

SPOUSES MARCIANO CHUA AND CHUA CHO, PETITIONERS, VS. COURT OF APPEALS AND SPOUSES MARIANO C. MORENO AND SHEILA MORENO, RESPONDENT.

G.R. No. 113886. February 24, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

To stay the execution pending appeal of a judgment in an ejectment suit, the Rules require the defendant to file a supersedeas bond. What is the nature of this bond? How is the amount to be computed? In what court should it be presented? At what point in the litigation should it be filed?

The Case

The Court answers the foregoing questions as it resolves this petition for review on certiorari assailing the December 15, 1993 Decision[1] of the Court of Appeals[2] in CA-G.R. SP No. 32236, which disposed as follows:[3]

“WHEREFORE, the petition is GRANTED, the orders dated June 10, 1993 and June 17, 1993 are SET ASIDE, and respondent court is ORDERED to issue a writ of execution for the enforcement of the decision dated March 5, 1993 rendered by the Municipal Trial Court in Civil Case No. 2592, insofar as the right to the possession of the lots is concerned.”

Petitioners also challenge the February 15, 1994 Resolution of Respondent Court which denied their motion for reconsideration.[4]

The Facts

The facts of this case are undisputed. As found by Respondent Court, they are as follows:[5]

“Coming now to the merits of the case, it appears that on March 5, 1993, the Municipal Trial Court (branch II) of Batangas City rendered judgment for petitioners [private respondents herein] with respect to four lots located in Galicano St., Batangas City, ordering the ejectment of private respondents [petitioners herein] and ordering them to pay monthly rentals of P50,000.00 starting April 7, 1992 until they shall have vacated the lots and surrendered their possession to petitioners and the sum of P20,000.00 as attorney’s fees.

It appears further that a copy of the decision was received by private respondents’ counsel on March 10, 1993; that on March 11, 1993 he filed a notice of appeal; and that on March 16, 1993, the MTC ordered the records of the case transmitted to the RTC.

On March 29, 1993, petitioners moved for the execution of the decision in their favor, alleging that although private respondents had filed a notice of appeal, the latter had not filed a supersedeas bond nor make [sic] a deposit every month of the reasonable value of the use and occupation of the properties as required by Rule 70, sec. 8.

Private respondents opposed the motion, claiming that they are co-owners of the lots from which they were ordered to be ejected and that to grant immediate execution of the decision would render their appeal moot and academic. They later filed a supplement to their opposition, claiming that while they were after all willing to file a supersedeas bond, but that they had been kept busy attending to their businesses and thus unable to secure a bond.

On June 10, 1993, the trial court issued the first of its disputed orders in which it denied petitioners' motion for execution on the ground that the transmission by the MTC of the records of the ejectment case to the RTC, without waiting for the expiration of the period of appeal, prevented private respondents from filing a supersedeas bond on time. The order reads:

WHEREFORE, premises considered, the urgent Motion for Execution filed by plaintiff-appellees is hereby DENIED for lack of merit. Accordingly, the defendant appellants are hereby directed to:

- a) To file with this Court a supersedeas bond in the amount of FIVE HUNDRED FIFTY THOUSAND (P550,000.00) PESOS within five days from receipt of this Order;
- b) To deposit, within the period afore-mentioned, an amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS by way of accrued rentals for the months of April, May and June, 1993; and
- c) To periodically deposit on or before the tenth day of each succeeding months [sic], starting from July 1993, and an [sic] amount of FIFTY THOUSAND (P50,000.00) PESOS representing the reasonable monthly rental fixed by the lower court."

On June 17, 1993, the RTC issued another order giving petitioners an extension of five days within which to file a supersedeas bond. After initially admitting a cash bond of P550,000, the RTC granted on September 20, 1993 petitioners' motion for the substitution of the cash bond with a surety bond. Private respondents filed a petition for certiorari before the Court of Appeals, questioning the said three orders.

