

GO GUIOC SIAN, ET AL., PETITIONERS, VS. JUDGE CIRILO MACEREN, ET AL., RESPONDENTS.

G.R. No. L-8384. June 25, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

In Civil Case No. R-612 entitled Arsenio Acufia, et al. vs. Go Guioc Sian, et al., filed in the Court of First Instance of Maasin, Leyte, the court rendered decision the dispositive part of which reads:

"Por las consideraciones expuestas, se dicta sentencia declarando a la demandada Esperanza Tan dueña del solar en cuestion, tal como se halla descrito al comienzo de esta decisión, y a los demandantes dueños proinddso, en la proporcion correspondiente, de la casa existente el referido solar, concediendose un plazo de tres meses a los demandantes para quitar del solar y trasladar la casa a otro sitio. Expirado este plazo, la demandante, como dueña del solar tendra derecho a hacer suya la casa previa indemnizacion de su valor actual, o a obligar a los demandantes a pagar el precio del terreno, y en caso de que no llegaran las partes a un acuerdo en cuanto al valor de la casa o del terreno, se nombraran comisionados de avalué. Pero los demandantes no podran ser obligados a comprar el terreno si su valor es considerablemente mayor que el de la casa, y en tal caso, deberan pagar una renta razonable que ser afijada por el juzgado si las partes no llegaran a un acuerdo, del terreno, el caso de que la demandada Esperanza Tan no quisiera hacer suya la casa previa la correspondiente indemnizacion."

The above decision became final and executory and on October 16, 1953, defendants, who were declared owners of the land in question, filed a motion praying that the owners of the house erected thereon be ordered to remove the same as decreed in the decision without any indemnity on their part. This motion was denied in an order entered on April 20, 1954, the court enjoining the parties to comply strictly with the dispositive part of the decision. Defendants moved to reconsider this order at the same time giving notice of their intention to appeal should the same be denied. This motion the court denied in an order entered on September 10, 1954 the court stating that the notice of appeal given by defendants was defective. Nevertheless, defendants submitted the record on appeal, appeal bond and notice of appeal as required by law, and when the court refused to approve the appeal as thus perfected, defendants interposed the present petition for certiorari contending that the lower court acted in excess of its jurisdiction or with grave abuse of discretion.

It does not appear clear from the record the reasons why the lower court refused to give course to the appeal in spite of the fact that apparently the record on appeal, appeal bond and notice of appeal were filed within the reglementary period, but it can be gleaned from the order of the trial court of September 10, 1954 that it refused to approve the record on appeal because the order from which defendants, now petitioners, desire to appeal is merely interlocutory in nature and not appealable. Moreover, the court added: "It is not within the province of this Court to direct the removal of the house in question because it will be tantamount to modifying the decision which is already final."

While the order of April 20, 1954, from which defendants desire to appeal, is final in character because "it finally

disposes of the pending action so that nothing more can be done with it in the trial court" (Mejia vs. Alimorong, 4 Phil., 57?; Insular Government vs. The Roman Catholic Bishop of Nueva Segovia, 17 Phil., 487; People vs. Makaraig, 54 Phil., 904), and in this respect the trial court is in error, however, we are of the opinion that the appeal would have no useful purpose for it clearly appears that what is intended by defendants in their motion of October 16, 1953 is to secure an order for the removal of the house belonging to plaintiffs without any indemnity on their part contrary to the precise terms of the dispositive part of the decision rendered on October 3, 1952 In said dispositive part it is expressly decreed that defendants can only appropriate the house after paying the corresponding indemnity to the plaintiffs or to compel plaintiffs to pay the value of the land if defendants should so elect, except when such value is much greater than that of the house, in which case plaintiffs could be required to pay a reasonable rent for the occupation of the land. The decision also decrees that if the parties could not reach an understanding as to the value of the land or the house, commissioners of appraisal may be appointed for that purpose. Evidently, the motion of petitioners above adverted to tends to subvert the nature of this decision for which reason the trial court refused to give course to the appeal. We hold that the lower court did not err in this respect.

Wherefore, the petition is denied, without pronouncement as to, costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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