

ALFREDO M. DESAVILLE, JR., PETITIONER, VS. HON. COURT OF APPEALS, HON. HELEN M. RICAFORT, PRESIDING JUDGE, RTC, BRANCH 260, PARAÑAQUE; ROBERT V. GATCHALIAN, INC., RESPONDENTS.

G.R. No. 128310. August 13, 2004

Ponente: CORONA, J.

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CORONA, J.:

This petition for review under Rule 45 of the Rules of Court assails the decision[1] and resolution[2] of the Court of Appeals[3] in CA-G.R. SP No. 40691, dated October 22, 1996 and February 17, 1997, respectively. Said decision dismissed the petition for certiorari and prohibition which sought to set aside the February 27, 1996[4] and April 24, 1996[5] orders[6] of the Regional Trial Court of Parañaque, Branch 260, in Civil Case No. 94-0289, entitled “Robert V. Gatchalian, Inc. vs. Alfredo M. Desaville, Jr.”

On or about February 11, 1992, petitioner Alfredo M. Desaville Jr. entered into a contract to sell with private respondent Robert V. Gatchalian, Inc., whereby petitioner agreed to buy on installment basis a house and lot known as Blk. 1, Lot 2, Phase II, R. Medina Subdivision, Sucat, Parañaque. The installment price for the lot was P437,400 while that of the three-bedroom house was P1,362,600, or a total installment price of P1,800,000. Petitioner paid P882,810.99 upon signing the contract.

Due to the failure of petitioner to make further payments, however, private respondent filed, on September 26, 1994, a complaint for recovery of possession of the property based on the cancellation of the contract to sell between petitioner and private respondent.

On November 3, 1995, the trial court rendered a decision in favor of private respondent, the dispositive portion of which read:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff, as follows:

- Ordering the defendant and all persons claiming title under him to vacate the subject property and surrender possession of the same to plaintiff;
- Ordering the defendant and all persons claiming title under him to pay rentals to the plaintiff in the amount of P5,000.00 each month from May, 1994 until possession has been transferred to the latter;
- Ordering the defendant to pay attorney’s fees in the amount of P25, 000.00 plus costs.

SO ORDERED.[7]

On November 17, 1995, petitioner received a copy of the decision of the trial court. He subsequently filed his notice of appeal on November 24, 1995.

For his part, private respondent filed, on December 4, 1995, a motion for execution of judgment pending appeal.

The next day, December 5, 1995, respondent judge issued an order approving petitioner's notice of appeal and directing the clerk of court to transmit the records of the case to the Court of Appeals.

On January 24, 1996, private respondent, pursuant to its earlier motion to execute judgment pending appeal, posted a bond in the amount of P200,000.

On February 5, 1996, respondent judge released the assailed order granting private respondent's motion for execution pending appeal and issued the corresponding writ of execution.

In response thereto, petitioner, on February 13, 1996, filed an urgent motion to set aside the order granting execution pending appeal and to allow petitioner to post a counterbond in the same amount posted by private respondent in order to stay the execution of the decision.

On February 22, 1996, petitioner posted the said counterbond in the amount of P200,000.

On February 27, 1996, respondent judge issued the first questioned order expunging from the records the counterbond posted by petitioner on the ground that it was "in a quandary on the purpose of said bond."

The respondent judge also denied, in an order dated March 18, 1996, petitioner's motion to set aside the order issuing the writ of execution of judgment pending appeal.

On April 24, 1996, petitioner's motion for reconsideration was also denied.

On May 21, 1996, the petitioner filed in the Court of Appeals a petition for certiorari seeking, among others, the nullification of the orders of the respondent judge issuing the writ of execution pending appeal and denying his motion to admit the counterbond to stay execution of the decision.

