ROSENDO T. UY, MEDRING SIOCO, BOBBY BERNARD S. UY AND LUISA T. UY, PETITIONERS, VS. HONORABLE PEDRO T. SANTIAGO, AS JUDGE OF BRANCH 101, REGIONAL TRIAL COURT OF QUEZON CITY; BEN...

G.R. No. 131237. July 31, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In the instant Petition for Mandamus, petitioners seek to compel respondent Judge to issue a writ of execution pending appeal in the consolidated ejectment cases where judgment has been rendered in their favor in both the Metropolitan and Regional Trial Courts.

The relevant antecedent facts are not disputed:

On December 19, 1996, the Metropolitan Trial Court of Quezon City, Branch 43, rendered a Decision[1] in favor of petitioners in four consolidated ejectment cases.

Three of the cases involving private respondents were appealed and raffled to Branch 101 of the Quezon City Regional Trial Courts, presided by respondent Judge. On July 15, 1997, respondent Judge rendered a Decision affirming in toto the decision of the court a quo.[2] A week thereafter, petitioners filed a Motion for Issuance of Writ of Execution Pending Appeal, to which private respondent filed their Opposition.

Meanwhile, on August 6, 1997, private respondents filed a Petition for Review with the Court of Appeals assailing the Decision of respondent Judge in the ejectment cases.

On August 12, 1997, respondent Judge issued an Order denying petitioners' Motion for Execution Pending Appeal.[3] A Motion for Reconsideration was filed on August 22, 1997, to which an Opposition was filed by private respondents.

On October 7, 1997, respondent Judge issued an Order denying petitioners' Motion for Reconsideration.[4]

Hence, the instant Petition for Mandamus for the issuance of a writ of execution pending appeal, which according to petitioners is the mandatory duty of respondent Judge.

As basis for denying petitioners' Motion for Execution Pending Appeal, respondent Judge cited private respondents' compliance with the requirements to stay immediate execution of judgment, namely: (1) perfection of appeal; (2) filing of a supersedeas bond; and (3) periodic deposit of the rentals falling due during the pendency of the appeal.

Petitioners contend that Rule 70, Section 10, which enumerated the above-mentioned requirements, has already been expressly repealed by Rule 70, Section 21 of the Revised Rules of Civil Procedure and that the execution of appealed ejectment decisions with the Regional Trial Courts cannot now be stayed.

This issue of whether or not decisions of Regional Trial Courts in appealed ejectment cases pending appeal with the Court of Appeals are immediately executory and cannot be stayed has been answered in the recent case of Northcastle Properties & Estate Corp. v. Judge Paas.[5] Upholding the position that it is the ministerial duty of the Regional Trial Court, as appellate court, to immediately execute its decision, this Court elucidated thus --

> "In her answer, Judge Paas contended that Section 19, Rule 70 of the Rules on Civil Procedure allows the stay of execution of judgment if the defendant files sufficient supersedeas bond and deposits to the appellate court from time to time the amount of rent due under the contract. Since Thadanis deposited sufficient supersedeas bond and are up to date in depositing the monthly rental of P17,000.00 including 20% rental increase, Judge Paas stayed execution of the judgment. She cited the case of Heirs of J.B.L. Reyes vs. Metro Manila Builders, Inc., where the Court of Appeals granted a temporary restraining order restraining the court of origin from enforcing the execution until final disposition of the case.
>
> Northcastle on the other hand argued that the word "shall" in Section 21, Rule 70 of the 1997 Rules of Civil Procedure means that it is the ministerial duty of the court to immediately execute the decision. Such interpretation, according to complainants, is consistent with the summary nature of ejectment proceedings.
>
> A careful perusal of the two provisions reveals the applicability of Section 19 only to ejectment cases pending appeal with the Regional Trial Court, and Section 21 to those decided by the Regional Trial Court.
>
> Section 19, Rule 70 of the 1997 Rules on Civil Procedure provides:
>
> `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 other papers, to the clerk of the Regional Trial Court to which the action is appealed.'
>
> `All amounts so paid to the appellate court shall be deposited with said court or authorized government depositary bank, and shall be held there until the final disposition of the appeal, unless the court, by agreement of the interested parties, or in the absence of reasonable grounds of opposition to a motion to withdraw, or for justifiable reasons, shall decree otherwise. Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the appellate court, upon motion of the plaintiff, and upon proof of such failure, shall order the execution of the judgment appealed from with respect to the restoration of possession, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on the merits.'
>
> `After the case is decided by the Regional Trial Court, any money paid to the Court by the defendant for purposes of the stay of execution shall be disposed of in accordance with the provisions of the judgment of the Regional Trial Court. In any case wherein it appears that the defendant has been deprived of the lawful possession of land or building pending the appeal by virtue of the execution of the judgment of the Municipal Trial Court, damages for such deprivation of possession and restoration of possession may be allowed the defendant in the judgment of the Regional Trial Court disposing of the appeal.'
>
> On the other hand, Section 21, Rule 70 of the 1997 Rules on Civil Procedure provides:
>
> `Section 21. Immediate execution on appeal to Court of Appeals or Supreme Court - The judgment of the

