Court of Branch XXX is no longer appealable to the Court of Appeals.

"In said hearing on April 23, 1973, the defendant failed to establish his right to appeal this case in the Court of Appeals.

"WHEREFORE, the approval of the Record on Appeal aforesaid is hereby recalled and cancelled, thereby nullifying the same.

"Correspondingly, let the Writ of Execution be issued, enforcing the decision of this Court, dated January 9, 1973, ordering the defendant and all those occupying Apartment No. 1209-B, situated at Vito Cruz St., Singalong, Manila, to vacate immediately the said premises on the ground that the owner thereof would repair the dangerously damaged portion of the said apartment and declaring plaintiff as having a right to repair his building and to pay the plaintiff attorney's fees in the sum of FIVE HUNDRED (P500.00) PESOS."

Alarcon thereupon went to the Court of Appeals and sought the setting aside of the two Orders set forth above. The Court of Appeals rendered the following judgment:

"WHEREFORE, the questioned orders dated April 12, 1973 and May 30, 1973 are hereby SET ASIDE and the order dated March 31, 1973 approving petitioner's record on appeal and appeal bond is hereby REVIVED. The writ of execution issued on June 1, 1973 is also hereby SET ASIDE and QUASHED. Respondent Court is hereby directed to elevate the Record on Appeal of the case below to this Court."

Merino, who lost in the Court of Appeals, asks Us to declare "that respondent Cirilo Alarcon may no longer appeal by an ordinary appeal as the decision sought to be appealed has already become final under the provisions of RA 6031, amending Sec. 45 of the Judiciary Act of 1948, and therefore, said decision is already executory."

Republic Act No. 6031 which took effect on August 4, 1969, amended several provisions of the Judiciary Act of 1948. It amended Section 45 so as to read as follows:

"SEC. 45. Appellate Jurisdiction. - Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of Section 87 of this Act.

Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested: Provided, however, That if the cases was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial de novo.

In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, that the supreme court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal."

The issue is whether an ordinary appeal to review the facts was available to Alarcon. Stated differently: did Judge

Agcaoili act properly when he set aside the Record on Appeal and ordered the execution of the decision?

The Court of Appeals in rendering the judgment aforequoted relied on an unpublished resolution of this Court dated September 26, 1972 (and therefore En Banc) in the case of G.R. No. L-35462, Jose Mota, Jr. vs. Court of Appeals, et al. In said case this Court held:

"While, in view of the fact that the decision of the Court of First Instance of Manila of May 27, 1971, in Civil Case No. 78478, which is being appealed to the respondent Court of Appeals, did not affirm in full the judgment of the City Court of Manila, which was appealed to it and tried by it de novo, because the City Court of Manila was not yet a court of record then, or, at least, did not record the proceedings in said appealed case, it is quite clear that the appeal to the respondent Court of Appeals was rightly made by record on appeal, under the authority of the first clause of Section 29 of the Judiciary Act as amended by R.A. 5433, appeals by petition for review under Republic Act 6031 (amending Sec. 45 of the Judiciary Act) being proper only cases wherein the cases are ori-ginally tried by the municipal or city courts as courts of record and under the exception in Section 29 of the Judiciary Act, as amended by Republic Act 5433, just mentioned, when the judgment of the municipal or city court is affirmed in full, in the exercise of sound dis-cretion and to avoid further delay in the disposition of petitioner's case on its merits, since anyway no substantial prejudice will probably be caused to said peti-tion by his filing the petition for review directed to be filed by respondent court, the Court resolved to DENY the present petition, which means that, within such reasonable period as the respondent court may grant petitioner, after notice of this resolution, he may file the petition for review required by respondent court, unless, after respondent court is so informed of this resolution, it advises him to dispense with the same and stand, instead, by his record on appeal, without prejudice to the petitioner resorting to any appropriate remedy, in the event that he should be adversely affected substantially, should respondent court insist that his appeal be by review by certiorari instead of by record on appeal or writ of error." (Underscoring supplied.)

The Court of Appeals did not agree with this Court's view expressed above but was constrained to defer thereto realizing as it did its place in the judicial hierarchy.

