

AZUCENA GO AND REGENA GLORIA SIONG, PETITIONERS, VS. COURT OF APPEALS AND STAR GROUP RESOURCES AND DEVELOPMENT, INC., RESPONDENTS.

G.R. No. 128954. October 08, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Where the trial court abuses its discretion by indefinitely suspending summary proceedings involving ejectment cases, a petition for certiorari may be entertained by the proper court to correct the blunder. In the interest of justice and in view of the procedural void on the subject, an appeal may be treated as a petition for certiorari for this purpose and only in this instance, *pro hac vice*.

The Case

The petition for review on certiorari before us seeks to set aside and reverse the consolidated Decision of the Court of Appeals[1] (CA) promulgated on March 4, 1997, in CA-GR SP No. 37306 and CA-GR SP No. 39403, which disallowed the suspension of the ejectment proceedings, the decretal portion of which reads:

"It bears mentioning again, that due to petitioners' apparent dilatory tactics prolonging both the ejectment and specific performance proceedings, we are convinced beyond cavil that the ejectment case should proceed independently of the specific performance case.

"WHEREFORE, the Orders dated August 30, 1995 and October 17, 1995 issued by the respondent Regional Trial Court (Branch 34) of Iloilo City in Civil Case No. 21713 are declared NULL and VOID on the sole ground of non-compliance with the mandate of Section 14, Article VIII of the Constitution.

"The petition for certiorari assailing the Orders dated January 27, 1995 and March 24, 1995 issued by the same respondent Regional Trial Court (Branch 34) of Iloilo City in Civil Case No. 21713; and the supplemental petition for certiorari assailing the Orders dated February 14, 1996 and March 1, 1996 issued by the respondent MTCC of Iloilo City (Branch 1) in Civil Case No. 332 (93) are DENIED for lack of merit.

"The writ of preliminary injunction is hereby LIFTED."[2]

The Facts

The undisputed facts as found by Respondent Court are reproduced hereunder:

"Private respondent filed with the Municipal Trial Court in Cities (MTCC) of Iloilo City (Branch 1) an ejectment case [docketed as Civil Case No. 332(93)] against petitioners. Upon motion of petitioners, said court issued an Order dated November 29, 1993 holding in abeyance the preliminary conference in said case until after the case for specific performance docketed as Civil Case No. 21142 likewise involving the same parties shall have been finally decided by the RTC of Iloilo City (Branch 37).

"An appeal was taken by private respondent from the aforesaid Order which was assigned to herein public respondent RTC of Iloilo City (Branch 34).

"Thereafter, petitioners filed with the respondent RTC a motion to dismiss the appeal on the ground that the appealed order is interlocutory and therefore not appealable. Said motion was denied by the respondent RTC (Branch 34) per its Order dated January 27, 1995.

"Petitioners subsequently filed a motion for reconsideration which was likewise denied per Order dated March 24, 1995.

"Hence, petitioners filed the present petition for certiorari, docketed as SP No. 37306, raising the issue of whether or not the respondent RTC (Branch 34) acted without or in excess of jurisdiction or with grave abuse of discretion in denying petitioner's motion to dismiss appeal.

"Private respondent then filed with respondent RTC a 'Motion to Resume Proceedings'. On August 30, 1995, respondent RTC issued an Order granting said motion and directed the remand of the records of the case to the MTCC (Branch 1) of Iloilo City for further proceedings. Petitioners filed a motion for reconsideration and clarification but the same was denied in the Order dated October 17, 1995.

"Petitioners then filed with this Court the present petition for 'review,' docketed as SP No. 39403, raising the issue of whether or not the same respondent RTC acted without or in excess of jurisdiction or with grave abuse of discretion in ordering the resumption of the proceedings in the MTCC of Iloilo (Branch 1).

"On October 20, 1995, we issued a temporary restraining order enjoining the respondent RTC from further proceeding with Civil Case No. 21713. Sometime after the restraining order lapsed, respondent court remanded the records to the MTCC.

"Petitioners filed with the MTCC a motion to hold in abeyance further proceedings. In the Order dated February 14, 1996, the MTCC denied the motion and set the case for preliminary conference. Petitioners' motion for reconsideration was likewise denied per Order dated March 1, 1996.

