

RAMON ESTELLA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND LU CHUN GAN, RESPONDENTS.*G.R. No. L-56284. January 30, 1982*

Ponente: DE CASTRO, J.

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Petitioner Ramon Estella, through this petition for certiorari and prohibition, seeks to annul and set aside for want of jurisdiction the January 21, 1981 decision and January 30, 1981 resolution of the Court of Appeals issued in CA-G.R. No. SP-11288-R, entitled "Lu Chun Gan vs. Hon. Herminio C. Mariano and Ramon Estella," respectively setting aside the Orders dated August 19 and September 9, 1980 of the Court of First Instance of Manila, Branch IV, issued in Civil Case No. 132371, and denying petitioner's motion to dismiss the petition filed therein.

The records show that on February 15, 1980, the City Court of Manila, Branch III, rendered judgment in Civil Case No. 041513-CV, an ejectment case filed by private respondent Lu Chun Gan, ordering herein petitioner, as defendant therein, and all persons claiming under him to vacate the premises alluded to in the complaint, and to pay private respondent the sum of P2,000 a month as the reasonable value for the use and occupancy of the premises from January 1979 until possession of the premises is restored to said respondent, plus P500 as attorney's fees and costs.[1]

Petitioner appealed to the Court of First Instance, the appeal docketed therein as Civil Case No. 132371, upon filing a supersedeas bond in the amount of P32,000 issued by the Visayan Surety and Insurance Corporation. Acting on petitioner's motion filed during the pendency of said appeal, to reduce the monthly rental set by the City Court, the Court of First Instance of Manila, Branch IV, presided by Judge Herminio Mariano, issued an Order dated August 19, 1980 tentatively reducing the amount of P2,000 as fixed by the City Court to P800 as the reasonable amount for the lease of the premises in question "without prejudice to the outcome of the present case." [2] On motion subsequently filed by the petitioner, the Court of First Instance issued an Order dated September 9, 1980, implementing the Order of August 19, 1980 and ordering deposit in cash in substitution of the supersedeas bond previously posted.[3]

The Court of Appeals, in certiorari and mandamus proceedings thereafter filed by private respondent, set aside the two abovementioned Orders of the Court of First Instance and ordered petitioner "to comply with the dispositive portions of the judgment of the City Court as to the filing of the supersedeas bond and deposits of monthly rentals within 15 days from receipt of this decision unless otherwise ordered upon decision on the merits," [4] the Court of Appeals holding that the Court of First Instance has no power to modify or change the amount of periodical deposits to be made by petitioner as fixed by the City Court without going into the merits of the case. The Court of Appeals further said, that in issuing the two contested Orders the Court of First Instance acted prematurely in modifying the appealed decision as it did in amending the amount of supersedeas bond and of the rents as fixed by the City Court, even before deciding the appealed case on the merits.

Petitioner later filed a motion[5] with the Court of Appeals, praying for the dismissal of the case for want of appellate jurisdiction on the part of said court to entertain the petition for certiorari and mandamus, citing and invoking the ruling in *Buenbrazo v. Marave*, 101 SCRA 849, that "the decision of the Court of First Instance in cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to it, is final or unappealable" and that a "review of the decision of the Court of First Instance in a case exclusively cognizable by the inferior court cannot be made in an ordinary appeal or by record on appeal" to the Court of Appeals.

The aforesaid motion was denied by the Court of Appeals in its resolution[6] promulgated on January 30, 1981. Hence, the present recourse, petitioner claiming that the above Decision and Resolution of the Court of Appeals are null and void, as there is no appellate jurisdiction to the Court of Appeals in the pending Civil Case No. 132371-CFI-Manila, Branch IV, wherein an action for certiorari may be maintained as an aid of its appellate jurisdiction, and ascribing as serious and grave abuse of discretion, or in excess of jurisdiction when the Court of Appeals did not apply the doctrine laid down in the aforesaid *Buenbrazo* case.

As held in the *Buenbrazo* case, Section 45 of the Judiciary Act, 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. The same section declares that the decision of the Court of First Instance in those cases is final, unless the decision is not supported by substantial evidence, or is clearly against the law and jurisprudence. And under Section 29 of the Judiciary Act, as amended by Republic Act No. 5433, which section specifically deals on the "Jurisdiction of the Court of Appeals," "the aggrieved party may elevate the matter to the Court of Appeals only on petition for review, to which the Court of Appeals shall give due course only when the petition shows prima facie that the court has committed errors of fact or of fact and law that would warrant reversal or modification of the judgment or decision sought to be reviewed."