Justice Guillermo S. Santos who later joined this Court said:

"However, with due respect to the Supreme Court resolution in the Mota case, there is much to commend in the view of the learned trial judge that RA 6031 modified RA 5433 in the sense that while under the latter--RA 5433--only final judgments or decisions of the CFI entered in the exercise of appellate jurisdiction which affirms in full the judgment of the Municipal Court or City Court are made final, the former--RA 6031--modified and extended the rule to the effect that the decisions of the CFI in the exercise of its appellate jurisdiction over inferior courts shall be final in all cases.

It should be noted that RA 6031, in providing that decisions of the CFI shall be "final" does not make any distinction whether said decision is an affirmance, reversal or modification of the judgment of the muni-

cipal or city court. Thus, we believe that RA 5433, insofar as it limits the appellate jurisdiction of the Court of Appeals over final judgments or decisions of the CFI, which affirm in full the judgment or decision of a municipal or city court by way of a petition for review, has been modified and enlarged by RA 6031, which is a later legislation in *pari materia*, as both concern the appealability of decisions of the CFI in appealed cases. For to limit appeals by petition for review only in cases where the CFI affirms in full the judgment of the city or municipal court would render nugatory the purpose of RA 6031 in providing for the finality of the judgment of the CFI over appealed cases falling under the exclusive original jurisdiction of municipal or city courts. Moreover, it should likewise be noted that the procedure for the filing of a petition for review laid down by our Resolution of August 12, 1971 does not limit the same to cases where the CFI affirms in full the judgment of the municipal or city court.

The allegation that petition for review is proper only where a case was originally tried by the municipal or city

court as a court of record, does not also find support in RA 6031. As aptly pointed out in *Ampis vs. Sebastian*, CA-G.R. No. Sp. 91284, May 17, 1973, what RA 6031 provides is that--if the case was tried in the city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial de novo since there are no records to be transmitted for the consideration of the CFI. In other words, the circumstance that the municipal or city court was not a court of record when the appealed case was tried before it does not affect the "final" character of the judgment of the CFI. As clearly appears from a reading of RA 6031, the only condition to the finality of the decision of the CFI is that the appealed case falls the exclusive original jurisdiction of municipal and city courts.

Finally, policy-wise the requirement of a petition for review will definitely help ease appellate court backlog and discourage dilatory appeals--eighty five (85%) per cent of which have been found, statistics wise, to be without merit. It will also do away with the nagging doubts on the meaning of the clause--the decisions of the CFI which affirms in full the judgment of the lower court."

Justice Ricardo C. Puno, incumbent Assemblyman from the National Capital Region and Minister of Justice said:

"With all due respect to the pronouncement of the Supreme Court in the *Mota* case, I most humbly submit that I likewise share the view of the respondent Judge that Republic Act No. 6031 modified Republic Act 5433; that Republic Act 6031 operates to abolish the distinction under Republic Act 5433 wherein only adjudications by the CFI affirming in full the judgments of the municipal or city court became ipso facto final; and that decisions of courts of first instance rendered in the exercise of their appellate jurisdiction should now be considered final, be they affirmation in toto, reversals, or modifications of judgments of inferior courts, the condition to the finality of the CFI's decision being merely that the case appealed from falls under the exclusive jurisdiction of the inferior court.

This has been, and remains, the view of the writer of this concurring opinion, and his past course of action as former CFI Judge adhered to that conviction until he was made aware of the *Mota* Resolution.

As I join Mr. Justice Santos in deferring to the *Mota* ruling, I wish to echo the thoughts of Mr. Justice Montemayor in his dissenting opinion in the case of *People vs. Santos, et al.* (56 OG 3546; 104 Phil. 551, 561-562) that while 'the rule x x x is for judges of inferior courts to abide by and follow the law as interpreted by this Tribunal, regardless of their private opinions and convictions', they may seek guidance from the Supreme Court in the re-examination of important legal questions. I therefore urge whomsoever may not be favored by the decision of this Appellate Court to elevate this matter to the Supreme Court for review on a pure question of law, and, in the words of that learned jurist, thus afford the 'Court of last resort an opportunity of either reaffirming the old doctrine or abandoning it, and adopting a new one', and 'perchance to attune their opinion to changing times, conditions and public policy'."

