

**BELEN L. VDA. DE GUIA AND MELBA G. VALENZUELA, ASSISTED BY
HER HUSBAND ENRICO VALENZUELA, PETITIONERS, VS. HON.
ROSARIO R. VELOSO, JUDGE, CITY COURT OF MANILA, BRANCH III,
HON. ...**

G.R. No. L-48969. February 29, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This case originated from an ejectment suit filed by the private respondent, Republic Mines and Investment Co., Inc. (hereinafter Company), against the petitioners. The disputed property from where the Company seeks to eject the petitioners was originally the subject of a mortgage contract executed by the latter in favor of the former. The petitioners failed to pay the amount of the mortgage and likewise failed to redeem the property, causing the eventual foreclosure of the mortgage and the consolidation and issuance of the title of the said property in favor of the Company.

Two separate actions were filed by the petitioners in the hope of recovering the property: one, for the rescission of the real estate mortgage and the other, for the declaration of the foreclosure as premature. Both actions were dismissed by the trial court thus prompting the petitioners to elevate the cases to the Court of Appeals.

Meanwhile, the petitioners continued to remain on the disputed property and refused to surrender its possession as a result of which the Company filed a petition for declaration of ownership and for the issuance of a writ of possession. Before the trial court could rule on the motion, the Company filed with the City Court of Manila the suit for ejectment.

On August 10, 1976, the Court of Appeals affirmed the dismissal of the petitioners' actions in the cases earlier mentioned. Petitioners filed a petition for review with this Court.

On August 26, 1977, the trial court in the ejectment case also ruled in favor of the Company and ordered the petitioners to vacate the property and pay the former the amount of P600.00 a month as rentals until they vacate the property.

The respondent Company appealed the decision while the petitioners did not.

On February 27, 1978, the Court of First Instance of Manila affirmed the decision of the City Court but increased the rentals from P600.00 to P3,000.00 a month, after finding that the property in question had an area of 677.20 square meters and was located in the commercial district of España. The trial court further found that as admitted by petitioner Belen Lopez Vda. de Guia in her testimony before the Commissioner appointed by the Court of Appeals in connection with the two actions which petitioners elevated before the appellate court and subsequently dismissed by said court, the Filoil Corporation had offered to lease the property for P2,500.00 a month, but petitioner rejected the same and in turn asked for P3,500.00 a month. Mercury Drug Corporation also offered P3,000.00 monthly for lease of the same property, if it were to construct a building thereon.

From this decision, the petitioners filed this petition before us contending that the trial judge of the Court of First Instance of Manila committed grave abuse of discretion in conducting the proceedings on appeal and in issuing the writ of execution because the constitutional rights of the petitioners were violated, they not having been furnished with any pleading from the time the case was appealed by the Company to the Court of First Instance, and that the only pleading they had received was the writ of execution issued by the City Court of Manila. The petitioners also contend that the trial court did not take into consideration the cases they filed against the Company which were then pending before the Court of Appeals.

Meanwhile, the petition which was filed by the petitioners with this Court in connection with the Court of Appeals' dismissal of their two actions was likewise dismissed by this Court with finality on June 16, 1978.

On September 28, 1978, this Court issued a temporary restraining order, enjoining the respondent City Sheriff of Manila from further proceeding with the enforcement of the writ of execution.

The only issue which the respondent Company appealed before the Court of First Instance of Manila in the ejectment case is the amount of rental of the property which was fixed at P600.00 a month. When the said court increased the amount to P3,000.00, it was the petitioners' turn to file the present petition. Therefore, the issue before us is confined to the question of whether or not the respondent trial court committed grave abuse of discretion insofar as it increased the amount of rental to P3,000.00.

The petitioners attempt to show that there was denial of due process by alleging that they did not receive any pleading when the respondent Company appealed the case to the respondent trial court. This allegation, however, is belied by the records of the case which specifically show that among the pleadings which the petitioners' counsel received either by registered mail or by persons in his behalf are the respondent Company's "Notice of Appeal" (Annex "E-1" of Comment), the trial court's "Order" (Annex "F" of Comment) whereby the parties were given ten (10) days from receipt to file their respective memorandum if they so desired, and the Company's "Memorandum" (Annex "G-1" of Comment). It, therefore, cannot be said that the trial court violated the petitioners' right to due process amounting to grave abuse of discretion.

Equally bereft of proof is the petitioners' allegation that the trial court did not consider the cases they filed against the Company which were then pending before the Court of Appeals. On the contrary, the trial court took judicial notice of the same when it increased the rental from P600.00 to P3,000.00 a month.

We, therefore, rule that there was no grave abuse of discretion on the part of the respondent trial court. Hence, this petition must necessarily fail. As we have ruled in *Silverio v. Court of Appeals*, (141 SCRA 539):

"x x x On the other hand, the writ of certiorari issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. (*Herrera v. Barreto*, 25 Phil. 245; *Albert v. Court of First Instance of Manila*, L-26364, May 29, 1968, 23 SCRA 948; *De Castro v. Delta Motor Sales Corp.*, L34971, May 31, 1974, 57 SCRA 344; *Aguilar v. Tan*, *ibid.*, *Ilacad v. Court of Appeals and Prudential Bank & Trust Co.*, L-24435, August 26, 1977, 78 SCRA 301) The writ of certiorari cannot legally be used for any other purpose." (Vide Footnote 7)

Citing the case of *State v. Dawson* (325 S.W. 97,99) we further emphasized that "(c)ertiorari is a remedy narrow in its scope and inflexible in its character. It is not a general utility tool in the legal workshop."

Equally important is the fact that since herein respondent Company was able to secure title over the disputed property and consolidate its ownership thereon, it is but just that a writ of possession be issued in its favor. This, we stressed in the case of *Banco Filipino Savings and Mortgage Bank v. Intermediate Appellate Court*, (142 SCRA 44, 47) where we ruled:

"Considering the present case that the period of redemption had already lapsed with no redemption having been made, there is no justifiable ground why the Writ of Possession would not be issued. In the case of JFC Service Leasing and Acceptance Corporation v. Nera, 19 SCRA 181, this Court held:

"Moreover, if under Section 7 of Act 3135 the court has the power, on the ex parte application of the purchaser, to issue a writ of possession during the period of redemption, there is no reason why it should not also have the same power after the expiration of that period, especially where, as in this case, a new title has already been issued in the name of the purchaser."

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The temporary restraining order issued by this Court is DISSOLVED. The questioned decision of the respondent court is AFFIRMED.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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