"Subsequently, petitioners filed their supplemental petition for review impleading the presiding Judge of the MTCC, raising the issue of whether or not the respondent MTCC erred in resuming the proceedings in view of the timely filing of the petition for 'review,' docketed as SP No. 39403.

"On May 29, 1996, we granted petitioners' motion for a writ of preliminary injunction and ordered herein private and public respondents to refrain from continuing with the proceedings in Civil Case No. 332 (93) before the MTCC until the herein above-entitled petitions are resolved by this Court.

"The issues raised by petitioners in their pleadings are the following[:]

"I. Whether or not the respondent RTC (Branch 34) gravely abused its discretion when it denied the motion to dismiss an appeal from an interlocutory order.

"II. Whether or not the respondent RTC (Branch 34) gravely abused its discretion when it granted private respondent's Motion to Resume Proceedings' and ordered the remand of the records to the MTCC (Branch 1).

"III. Whether or not the respondent MTCC (Branch 1) erred when it resumed the ejectment proceedings despite the timely filing of the petition for 'review'."

Respondent Court's Ruling

Recognizing the existence of a procedural void in the Rules on Summary Procedure, the Court of Appeals sustained the propriety of appeal as a remedy to challenge the suspension of the ejectment suit by the Municipal Trial Court in Cities (MTCC) of Iloilo City:

"Verily, the respondent RTC was cognizant of the impropriety of an appeal from an interlocutory order. However, in denying the motion to dismiss the appeal it considered the following circumstances: 1) the procedural void where the aggrieved party (herein private respondent) will have no remedy for the ventilation

of his rights; and 2) the fact that herein petitioners as plaintiffs in the case for specific performance (Civil Case No. 21142) also filed a motion to hold in abeyance the pre-trial of said case.

"We find that the respondent RTC did not abuse its discretion in taking cognizance of the appeal. Neither did it act without or in excess of its jurisdiction.

"First, it must be stated that the purpose of the Rule[s] on Summary Procedure is 'to achieve an expeditious and inexpensive determination of cases without regard to technical rules.' (Section 36, Chapter III, B.P. Blg. 129).

"Apparently, the prohibition against petitions for certiorari involving interlocutory orders was included to forestall useless petitions and avoid undue inconvenience and delays. In effect, a party is prevented from having to assail orders on incidental matters as they are issued by the court. Instead, a party is obliged to contest all such expeditious resolution of the case.

"However, in the case at bench, what the private respondent sought to be reviewed by way of appeal was a suspension order. An order which to all intents and purposes runs counter to the summary nature of ejectment proceedings. Thus, the private respondent as plaintiff in the ejectment proceeding should be given a remedy to question said order which the respondent court had judiciously provided for.

"All told, inaction on the MTCC's order of suspension due to the procedural void created by Section 19 of the Rule[s] on Summary Procedure and Section 2, Rule 41 of the Rules of Court will defeat rather than promote the thrust of the summary rules which is the speedy disposition of cases.

"After all, while technicalities have their uses, resort to them should not be encouraged when they serve only to impede the speedy and just resolution of the case, least of all an ejectment case which, under the Rules, is supposed to be summary in nature (*Top Rate International Services, Inc. vs. CA*, 170 SCRA 84). Further, actions for forcible entry and unlawful detainer must be abated as promptly as possible without any undue reliance on technical and procedural rules which only cause delay because they involve a disturbance of social order (*Co Keng Kian vs. IAC*, 189 SCRA 112)."

The Issues

In their Memorandum, petitioners raise two issues:

1. "The Honorable Court of Appeals erred in allowing the appeal of an interlocutory order." [3]
2. "The Honorable Court of Appeals erred in not applying the exceptions provided for in the *Vda. de Legaspi* and *Wilmon* cases allowing the suspension of the ejectment case based on strong reasons of equity or when the right of the private respondent to the property in question is seriously placed in issue." [4]

In the main, the crux of this case is the propriety of an appeal as a remedy to challenge the suspension of proceedings in an ejectment suit.

The Court's Ruling

The petition is devoid of merit.

First Issue:

Remedy to Contest Interlocutory Orders in Summary Proceedings

In affirming the ruling of the Regional Trial Court (RTC) of Iloilo City, the Court of Appeals noted that there was a "procedural void" in the summary proceedings before the MTCC. The undisputed facts illustrate that existing procedural rules do not provide an adequate remedy to herein private respondent.

