

**SPOUSES BENITO TRINIDAD AND SOLEDAD TRINIDAD, PETITIONERS,
VS. SPOUSES LUIS CABRERA AND DELIA CABRERA AND HON. JUDGE
JOSE M. AGUILA, IN HIS CAPACITY AS PRESIDING JUDGE OF THE
RT...**

G.R. No. 100511. August 04, 1992

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

In an ejectment case which the petitioners, spouses Benito and Soledad Trinidad, filed against the respondents spouses Luis and Delia Cabrera, docketed as Civil Case No. XXXII-0560 of the Metropolitan Trial Court of Metro Manila, Branch 32, Quezon City, a decision was rendered for the plaintiffs by MeTC Judge Manuel F. Verzosa on January 25, 1989:

"x x x ordering the defendants: (1) and all persons claiming rights under them to vacate the premises in question and surrender possession thereof to plaintiffs; (2) to pay the rentals in arrears in the sum of P5,000.00 for the period covering May 1988 to September 1988; (3) to pay the sum of P1,000.00 as reasonable compensation for the use and occupancy of the premises starting October 1988 and every month thereafter until the defendants and all persons claiming rights under them shall have actually vacated the premises in question and surrendered possession thereof to plaintiffs; (4) to pay the sum of P3,000.00 as, and for, attorney's fees; and, (5) to pay the costs of suit." (p. 22, Rollo.)

On appeal by the defendants to the Regional Trial Court of Quezon City (Civil Case No. Q-89-1750), the decision was affirmed in toto on April 25, 1989 by RTC Judge Lucas P. Bersamin.

A petition for review under Section 29 of the Judiciary Law, as amended, was filed by defendants Cabrerias in the Court of Appeals (CA-G.R. SP No. 17490) but it was dismissed on May 16, 1990.

The Cabrerias elevated the case to the Supreme Court by a petition for certiorari under Rule 45 of the Rules of Court (G.R. No. 95128). It was denied by this Court on December 10, 1990 for "failure to sufficiently show that the Court of Appeals had committed any reversible error in the questioned judgment" (p. 49, Rollo).

On January 30, 1991, Attorney Diosdado L. Dapucanta entered his appearance in G.R. No. 95128 as new counsel for the Cabrerias and simultaneously filed a motion for reconsideration of the Court's resolution dated December 10, 1990.

On February 11, 1991, the Court NOTED the appearance of Attorney Dapucanta "the same being not filed in accordance with the Rules" and "NOTED without action" (p. 15, Rollo) his motion for reconsideration of the resolution denying the petition for review.

Entry of judgment was made on January 31, 1991 by this Court.

The plaintiffs Trinidad spouses asked for the remand of the records to the court of origin and filed a motion for

execution therein on April 16, 1991. A writ of execution was issued on June 3, 1991 by MeTC Judge Verzosa.

On June 6, 1991, the defendants Cabrerias filed a petition for injunction with restraining order in the Regional Trial Court of Quezon City (Civil Case No. Q--91-9005, "Sps. Luis Cabrera, et al. vs. Hon. Manuel F. Verzosa, et al.") wherein they asked the regional trial court to stop MeTC Judge Verzosa from enforcing his decision in the ejectment case on the ground that it was not yet final and executory. They alleged that their motion for reconsideration in the Supreme Court was still pending "without action" as of February 11, 1991, hence, the plaintiffs' motion for execution was premature. The Trinidad spouses opposed the petition.

Nonetheless, RTC Judge Jose M. Aguila granted the petition for injunction on June 25, 1991:

"x x x enjoining the respondents to refrain and desist from enforcing the decision and writ of execution in Civil Case No. XXXII-0560 of the Metropolitan Trial Court of Metro Manila, Branch 32, Quezon City, until the appeal in G.R. No. 95128 is finally disposed of in their favor by the Supreme Court, and without pronouncement as to costs." (p. 17, Rollo.)

Judge Aguila reasoned out that as the petitioners' motion for reconsideration in the Supreme Court was simply "noted without action," he "could not consider it denied or pro forma." Therefore, it is "still pending a resolution" or "not finally disposed of." The entry of judgment was premature. Said Judge Aguila:

"1. Although the Second Division of the Supreme Court indeed issued a resolution dated 11 February 1991 stating that the motion of the petitioners for reconsideration of the resolution of December 10, 1990 denying the petition for review on certiorari, is 'noted without action,' there is nothing in said resolution to show that the petitioners' motion is denied or a pro forma motion because the appearance of the counsel of the petitioners filed in court is not in accordance with the Rules.