For the reasons expressed in the lucid opinions of Justices Santos and Puno, We hereby abandon the doctrine laid down in *Mota*. We hold that decisions of Courts of First Instance, now Regional Trial Courts, in the exercise of their appellate jurisdiction over cases triable exclusively by courts inferior to them, shall be final in all cases. In fact as early as *Gutierrez vs. Magat*, L-39739, October 3, 1975, 67 SCRA 262, the Second Division of this Court speaking through Mr. Justice Ramon C. Aquino held that: "Section 45 of the Judiciary Law as amended by Republic Act No. 6031 does not allow an appeal by record on appeal from the decision of the Court of First Instance in an appealed case falling within the exclusive original jurisdiction of the municipal or city court." (At p. 265.)

WHEREFORE, the judgment of the Court of Appeals is hereby set aside the orders of the Court of First Instance of Manila dated April 12, 1973 and May 30, 1973, are hereby reinstated. No costs.

SO ORDERED.

Fernando, C.J., Makasiar, Concepcion, Jr., Guerrero, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee, J., files a brief concurrence.

Aquino, J., see concurrence.

De Castro, J., on sick leave.

Melencio-Herrera, J., with separate concurrence.

Vasquez, J., concurs in the views expressed by Justices Aquino and Melencio-Herrera.

Merino vs Court of Appeals : L-38337 : August 25, 1983 : J. Melencio-Herrera : En Banc : Concurring Opinion
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CONCURRING OPINION**MELENCIO-HERRERA, J.:**

The abandonment of the Mota case merely means that decisions of Courts of First Instance (now Regional Trial Courts) rendered in the exercise of their appellate jurisdiction should be considered final without any distinction as to whether they are affirmations in toto, reversals or modifications of judgment of inferior Courts in cases exclusively cognizable by the latter. However, the finality of those decisions rests on the condition that the "findings of facts therein are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence" (Sec. 45, Judiciary Act, as amended by RA 6031).

The ruling in Gutierrez vs. Magat (67 SCRA 262 [1975]) that Sec. 45 of the Judiciary Law, as amended by RA 6031, does not allow an appeal by record on appeal does not unconditionally imply that "decisions of Courts of First Instance (now Regional Trial Courts) in the exercise of their appellate jurisdiction over cases triable exclusively by Courts inferior to them, shall be final in all cases." The Gutierrez-Magat ruling simply means that review of the decision cannot be made in an ordinary appeal or by record on appeal but by petition for review.

Merino vs Court of Appeals : L-38337 : August 25, 1983 : J. Teehankee : En Banc : Concurring Opinion
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CONCURRING OPINION**TEEHANKEE, J.:**

I concur in line with the views expressed by Justices Aquino and Herrera in their respective concurrences that decisions of Courts of First Instance (now Regional Trial Courts) rendered in the exercise of their appellate jurisdiction are considered final, regardless of whether they affirm in toto, reverse or modify the judgments rendered by inferior courts in cases exclusively cognizable by the latter.

Under section 45 of the Judiciary Act, as amended by R. A. No. 6031, such review of the decisions rendered by

the Courts of First Instance (now Regional Trial Courts) in the exercise of their appellate jurisdiction over judgments of inferior courts, may be sought only through petition for review on certiorari and not by ordinary appeal which has been eliminated. Such petitions for review may be summarily and peremptorily dismissed for lack of merit by the Court of Appeals (now Intermediate Appellate Court) "provided, that the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence" (Section 45, Judiciary Act).

This procedure has been reiterated and made clear in section 22 of the Judiciary Reorganization Act of 1980 (BP Blg. 129) and in section 22(b) of the Interim Rules and Guidelines issued by this Court on January 11, 1983 (effective upon the implementation on January 17, 1983 of the said Judiciary Reorganization Act as provided for in its section 44), as follows:

"(b) Review of appealed cases from regional trial courts. - In actions or proceedings originally filed in the metropolitan trial courts, municipal trial courts and municipal circuit trial courts appealed to the regional trial courts, the final judgments or orders of the latter may be appealed by petition for review to the Intermediate Appellate Court which may give due course only when the petition shows prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or final order sought to be reviewed." (Emphasis supplied)

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