The Court of Appeals, in a decision dated October 22, 1996, upheld the validity of the assailed orders of respondent judge. It held that, even if a losing party has already filed a notice of appeal and has thereby perfected his appeal, the winning party is not deprived of the right to the remedies still available to him, including the filing of a motion for execution pending appeal, provided his own deadline to appeal has not yet lapsed. It also found no grave abuse of discretion on the part of respondent judge in expunging the counterbond filed by petitioner on the ground that it was filed without approval and authority of the court. The dispositive portion of the decision read:

WHEREFORE, premises considered, the instant petition is DISMISSED for lack of merit.[8]

Hence, the instant petition, raising the following issues:

- Did respondent trial court and court of appeals commit questions or errors of law in granting the execution of judgment pending appeal and denying the counterbond filed for purposes of staying execution of judgment pending appeal?
- May the payment by petitioner of the sum of P882, 810. 00 under the contract to sell not be considered as very material and significant in ordering petitioner and all persons claiming rights under him to vacate and surrender possession of the subject property and to pay attorney's fees in the amount of P25, 000.00 without giving him the least opportunity to pursue his perfected appeal even after he had filed his counterbond for purposes of staying execution pending appeal?[9]

Petitioner contends that public respondent Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petition for certiorari questioning the validity of the orders of RTC Judge Helen Ricafort. According to petitioner, respondent judge should have denied the motion for execution of the judgment pending appeal because it was filed when the appeal had already been perfected and the trial court had lost jurisdiction over the case. He further contends that his right to due process was violated when he was not

heard prior to the issuance of the writ of execution pending appeal. Moreover, he imputes grave abuse of discretion to respondent judge in disapproving the counterbond he posted to stay the execution of the decision. He argues that it was mandatory on the part of respondent judge to admit the bond due to the compulsory language of Rule 39, Section 3 of the old Rules of Civil Procedure.[10]

Respondent, on the other hand, claims that the petition is frivolous and dilatory, and petitioner is merely attempting to buy time and hold the court at bay to delay execution of the decision.

In the meantime, private respondent found in the course of an ocular inspection that petitioner had, on the second week of August 1999, abandoned the premises subject of the instant petition. Hence, in a resolution dated September 13, 1999, this Court required the petitioner to comment on private respondent's manifestation[11] that this case has become moot and academic, the original action being one for recovery of possession. Unable to locate the whereabouts of petitioner, his counsel was compelled to submit the matter to the sound discretion of the Court.

Clearly, the present petition has become moot and academic. The main issue in this case was the validity of public respondent's orders which granted the execution of a judgment directing petitioner to vacate the subject property and surrender its possession to private respondent. The petitioner's subsequent abandonment of the premises could only mean that he had finally decided to comply with the order of the court a quo. There was no better proof of petitioner's loss of interest in the case. Under the circumstances, our opinion will serve no useful purpose.

Courts of justice constituted to pass upon substantial rights will not consider questions where no actual interests are involved. Thus, the well-settled rule that courts will not determine a moot question.[12] Where the issues have become moot and academic, there ceases to be any justiciable controversy, thus rendering the resolution of the same of no practical value.[13] Courts will decline jurisdiction over moot cases[14] because there is no substantial relief to which petitioner will be entitled and which will anyway be negated by the dismissal of the petition.[15] This Court will therefore abstain from expressing its opinion in a case where no legal relief is needed or called for.

WHEREFORE, the petition is hereby DENIED for being moot and academic.

SO ORDERED.

Panganiban, (Chairman), and Carpio-Morales, JJ., concur.
Sandoval-Gutierrez, J., on leave.

[1] Penned by Associate Justice Maximiano C. Asuncion and concurred in by Associate Justices Salome Montoya and Godardo Jacinto; Rollo, pp. 31-36.

[2] Id., p. 45.

[3] Fifteenth Division.

[4] Id., p. 30.

[5] Records, pp. 51-52.

[6] Penned by Judge Helen B. Ricafort.

[7] Id., p. 20.

[8] Id., p. 36.

[9] Id., p. 73.

[10] SEC. 3. Stay of Execution. – Execution issued before the expiration of the time to appeal may be stayed upon the approval by the court of a sufficient supersedeas bond filed by the appellant, conditioned upon the performance of the judgment or order appealed from in case it be affirmed wholly or in part. The bond thus given may be proceeded against on motion before the trial court, with notice to the surety, after the case is remanded to it by the appellate court.

[11] Id., p. 88.

[12] Cole vs. Court of Appeals, 348 SCRA 692.

[13] Garcia vs. Commission on Elections, 258 SCRA 754 [1996].

[14] Royal Cargo Corporation vs. Civil Aeronautics Board, G.R. Nos. 103055-56, January 26, 2004.

[15] Gancho-on vs. Secretary of labor and Employment, 271 SCRA 204 [1997].

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