It may be recalled that the MTCC, acting on petitioners' motion, held in abeyance the preliminary conference in

the ejectment suit, until the termination of a pending case for specific performance involving the same parties. In challenging the order of the MTCC, herein private respondent appealed to the Regional Trial Court. Petitioners filed a motion to dismiss, arguing that the assailed order was interlocutory and, therefore, not subject to appeal.

Indisputably, the appealed order is interlocutory, for "it does not dispose of the case but leaves something else to be done by the trial court on the merits of the case."^[5] It is axiomatic that an interlocutory order cannot be challenged by an appeal.^[6] Thus, it has been held that "the proper remedy in such cases is an ordinary appeal from an adverse judgment on the merits, incorporating in said appeal the grounds for assailing the interlocutory order. Allowing appeals from interlocutory orders would result in the 'sorry spectacle' of a case being subject of a counterproductive ping-pong to and from the appellate court as often as a trial court is perceived to have made an error in any of its interlocutory rulings. However, where the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief, the Court may allow certiorari as a mode of redress."^[7]

Clearly, private respondent cannot appeal the order, being interlocutory. But neither can it file a petition for certiorari, because ejectment suits fall under the Revised Rules on Summary Procedure, Section 19 (g) of which considers petitions for certiorari prohibited pleadings:

"SEC. 19. Prohibited pleadings and motions. -- The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule:

- (a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;
- (b) Motion for a bill of particulars;
- (c) Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
- (d) Petition for relief from judgment;
- (e) Motion for extension of time to file pleadings, affidavits or any other paper;
- (f) Memoranda;
- (g) Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;
- (h) Motion to declare the defendant in default;
- (i) Dilatory motions for postponement;
- (j) Reply;
- (k) Third party complaints;
- (l) Interventions."

Based on the foregoing, private respondent was literally caught "between Scylla and Charybdis" in the procedural void observed by the Court of Appeals and the RTC. Under these extraordinary circumstances, the Court is constrained to provide it with a remedy consistent with the objective of speedy resolution of cases.

As correctly held by Respondent Court of Appeals, "the purpose of the Rules on Summary Procedure is 'to achieve an expeditious and inexpensive determination of cases without regard to technical rules.' (Section 36, Chapter III, BP Blg. 129)" Pursuant to this objective, the Rules prohibit petitions for certiorari, like a number of other pleadings, in order to prevent unnecessary delays and to expedite the disposition of cases. In this case, however, private respondent challenged the MTCC order delaying the ejectment suit, precisely to avoid the mischief envisioned by the Rules.

Thus, this Court holds that in situations wherein a summary proceeding is suspended indefinitely, a petition for certiorari alleging grave abuse of discretion may be allowed. Because of the extraordinary circumstances in this case, a petition for certiorari, in fact, gives spirit and life to the Rules on Summary Procedure. A contrary ruling would unduly delay the disposition of the case and negate the rationale of the said Rules.

Private respondent herein filed an appeal to question the interlocutory order. This recourse was upheld by the RTC and the CA in order to fill a "procedural void." We affirm the ruling of both the trial court and the Court of Appeals. We hold, however, that the appeal should instead be treated as a petition for certiorari under Rule 65. An appeal ordinarily entails a longer process which negates an expeditious resolution.

Petitioners posit that if such "procedural void" exists, no remedy is sanctioned by law, and the courts thus have no power to provide one. Petitioners aver that the defect lies in the law and can only be remedied by the legislature.

This argument is unacceptable. First, at issue in this case is not a law passed by the legislature, but procedural rules promulgated by the Supreme Court. Section 5, Article VIII of the Constitution, categorically allows the Court to lay down rules concerning, among others, procedure in all courts. Second, courts are "empowered, even obligated, to suspend the operation of the rules," when a rule "deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy such that rigid application thereof frustrates rather than promotes substantial justice." [8] Thus, it has been held that "the power of this Court to suspend its own rules or to except a particular case from [their] operations whenever the purposes of justice require it, cannot be questioned." [9]

Second issue:

Suspension of Ejectment Cases

Petitioners likewise bewail the non-application of the doctrine enunciated by the Court in *Vda. de Legaspi v. Avendano*, [10] subsequently recognized in *Wilmon Auto Supply v. Court of Appeals*, [11] that an ejectment suit may be suspended "if there are strong reasons of equity." In *Vda. de Legaspi*, [12] the Court held:

