

ENRIQUE A. DEFANTE, PLAINTIFF-APPELLANT, VS. HON. ANTONIO E. RODRIGUEZ, ATTY. RODOLFO E. MATEO, FRANCISCO TEJONES, LORETO TORRES AND WILFREDO MONTES, DEFENDANTS-APPELLEES.

G.R. No. L-28380. February 27, 1976

Ponente: AQUINO, J.

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AQUINO, J.:

On October 20, 1964 Enrique A. Defante was sued by the Municipality of Las Piñas for alleged forcible entry into a lot owned by that municipal corporation (Civil Case No. 226). In that case Municipal Judge Antonio E. Rodriguez issued a writ of preliminary mandatory injunction enjoining Defante from further occupying the eastern portion of the lot.

Acting on Judge Rodriguez's order of December 20, 1966, the writ was enforced against Defante on the following day, December 21, by Atty. Rodolfo E. Mateo, Francisco Tejones, Loreto Torres and Wilfredo Montes. Defante was ejected from the lot and his improvements were allegedly demolished.

On January 21, 1967 Defante filed in the Court of First Instance of Rizal, Pasay City Branch VII, an action for damages against Judge Rodriguez and the above-named persons who had ejected him (Civil Case No. 847-R).

Defendants Mateo, Tejones, Torres and Montes filed a motion to dismiss the complaint on the grounds of lack of cause of action and lack of jurisdiction. Judge Rodriguez adopted the said motion.

Judge Francisco de la Rosa in his order of March 2, 1967 dismissed the complaint on the ground that it was intimately connected with the ejectment suit pending in the municipal court of Las Piñas.

Defante appealed the order of dismissal to this Court on the ground that it is contrary to law.

The parties filed their briefs. The appeal was submit-*ted* for decision on September 27, 1968.

Pursuant to the resolution of January 14, 1976, Defante's counsel in a manifestation dated February 16, 1976 informed this Court that Defante is dead and that, in view of the developments in a registration case regarding the land involved in the ejectment case, Defante's heirs "are no longer interested" in prosecuting the appeal.

On the other hand, the defendants-appellees in their manifestation also dated February 16 stated that the appeal had become moot in view of Defante's appeal in the ejectment suit and because of his death.

Wherefore, the appeal is dismissed. No costs. So ordered.

Fernando (Chairman), Barredo, Antonio, and Concepcion, Jr., JJ., concur.

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