Respondent Court's Ruling

Invoking Section 8, Rule 70 of the Rules of Court, Respondent Court ruled that the RTC erred in extending the period for filing a supersedeas bond. This error was compounded when the same court issued its second order on June 17, 1993 which gave herein petitioners an additional extension of five days within which to do so. The Court of Appeals held that the said provision was mandatory and gave the said trial court no discretion with regard to its application. In dismissing petitioners' claim that they did not know where to file the supersedeas bond, the Court of Appeals noted that said argument was made for the first time on appeal before it, petitioners' opposition to the motion for execution before the RTC being based only on their alleged co-ownership of the said property. Respondent Court also distinguished the present case from *Laurel vs. Abalos*,^[6] holding that there was no basis for the application of an exception to the mandatory provision of Section 8 of Rule 70.

While sustaining the order of September 20, 1993, Respondent Court set aside the two other orders issued on June 10 and 17, 1993. Subsequently, said Court denied the motion for reconsideration.

Hence, this petition for review.^[7] In a Resolution dated March 11, 1996, this Court noted that petitioners had no objection to the substitution of the deceased Mariano Moreno by his surviving heirs.^[8]

The Issues

Petitioners allege that the Court of Appeals committed the following "errors":^[9]

“I

The Court of Appeals committed a grave error of law when it found that petitioners herein, the private respondents in C.A. G.R. SP NO. 32236, could have filed the supersedeas bond on time and before June 10, 1993 when RTC, Branch I of Batangas City fixed for the first time the amount of supersedeas bond which ruling, if implemented, would have condoned and would have resulted to the violation of the equal protection clause of the Constitution.

II

The Court of Appeals committed grave error of law when it made grossly erroneous conclusions arising from admitted and undisputed facts which led the said Court of Appeals to apply the general rule as stated in Section 8 of Rule 70 of the Rules of Court and not the law on exceptions to said rule.

III

The Court of Appeals committed grave error of law in making findings of fact contrary to the admitted and proven facts by the petitioners and private respondents in C.A. G.R. SP. No. 32236 and not supported by evidence on record.

IV

The Court of Appeals committed an error of law when it ordered the RTC, Branch I of Batangas City to issue a writ of execution which, if implemented, would necessarily result to the deprivation of petitioners herein of their property without due process of law in violation of Section 1, Article III of the Constitution.”

In the main, the case hinges on whether, after the expiration of the period for perfecting said appeal, the RTC had the authority to set the amount of and accept a supersedeas bond to stay the immediate execution of a decision in an ejectment suit pending appeal. This encompasses several questions regarding the nature of a supersedeas bond: What is the amount of the bond? Who, if any, determines the amount? Where and at what point in the litigation should the bond be filed? We shall deal with each of these questions.

The Court’s Ruling

The petition is not meritorious.

Main Issue: Late Filing of the Supersedeas Bond

The applicable rule in this case is Section 8, Rule 70 of the Rules of Court, which provides:[10]

“SEC. 8. Immediate execution of judgment. How to stay same. If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond, approved by the municipal or city court and executed to the plaintiff to enter the action in the Court of First Instance and 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 found by the judgment of the municipal or city court to exist. In the absence of a contract, he shall deposit with the 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, on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the municipal or city court, with the other papers, to the clerk of the Court of First Instance to which the action is appealed.

x x x x x x x x”

As a general rule, a judgment in favor of the plaintiff in an ejectment suit is immediately executory, in order to prevent further damage to him arising from the loss of possession of the property in question.[11] To stay the immediate execution of the said judgment while the appeal is pending, the foregoing provision requires that the following requisites must concur: (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.[12] 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 and imperative.”[13] Hence, if the defendant-appellant perfected the appeal but failed to file a supersedeas bond, the immediate execution of the judgment would automatically follow. Conversely, the filing of a supersedeas bond will not stay the execution of the judgment if the appeal is not perfected. Necessarily then, the supersedeas bond should be filed within the period for the perfection of the appeal.