"Where the action, therefore, is one of illegal detainer, as distinguished from one of forcible entry, and the right of the plaintiff to recover the premises is seriously placed in issue in a proper judicial proceeding, it is more equitable and just and less productive of confusion and disturbance of physical possession, with all its concomitant inconvenience and expenses. For the Court in which the issue of legal possession, whether involving ownership or not, is brought to restrain, should a petition for preliminary injunction be filed with it, the effects of any order or decision in the unlawful detainer case in order to await the final judgment in the more substantive case involving legal possession or ownership. It is only where there has been forcible entry that as a matter of public policy the right to physical possession should be immediately set at rest in favor of the prior possession regardless of the fact that the other party might ultimately be found to have superior claim to the premises involved, thereby to discourage any attempt to recover possession thru force, strategy or stealth and without resorting to the courts."

Thus, petitioners contend that they are entitled to the suspension of the ejectment case, because the right of the private respondent to the property in question was seriously placed in issue in the specific performance case.

The argument is not persuasive. In *Wilmon*, the Court recognized that *Vda. De Legaspi* was an exception to the general rule against suspension of an ejectment proceeding, viz.:

"xxx [A]s regards the seemingly contrary ruling in *Vda. de Legaspi v. Avendano*, 79 SCRA 135 (1977), this Court observed in *Salinas v. Navarro*, 126 SCRA 167, 172-173 (1983), that 'the exception to the rule in this case of *Vda. de Legaspi* is based on strong reasons of equity not found in the present petition. The right of the petitioner is not so seriously placed in issue in the annulment case as to warrant a deviation, on equitable grounds, from the imperative nature of the rule. In the *Vda. de Legaspi* case, execution of the decision in the ejectment case would also have meant demolition of the premises, a factor not present in this petition.'" [13]

The situation in *Vda. de Legaspi*, however, does not obtain in the case at bar. The resolution of the present ejectment suit will not result in the demolition of the premises, an event which would thus entail a categorical, not merely provisional, ruling on the question of ownership. Indeed, petitioners have not cited "strong reasons of equity" to support their prayer for the application of *Vda. De Legaspi*.

Accordingly, we reiterate the Wilmon ruling that "as the law now stands, even when, in forcible entry and unlawful detainer cases, 'the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership,' the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts nevertheless have the undoubted competence to resolve 'the issue of ownership xxx only to determine the issue of possession.'"[14] In this case, there is no need to suspend the ejectment suit, for the issue in litigation involves purely physical and de facto possession, as it is well-settled that whatever pronouncement the court in the ejectment case makes on the issue of ownership is provisional in nature.

WHEREFORE, the petition is hereby DENIED. Costs against petitioners.

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

[1] Penned by J. Alicia Austria-Martinez, with the concurrence of JJ. Gloria C. Paras, division chairman; and Bernado L. Salas, member.

[2] CA Decision, pp. 16-17; rollo, pp. 38-39.

[3] Petitioners' Memorandum, p. 5; rollo, p. 268.

[4] Ibid., p. 10; rollo, p. 273.

[5] Regalado, Remedial Law Compendium, Vol. 1, 6th revised ed., p. 492.

[6] La Tondena Distillers, Inc. v. Ponferrada, 264 SCRA 540, November 21, 1996; Mendoza v. CA, 201 SCRA 343, September 5, 1991; MB Finance Corporation v. Abesamis, 195 SCRA 592, March 22, 1991; Quisumbing v. Gumban, 193 SCRA 520, February 5, 1991.

[7] Salcedo-Ortanez v. Court of Appeals, 235 SCRA 111, August 4, 1994, per Padilla, J.; Marcelo v. de Guzman, 114 SCRA 657, June 29, 1982.

[8] Republic v. Hernandez, 253 SCRA 509, 531, February 9, 1996, per Regalado, J.

[9] De Guzman v. Sandiganbayan, 256 SCRA 171, April 11, 1996, per Francisco, J.

[10] 79 SCRA 135, September 27, 1977.

[11] 208 SCRA 108, April 10, 1992.

[12] Supra, p. 145, per Barredo, J.

[13] Supra, p. 118, per Narvasa, C.J.

[14] Ibid., p. 121.

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