

ROBERT FERRIOLS, BERNARD POLICARPIO, AND TEODORO N. VELASCO, PETITIONERS, VS. HON. FRANCISCO G. MENDIOLA, PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 115 OF PASAY CITY, AND ...

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

Before this Court is a Petition for Certiorari[1] under Rule 65 of the Rules of Court assailing the Orders dated 05 August 2014[2] and 02 September 2014[3] both issued by the Regional Trial Court (RTC), Branch 115 of Pasay City in Case No. M-PSY-13-15889-CV-R00-00, the respective decretal portions of which read:

05 August 2014 Order:

“WHEREFORE, for failure to file the necessary supersedeas bond, the Motion for Execution Pending Appeal is GRANTED.

Let a writ of execution issue.

SO ORDERED.”

02 September 2014 Order

“A motion for execution pending appeal having been filed by the plaintiff-appellee for failure of the defendants-appellants to post the required supersedeas bond to stay execution, the defendants-appellants' motion for reconsideration is DENIED.”

SO ORDERED.”

THE FACTS

On 17 March 2014, the Metropolitan Trial Court (MTC), Branch 45 of Pasay City rendered a Decision in a Civil Case for Ejectment filed by Private Respondent Pazmel Realty & Development Corporation against Petitioners Robert Ferriols, Bernard Policarpio, and Teodoro N. Velasco. The dispositive portion of the aforesaid Decision reads:

“WHEREFORE, premises considered, the court finds for the plaintiff and against the defendants and the latter, including all persons claiming rights under them, are directed to vacate the premises and to pay the attorney's fees in the amount of P20,000.00.

SO ORDERED.”

The Private Respondent subsequently filed “Notice of Appeal” with the MTC on 11 April 2014. The case was raffled to RTC, Branch 115 of Pasay City and was docketed as Case No. M-PSY-13-15889-CV-R00-00.

On 06 May 2014, the Private Respondent filed a “Motion for the Issuance of Writ of Execution Pending

Appeal”[4] with RTC, Branch 115 and argued that Petitioners' appeal was not perfected for non-payment of supersedeas bond.

Petitioners, for their part, filed a “Motion to Fix the Reasonable Value of the Property with Compliance & Manifestation.”[5] Petitioners averred that the 17 March 2014 Decision did not award any payment of rentals nor mentioned any reasonable value for the use of the property subject of litigation. Petitioners further expressed their readiness to deposit the amount of P19,000.00 which would cover the “use and occupation” of the property in question.

On 05 August 2014, RTC, Branch 115, issued its first assailed Order which granted the Private Respondent's “Motion for the Issuance of Writ of Execution Pending Appeal.”

Petitioners seasonably filed a Motion for a Reconsideration but the same was denied by the trial court a quo in its second assailed Order dated 02 September 2014.

On 29 September 2014, Petitioners filed with this Court the instant Petition for Certiorari.

ASSIGNMENT OF ERROR

Petitioners cites this lone error for allowance of the instant Petition:

“WHETHER OR NOT THERE WAS GRAVE ABUSE OF DISCRETION AND LACK OF JURISDICTION ON THE PART OF PUBLIC RESPONDENT IN GRANTING THE ISSUANCE OF WRIT OF EXECUTION PENDING APPEAL IN FAVOR OF THE PRIVATE RESPONDENT.”

THIS COURT'S RULING

Petitioners bewail the 05 August 2014 and 02 September 2014 Orders issued by the Regional Trial Court (RTC), Branch 115 of Pasay City which, in a nutshell, granted Private Respondents' “Motion for the Issuance of Writ of Execution Pending Appeal” for Petitioners' failure to post a supersedeas bond. Petitioners contend that there was no basis for the posting of supersedeas bond because the dispositive portion of the 17 March 2014 Decision of MTC, Branch 45 of Pasay City, which, for ready reference is hereunder quoted, is silent as regards damages and/or rentals which Petitioners should pay to Private Respondent, thus:

“WHEREFORE, premises considered, the court finds for the plaintiff and against the defendants and the latter, including all persons claiming rights under them, are directed to vacate the premises and to pay the attorney's fees in the amount of P20,000.00.

SO ORDERED.”

The Private Respondent, for its part, maintains that with the failure of Petitioners to post a supersedeas bond, the 17 March 2014 Decision of MTC, Branch 45 became executory. For this reason, RTC, Branch 115 committed no reversible error when it granted the “Motion for the Issuance of Writ of Execution Pending Appeal.”

We resolve.