It is not right, therefore, to contend, as petitioner does, that in no case can the Court of Appeals exercise appellate jurisdiction over cases decided by the Court of First Instance originating from the municipal or city courts. It can do so on cases taken to it not by ordinary appeal or by record on appeal, but by a petition for review, to be more in keeping with the manifest purpose of R.A. 6031, which, as a general rule and to expedite disposition of these cases, declares as final decisions of the Court of First Instance. An ordinary appeal would frustrate the main objective of the aforesaid statute of achieving quicker final disposition of cases originating from the lowest level in our courts hierarchy.

What is beyond dispute is that the Court of Appeals has appellate jurisdiction over the case now pending appeal in the Court of First Instance of Manila, except perhaps if the only issue raised therein is one of law, a fact not clear from the records nor discoverable therefrom. Unless this fact is made clear and unmistakable, as petitioner should have demonstrated it to be so, We cannot rule out the existence of appellate jurisdiction on the part of the Court of Appeals, which incidentally is not dependent upon the contingency of whether or not an appeal will be taken,[7] it being enough that the aggrieved party, should he choose to do so, can appeal to said court, the determining factor being whether the Court of Appeals has appellate jurisdiction to review the final decision of the Court of First Instance on the merits of the case.

But even proceeding on the assumption that the Court of Appeals has no appellate jurisdiction, it would be more expedient for this Court to pass on the issues raised in the petition originally filed with the Court of Appeals.

We are clearly of the opinion that the Court of First Instance has no jurisdiction or power to reduce the amount fixed by the City Court as the reasonable rent for the lease of the premises pending decision of the appeal on the merits. The question of whether the judgment of the City Court fixing said rents is correct or not, will have to be passed upon by the Court of First Instance in deciding the appealed case on the merits.[8] In *Meneses v.*

Dinglasan,[9] this Court has said that the provisions of now Rule 70, Section 8 of the Rules of Court, regarding the immediate execution of a judgment in forcible entry or detainer case, are mandatory. So that, if the inferior court renders judgment against the defendant and the latter appeals to the Court of First Instance, his failure to file a supersedeas bond and/or to pay on time the monthly reasonable value of the use of the property or the rents fixed in the judgment will entitle the plaintiff, as a matter of right, to the immediate execution of the judgment both as to the payment of rents and the restoration of possession, since the duty of the court to order such execution, upon application of the plaintiff, is not only ministerial but is also imperative.[10] It was even held that the lower court (Court of First Instance) lacks authority to extend the period within which the rents should be paid from time to time in order to stay execution.[11] If the said court, where an appealed case of ejectment is pending, may not extend the period within which to make payment required by law in order to stay execution, with more reason would the same court be without authority to reduce the rents fixed in the judgment appealed from during the pendency of the appeal and without going into the merits of the case.

FOR THE REASONS GIVEN, the instant petition is hereby dismissed without pronouncement as to costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., and Abad Santos, JJ., concur. Aquino, J., concur in the result. Erica and Escolin, JJ., in the result.

[1] Annex "H" of the Petition, pp. 50-53, rollo.

[2] Annex "D" of the Petition, p. 44, Id.

[3] Annex "E" of the Petition, p. 45, Id.

[4] Annex "A" of the Petition, p. 28-34, Id.

[5] Annex "C" of the Petition, pp. 42-43, Id.

[6] Annex "B" of the Petition, pp. 37-39, Id.

[7] *Breslin v. Luzon Stevedoring Co.* 84 Phil. 618; *Philippine Merchant Marine Academy v. Court of Appeals*, 69 SCRA 493.

[8] *Ang Ching Gi v. De Leon*, 79 Phil 580, cited in Martin, Notes and comments of the Rules of Court, Third Edition, Volume 3, p. 362.

[9] 81 Phil 470, citing cases; see also *Lopez Inc. v. Philippine and Eastern Trading Co.* 52 O.G. 1452.

[10] *De Pages v. Canonoy*, 6 SCRA 583.

[11] *Lapuz v. CFI*, 46 Phil. 77.

CONCURRING IN THE RESULT

AQUINO, J.:

I concur in the result because the Court of Appeals has no appellate jurisdiction over the ejectment case but only jurisdiction to review the decision of the Court of First Instance in conformity with its resolution of August 12, 1971, 67 O.G. 6715. The petition for certiorari and mandamus should have been filed in this Court.

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