In the present case, petitioners filed their notice of appeal on March 11, 1993, a day after their receipt of the MTC’s decision. On March 16, 1993, or five days later, the MTC transmitted the records of the case to the RTC. On March 29, 1993, the private respondents filed a motion for the immediate execution of the decision. As noted earlier, petitioners opposed the motion on the ground that they were co-owners of the property. On June 10, 1993, the RTC denied the motion for execution and directed petitioners to file a supersedeas bond. On the authority of the RTC order, petitioners filed a cash bond, which was later substituted with a surety bond.

We agree with the Court of Appeals that the bond was filed out of time. The motion for execution was filed eighteen days from the date the petitioners received a copy of the MTC’s decision, after the appeal had already been perfected. Because no supersedeas bond had been filed within the period for appeal, a writ of execution should have been issued as a matter of right. Petitioners manifestly failed to adduce a compelling reason to justify a departure from the aforecited rule.

Petitioners contend that the delay should be excused because the MTC, without fixing the amount of the bond, transmitted the records of the case to the RTC even before the perfection of the appeal,[14] i.e., the expiration of the period for filing an appeal.[15] Hence, they did not know whether to file a bond with the RTC or with the MTC. Neither were they certain of the amount of the bond.

How the Amount of Supersedeas

Bond Is Determined

Petitioners need not require the MTC to fix the amount of the supersedeas bond. They could have computed this themselves. As early as 1947, we have held in *Aylon vs. Jugo and De Pablo* that the supersedeas bond is equivalent to the amount of rentals, damages and costs stated in the judgment:[16]

“x x x. Under the provisions of Section 8 of the Rule, a justice of the peace or a municipal court may require the defendant to file a bond for an amount which would cover the stipulated rentals, as found by the judgment of the Court, or the reasonable value for the use and occupation of the premises, at the rate determined by the judgment, damages and costs down to the time of the final judgment in the action. The reasonable value for the use and occupation of the premises, the possession of which is sought to be recovered, is that fixed by the Court in the judgment, because the rental stipulated in the contract of lease that has expired or terminated may no longer be the reasonable value for the use and occupation of the premises as a result or by reason of the change or rise in values. But the bond together with the appeal is only to prevent the immediate execution of a judgment rendered against the defendant in forcible entry and detainer cases. Such execution must be prevented further by paying to the plaintiff or depositing with the Court of First Instance, during the pendency

of the appeal, the stipulated rental due from time to time under the contract, as found by the judgment of the Court, or, in the absence of a contract, the reasonable value for the use and occupation of the premises for the preceding month, on or before the tenth day of each calendar month, at the rate determined by the judgment.” (Underscoring supplied).

Under Section 8 of Rule 70, the supersedeas bond shall be equivalent to the unpaid rentals, damages and costs which accrued before the decision was rendered, as determined by the MTC in the said decision.[17] The bond does not answer for amounts accruing during the pendency of the appeal, which are, in turn, the subject of the periodic deposits to be made by the defendant.[18]

In the present case, the MTC clearly stated in its March 5, 1993 decision that petitioners should pay rentals of P50,000 a month from April 7, 1992 until they shall have vacated the lots. The amount comprising the supersedeas bond and the periodic deposits, therefore, is evident and computable from the MTC’s decision.

Where Is the

Supersedeas Bond Filed?

In the light of the peculiar circumstances of this case, petitioners allege that they could not determine whether to file the supersedeas bond with the MTC or the RTC. Thus, they argue:[19]

“28. In the facts of the dispute involved in his petition, the court of origin cannot fix the amount of supersedeas bond since the records are no longer with it. The RTC on the other hand cannot fix the amount of supersedeas bond since the appeal has not yet been perfected and, after the same has been perfected, the unlawful detainer case records or expediente (case folder) must first pass through several administrative processes such as docketing, checking for completeness of expediente, raffle and finally taking ‘cognizance’ or initial action of the said appeal by the branch of the RTC to which it was raffled.”

