

**LEONORA S. PALMA, PETITIONER, VS. HON. JOSE F. ORETA, Q &#038;  
S., INC., MANUEL JN. SERAPIO, ZACARIAS CUNANAN, REGISTER OF  
DEEDS OF NUEVA ECIJA AND REGISTER OF DEEDS OF MANILA,  
RESPO...**

*G.R. No. L-28207. April 29, 1983*

Ponente: PLANA, J.

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**PLANA, J.:**

Appellant had filed a damage suit in the then Court of First Instance of Manila against Municipal Judge Jose F. Oreta, et al. for alleged wrongful rendition and enforcement of Judge Oreta's decision in an ejectment case, despite a restraining order issued by the Court of First Instance of Rizal enjoining Judge Oreta from proceeding with the case. The damage suit was dismissed by the CFI of Manila because of the pendency between the same parties of Civil Case No. C-845, a special civil action in the CFI of Rizal to set aside the decision and writ of execution issued by Judge Oreta in the aforesaid ejectment case despite the existence of a restraining order.

The issue in this appeal is the correctness of the order dismissing the damage suit.

Records show that a material event has since supervened, namely—on February 16, 1967 Civil Case No. C-845 was dismissed by the trial court and this dismissal was affirmed by this Court in G.R. No. L-27807 (Leonora S. Palma vs. Hon. Jose Oreta, et al., August 31, 1970, 34 SCRA 738) upon the finding that before the rendition of the questioned decision in the ejectment case, the restraining order previously issued against Judge Oreta had been set aside. This Court declared:

"Petitioner did not, because she could not, deny that the restraining order had already been lifted as of the time the decision was rendered. Under the circumstances then, the power to act of respondent Judge Oreta could not be assailed." (p. 740.)

It is therefore clear that the basis of appellant's damage suit has already been resolved against her by this Court. For lack of basis, it is now pointless to maintain the said suit. For this reason, the appealed order of dismissal is hereby affirmed.

**SO ORDERED.**

Teehankee (Chairman), Melencio-Herrera, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

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