"In fact, the second division of the Supreme Court issued a resolution dated March 6, 1991 in G.R. No. 95128 stating that 'the withdrawal of appearance of Atty. Pedro N. Belmi as counsel for the petitioners is noted.' The Supreme Court has not yet resolved the motion for reconsideration of petitioners because the withdrawal of the original counsel was only noted. The said motion for reconsideration remains 'noted without action.' The Court cannot consider the motion for reconsideration of petitioners in G.R. No. 95128 as denied or pro forma. This view is in favor of the petitioners unless it is clearly stated in the resolution of the Supreme Court that it is otherwise. Said resolution is clear, and interpretation is not necessary. Therefore, the motion for reconsideration of the petitioners with the Supreme Court in G.R. No. 95128 is still pending resolution, hence, it is not yet finally disposed of.

"2. The entry of judgment relied on by the respondents issued by the Supreme Court in G.R. No. L-95128 appears to be premature. It stated that on January 31, 1991 the resolution of December 10, 1990 denying the petition for Review on Certiorari of petitioners became final and executory. But within the reglementary period, on January 30, 1991, petitioners filed their motion for reconsideration. The resolution of December 10, 1990 cannot be final and executory on January 31, 1991 because the reglementary period stopped to run upon the filing of the said motion for reconsideration on 30 January 1991. Hence, the denial of the petitioners' petition for review on certiorari in G.R. No. L-95128 is still pending reconsideration in the Supreme Court. It is not yet finally disposed of.

"3. There was no showing in the record that petitioners was furnished copy of the entry of judgment in G.R. L-95128 because it was not indicated on the face of said entry in order for petitioners to contest it. Moreover, there was no showing that petitioners was (sic) furnished copy of the plaintiffs' (private respondents of instant petition) motion for execution dated October 4, 1990 in Civil Case No. XXXII-0560 against defendants (petitioners of instant petition) in order for petitioners to file their opposition, if any.

"The Court opines and so hold that the writ of execution issued by respondent Presiding Judge Manuel F. Verzosa of the Metropolitan Trial Court of Metro Manila, Quezon City, Branch 32 is still premature for the

enforcement of its judgment dated 25 January 1989 because it is still on appeal that is pending resolution before the Supreme Court." (Emphasis supplied; pp. 15-16, Rollo.)

The Trinidads have come to this Court for relief from the above decision by a petition for certiorari in this Court.

After deliberating on the petition for certiorari and its annexes, as well as the private respondents' comment thereon, the Court resolved to grant the petition for respondent Judge Aguila gravely abused his discretion in issuing the assailed decision. By holding that the Supreme Court's entry of judgment in G.R. No. 95128 "Cabrera vs. Court of Appeals, et al." was premature, Judge Aguila overstepped the limits of his authority as a subordinate court. His is the duty to execute, enforce, and implement the final decisions of this Court. Instead, he endeavored to impede and prevent its execution because of his erroneous belief that this Court's entry of judgment was premature. A becoming modesty should have advised him to refrain from sitting in judgment upon the action of this Court (*Ang Ping vs. RTC of Manila, Branch 40*, 154 SCRA 77, citing the opinion of Justice Laurel in *People vs. Vera*, 65 Phil. 56; *Shiaoji vs. Harvey*, 43 Phil. 333; *Kabigting vs. Acting Director of Prison*, 6 SCRA 281). Indeed, if Cabrera believed that this Court's entry of judgment was premature, he should have filed in this Court a motion to set it aside, not to attack it in a lower court.

Judge Aguila's opinion that because this Court simply "NOTED without action" Attorney Dapucanta's motion for reconsideration in G.R. No. 95128, the motion remained "pending resolution" by this Court, was erroneous for, as we noted in the same resolution, the motion for reconsideration was filed by a lawyer (Attorney Dapucanta) who had no standing before us for his appearance was "not filed in accordance with the Rules" (p. 15, Rollo). The Motion for reconsideration which he filed was a sham pleading (Sec. 5, Rule 7, Rules of Court). The Court did not have to act upon it. It did not interrupt the period for the finality of the Court's resolution dismissing the petition for review of the Court of Appeals' decision.

WHEREFORE, the petition for certiorari is GRANTED. The decision dated June 25, 1991 of respondent Judge Jose M. Aguila in Civil Case No. Q-91-9005 entitled "Spouses Luis Cabrera, et al. vs. Hon. Manuel F. Verzosa, et al." is hereby annulled and set aside. The Metropolitan Trial Court of Quezon City, Branch 32, is ordered to execute without further delay its final and executory decision in Civil Case No. XXXII-0560 entitled, "Spouses Benito Trinidad, et al., plaintiffs vs. Spouses Luis Cabrera, et al., defendants." This decision is immediately executory.

SO ORDERED.

Cruz, (Chairman), Medialdea, and Bellosillo, JJ., concur.

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