Petitioners’ submissions are meritless. As earlier observed, there is no need for either the MTC or the RTC to fix the amount of the supersedeas bond, the same being manifest in the face of the MTC’s decision. Moreover, petitioner failed to file the bond on time not because they did not know where to file it, but because they believed that they should not do so. Hence, their opposition to the motion for execution was based on their alleged co-ownership of the property. It was only before the Court of Appeals that they claimed confusion on where the bond should be filed. The Court of Appeals discarded petitioners’ argument in this wise:

“Their claim that they did not know where to file the supersedeas bond is being made only now. Indeed, in opposing petitioners’ motion for execution they based their opposition not on this ground but on the claim that since they were claiming to be co-owners of the lots in question, their claim would be rendered moot and academic if execution were ordered pending appeal. It is, therefore, not true that they were prevented from filing a supersedeas bond because the MTC transmitted the records of the case to the RTC before the expiration of private respondents’ period of appeal.”

Petitioners also argue that *Laurel vs. Abalos*[20] should be applied here. In that case, this Court held that “[w]here supervening events occurring subsequent to the judgment bring about a material change in the situation of the parties, which makes the execution inequitable, or where there is no compelling urgency for the execution because it is not justified by the prevailing circumstances, the court may stay immediate execution of the judgment.”[21] They also allege that the “immediate execution of judgment of the inferior court will cause irreparable injury[22] to the petitioners herein who stand to lose their home, business and source of livelihood x x x.”[23]

We are not persuaded. We do not find in this case any supervening circumstance or any material change in the situation of the parties, which would render inequitable the immediate execution of the judgment pending appeal. We agree with the disquisition of Respondent Court on this point:

“It is also argued that this case falls under the exception to the rule making Rule 70, sec. 8 mandatory because of supervening events which bring about a material change in the situation of the parties and make the execution pending appeal inequitable or because there is no urgency for the execution under the circumstances.

The case in which this exception was applied was that of *Laurel v. Abalos*, 30 SCRA 281 (1969). The present case is, however, a far cry from that case. In *Laurel v. Abalos* there was probability that the plaintiff in the ejectment case would lose the property and therefore, his right to eject the defendant became doubtful because, while the appeal of the defendant was pending, another court declared the plaintiff’s title to be null and void at the instance of plaintiffs’ predecessor-in-interest. In the present case, no such probability exists. What is there is only an allegation by private respondents’ ejectment suit, that they are co-owners of the lots in question. What is noteworthy in this case is that the titles to the lots are in the names of petitioners and, except for the claim of ownership put up as a defense by the defendants, there is otherwise no action questioning the validity of petitioners’ titles. Indeed no heirs of Chua Hai has ever claimed ownership of the lots in question.

There is, therefore, no basis for private respondents’ contention that because of a supervening event -- of which there is none -- there is no compelling necessity for ordering execution of the decision in the ejectment case based on private respondents’ failure to file a supersedeas bond and deposit the monthly rentals within the time provided by law.”

The allegation of Petitioner Marciano Chua that he, as a co-owner of the subject property, has filed an action for partition does not constitute a compelling reason to further delay the execution of the judgment. An ejectment suit is conclusive only on the issue of material possession or possession de facto of the property under litigation, [24] not on the issue of ownership. Section 7[25] of Rule 70 of the Rules of Court is clear on this:

“SEC. 7. Judgment conclusive only on possession; not conclusive in actions involving title or ownership. -- The judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no wise bind the title or affect the ownership of the land or building. Such judgment shall not bar an action between the same parties respecting title to the land or building, nor shall it be held conclusive of the facts therein found in a case between the same parties upon a different cause of action not involving possession.”

The pendency of the action for partition, where ownership is one of the principal issues, does not preclude the execution of the judgment in the ejectment suit. Such action for partition is entirely independent of the ejectment suit.[26] On the other hand, the issue of ownership is considered in an ejectment suit only for the limited purpose of determining who between the contending parties has the better right to possession.[27] Moreover, it should be stressed that we are not being called upon here to decide which of the parties has a better right of possession, let alone, a better title to the property. The only issue in this case is whether or not a writ of execution should be issued pending appeal of the ejectment suit.