Under Section 19, Rule 70 of the 1997 Rules of Civil Procedure:

“Section 19. Immediate execution of judgment; how to stay same. — If judgment is rendered against the defendant, execution shall issue immediately upon motion unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court

the amount of rent due from time to time under the contract, if any, as determined by the judgment of the Municipal Trial Court. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the Municipal Trial Court, with the papers, to the clerk of the Regional Trial Court to which the action is appealed xxx.” (Emphasis supplied)

As a general rule, therefore, a judgment in favor of the plaintiff in an ejectment suit is immediately executory. To stay the immediate execution of the said judgment while the appeal is pending before the RTC, the foregoing provision requires that (1) the defendant perfects his appeal; (2) he files a supersedeas bond; and (3) he periodically deposits the rentals which become due during the pendency of the appeal. The failure of the defendant to comply with any of these conditions is a ground for the outright execution of the judgment, the duty of the court in this respect being ministerial in nature.[6]

An exception is where the trial court did not make any findings with respect to any amount in arrears, damages or costs against the defendant, in which case no bond is necessary to stay the execution of the judgment.[7] Thus, in *Once v. Gonzales*,[8] the Supreme Court ruled that the order of execution premised on the failure to file a supersedeas bond was groundless and void because no such bond was necessary there being no back rentals adjudged in the appealed judgment.

In the case at bar, MTC, Branch 45 clearly failed to include in the dispositive portion of its 17 March 2014 Decision an award of unpaid/back rentals which would be the basis for the computation of the supersedeas bond which petitioners should pay to stay the execution thereof. While there is a directive for Petitioners to pay P20,000.00 as attorney's fees, the latter is not “back rentals” within the purview of the law.

In *Aznar Brothers Realty Co. v. Court of Appeals*,[9] the Supreme Court held:

“In the instant case, there was no need for the private respondents to file a supersedeas bond because the judgment of the MTCC did not award rentals in arrears or damages. The attorney's fees of P8,000 and the litigation expenses of P2,000 awarded in favor of the petitioner need not be covered by a bond, as these are not the damages contemplated in Section 8 of Rule 70 of the Rules of Court. The damages referred to therein are the reasonable compensation for the use and occupation of the property which are generally measured by its fair rental value and cannot refer to other damages which are foreign to the enjoyment or material possession of the property. Neither were the private respondents obliged to deposit the rentals falling due during the pendency of the appeal in order to secure a stay of execution because the appealed judgment did not fix the reasonable rental or compensation for the use of the premises.” (Emphasis supplied, citations omitted)

For aforesaid reasons, it was error for the court a quo, RTC, Branch 115 to grant Private Respondents' “Motion for the Issuance of Writ of Execution Pending Appeal.”

Be that as it may, the instant Petition for Certiorari (filed before this Court on 29 September 2014), has been rendered moot by a supervening event, which is RTC, Branch 115's subsequent issuance of a Decision[10] dated 21 October 2014, which affirmed MTC, Branch 45's 17 March 2014 Decision, viz:

“WHEREFORE, the defendants-appellants' appeal is DISMISSED for lack of merit, and the MTC's appealed decision is affirmed.

SO ORDERED.”

On this account, Section 21, Rule 70 (Forcible Entry and Unlawful Detainer) of the Rules of Court provides:

“Sec. 21. Immediate execution on appeal to Court of Appeals or Supreme Court. — The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further

appeal that may be taken therefrom.” (Emphasis supplied)

Correlatively, Section 21 of the Revised Rule on Summary Procedure states:

“Sec. 21. Appeal. — The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the Regional Trial Court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed.” (Emphasis and underscoring supplied.)

Verily, it is only execution of the Metropolitan or Municipal Trial Courts' judgment pending appeal with the Regional Trial Court which may be stayed by a compliance with the requisites provided in Rule 70, Section 19 of the 1997 Rules on Civil Procedure (timely filed notice of appeal and payment of supersedeas bond). On the other hand, once the Regional Trial Court has rendered a decision in its appellate jurisdiction, as in the case at bar, such decision shall, under aforesaid Rule 70, Section 21 of the Rules of Court, be immediately executory, without prejudice to an appeal, via a Petition for Review, before the Court of Appeals and/or the Supreme Court.[11]

Under obtaining circumstances, We see no plausible reason to grant the plea of petitioner. The Petition fails, for being moot and academic.

WHEREFORE, the Petition for Certiorari is hereby DISMISSED.

SO ORDERED.

De Leon, M.M., Chairperson and Antonio-Valenzuela, N.G., JJ., concur.

[1] Rollo, pp. 02-20

[2] Id., pp. 42-43

[3] Id., pp. 51-52

[4] Id., pp. 31-32

[5] Id., pp. 39-40

[6] See Chua v. Court of Appeals, 286 SCRA 437, 444-445

[7] Aznar Brothers Realty Co. v. Court of Appeals (G.R. No. 128102, 07 March 2000)

[8] 76 SCRA 258, 261 (1997)

[9] Supra, note 4

[10] Id., pp. 110-112

[11] See Nayve v. Court of Appeals (G.R. No. 144117, 27 February 2003)

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