In any event, it is erroneous to characterize the partition suit as a compelling reason to stay the execution of the judgment pending appeal. On the contrary, the fact that the titles to the disputed lots are in the name of Private Respondent Mariano C. Moreno, and not in the name of petitioners or their father Chua Hai, justifies the transfer of possession of the said property to the private respondents, at least during the appeal. The question of “irreparable injury” to petitioners, on the other hand, cannot be discussed at this forum, for this Court is not a trier of facts.[28] In any case, this question of “irreparable injury” is, at best, speculative and conjectural, and deserves no further disquisition.

Coming back to the original question, the bond should be filed before the MTC or, where the records have been forwarded to the RTC, before the latter court. In either case, it should be done during the period of appeal.

Secondary Issue:

Deprivation of Property Without Due Process

Petitioners submit that they are “the exclusive and absolute owners of successful and profit[-]generating businesses located in [the] parcel of land in question.” Thus, if the judgment of ejectment is to be executed, private respondents will get possession not only of the parcel of land, but also of the improvements thereon which are integral to the business of petitioners.[29] They further argue that the rights of the petitioners over the improvements located in the land are still to be resolved in the ejectment suit on appeal and in the partition case.[30]

Petitioners’ submissions are irrelevant. In the first place, the present case involves only the propriety of issuing a writ of execution pending the appeal. It is not conclusive on the right of possession of the land[31] -- let alone the improvements therein[32] -- which is the main issue in the appealed ejectment suit. In the second place, any of the perceived injuries to their business could have been avoided by the simple expedient of filing a supersedeas bond pursuant to Section 8 of Rule 70. Petitioners had an opportunity to file the bond, but they did not do so on time. They cannot now complain of alleged deprivation of property without due process.

In an action for ejectment or for recovery of possession of real property, it is well-settled that the defendant’s claims for the value of the improvements on the property or necessary expenses for its preservation should be interposed as compulsory counterclaims.[33]

WHEREFORE, the petition is hereby DENIED and the assailed Decision and Resolution of the Court of Appeals are AFFIRMED. Costs against petitioners.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Rollo, pp. 235-244.

[2] Second Division composed of J. Vicente V. Mendoza (now associate justice of this Court), ponente; and JJ. Jesus M. Elbinias and Lourdes K. Tayao-Jaguros, concurring.

[3] Rollo, p. 243; Decision, p. 9.

[4] Rollo, p. 283.

[5] Rollo, pp. 237-239; Decision, pp. 3-5.

[6] 30 SCRA 281, October 31, 1969.

[7] This case was deemed submitted for resolution upon this Court’s receipt on May 20, 1996 of petitioners’ memorandum.

[8] Rollo, p. 431.

[9] Rollo, pp. 75-76; Petition, pp. 10-11; original text in upper case.

[10] Rule 70, § 8 of the old Rules; See also Rule 70, § 19 of the 1997 Rules of Civil Procedure for changes.

[11] *Acibo vs. Macadaeg*, 11 SCRA 446, June 30, 1964.

[12] *Centrum Agri-Business Realty Corporation vs. Katalbas-Moscardon*, 247 SCRA 145, 173, August 11, 1995; *San Manuel Wood Products, Inc. vs. Tupas*, 249 SCRA 466, 475, October 25, 1995; *Felizardo vs. Court of*

Appeals, 233 SCRA 220, June 15, 1994; Galan Realty Co., Inc. vs. Arranz, 237 SCRA 770, October 27, 1994.

[13] Acibo vs. Macadaeg, 11 SCRA 446, June 30, 1964, per Regala, J.

[14] Under par. 23 of the Interim Rules and Guidelines relative to the implementation of BP 129, which applies to this case, “the perfection of the appeal shall be upon the expiration of the last day to appeal by any party.” Under the 1997 amendments to the Rules of Court, however, the prevailing rule states that “a party’s appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.” (Rule 41, §. 9.)

[15] Rollo, p. 467; Petitioners’ Memorandum, p. 8.

[16] 78 Phil. 816, 818-819, July 31, 1947, per Padilla, J.

[17] Cordova vs. Labayen, 249 SCRA 172, 178, October 10, 1995.

[18] De Laureano vs. Adil, 72 SCRA 148, July 29, 1976.

[19] Rollo, p. 470; Petitioners’ Memorandum, p. 11.

[20] 30 SCRA 281, October 31, 1969, per Castro, J.

[21] Ibid., p. 291.

[22] According to petitioners, immediate execution of judgment will result in the following:

“a. Dispossession of the petitioners herein of the parcels of land which, according to their knowledge, are theirs by virtue of their inheritance.

b. Dispossession of the petitioners herein of their business and property established, maintained and made a success through their own hard labor and thriftiness, and which business are [sic] the sole source of livelihood of the petitioners herein inclusive of the members of their family.

c. Dispossession of the petitioners herein and their family of their homes built through their own labor, sweat and blood without any other alternative to go to.

d. Giving to the private respondents herein possession of the entirety of the land in question which they will not be able to oversee personally since they live in Greenhills, San Juan, Metro Manila.

e. Giving to the private respondents herein the successful business and property of the petitioners herein without even said private respondents doing anything to put up said business and property thereby depriving the petitioners of their property and source of livelihood.

f. Giving to the private respondents herein dwelling places they may not even use for they live in their own house at Greenhills, San Juan, Metro Manila.

g. Worse, in the event that the petitioners herein are upheld in their action for partition pending before and to be decided by the branch of Regional Trial Court which is the same court that was called to order the immediate execution of the judgment of the inferior court, the private respondents herein will lose their right to eject the petitioners herein who in turn will be declared co-owners of the parcels of lands in question. Thus, the court a quo will then be constrained to put the petitioners herein in possession of the parcels of lands they inherited from their father, Chua Hai, the business and property they established and maintained through their own hard labor, and the homes they have known as theirs for so long.”

[23] Rollo, p. 476; Petitioners’ Memorandum, p. 17.

[24] *University Physicians Services, Inc. vs. Court of Appeals*, 233 SCRA 86, 89, June 13, 1994; *De Luna vs. Court of Appeals*, 212 SCRA 276, August 6, 1992; *Presco vs. Court of Appeals*, 192 SCRA 232, December 10, 1990; *Alvir vs. Hon. Vera, et al.*, 130 SCRA 357, July 16, 1984.

[25] Now Rule 70, § 18 of the 1997 Rules of Civil Procedure.

[26] Cf. *Ramirez vs. Bleza*, 106 SCRA 187, 194, July 30, 1981

[27] *Lao vs. Court of Appeals, et al.*, G.R. No. 115307, July 8, 1997, p. 1, per Panganiban, J.

[28] *Laureano Investment & Development Corporation vs. Court of Appeals, et al.*, G.R. No. 100468, May 6, 1997, pp. 15-16, citing *Trade Unions of the Philippines vs. Laguesma*, 236 SCRA 586, September 21, 1994.

[29] Rollo, p. 485; Petitioners' Memorandum, p. 26.

[30] Rollo, p. 487; Petitioners' Memorandum, p. 28.

[31] *Lim Kieh Tong, Inc. vs. Court of Appeals*, 195 SCRA 398, March 18, 1991.

[32] See *Cagayan de Oro City Landless Residents Asso. Inc. vs. Court of Appeals*, 254 SCRA 220, March 4, 1996 citing *Joven vs. Court of Appeals*, 212 SCRA 700, August 20, 1992; *Ganadin vs. Ramos*, 99 SCRA 613, September 11, 1980.

[33] *Meliton vs. Court of Appeals*, 216 SCRA 485, 493, December 11, 1992, per Regalado, J.

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