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> Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom.'
>
> We agree with the complainants.
>
> The decision of the Regional Trial Court in an ejectment case is immediately executory without prejudice to a petition for review with the Court of Appeals." (emphasized in the original)

From the foregoing, it is clear that 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. On the other hand, once the Regional Trial Court has rendered a decision in its appellate jurisdiction, such decision shall, under Rule 70, Section 21 of the 1997 Rules on Civil Procedure, be immediately executory, without prejudice to an appeal, via a Petition for Review, before the Court of Appeals and/or Supreme Court.

Erasing any doubt on the matter is the more recent case of Teresa T. Gonzales La'O & Co., Inc. vs. Sheriff Hatab,[6] where it was categorically held that -

> "Unlike Rule 70 of the 1964 Revised Rules of Court where the defendant, after perfecting his appeal, could prevent the immediate execution of the judgment by taking an appeal and making a periodic deposit of monthly rentals during the pendency of the appeal and thereby preventing the plaintiff from taking possession of the premises in the meantime, the present wording of Section 21, Rule 70 explicitly provides that the judgment of the regional trial court in ejectment cases appealed to it shall be immediately executory and can be enforced despite the perfection of an appeal to a higher court."

Private respondents' argument that execution pending appeal would deprive them of their right to due process of law as it would render moot and academic their Petition for Review before the Court of Appeals deserves scant consideration. We must stress that what is in issue is only the propriety of issuing a writ of execution pending appeal. It is not conclusive on the right of possession of the land[7] and shall not have any effect on the merits of the ejectment suit still on appeal. Moreover, it must be remembered that ejectment cases are summary in nature for they involve perturbation of social order which must be restored as promptly as possible.[8]

Finding the issuance of the writ of execution pending appeal a clear duty of respondent Judge under the law, mandamus can and should lie against him. Indeed, mandamus will lie to compel a judge or other public official to perform a duty specifically enjoined by law once it is shown that the judge or public official has unlawfully neglected the performance thereof.[9]

WHEREFORE, for the reasons aforestated, the instant Petition for Mandamus is hereby GRANTED. The Orders, dated August 12, 1997 and October 7, 1997 issued by respondent Judge Pedro T. Santiago in Civil Cases Nos. Q-30362-64 are hereby SET ASIDE. Respondent Judge is hereby ordered to cause the immediate issuance of a writ of execution pending appeal in said Civil Cases Nos. Q-30362-64. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] Petition, Annex "A", Decision, Civil Cases Nos. 12745, 12748, 12746 and 13907; Rollo, pp. 10-15.

[2] Id., Annex "B"; Decision, Civil Cases Nos. Q-97-30362, 30363 and 30364; Rollo, pp. 16-20.

[3] Id., Annex "D"; Rollo, pp. 25-26.

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[4] Id., Annex "G"; Rollo, p. 35.

[5] A.M. No. MTJ-99-1206, 22 October 1999.

[6] AM P-99-1337, 5 April 2000.

[7] See Spouses Chua v. Court of Appeals, G.R. No. 113886, 286 SCRA 437 [1998], citing Lim Kieh Tong, Inc. v. Court of Appeals, 195 SCRA 398 (1991)

[8] See Javelosa v. Court of Appeals, G.R. No. 124292 265 SCRA 493 (1996), citing Co Tiamco v. Diaz, 75 Phil. 672 (1946)

[9] Mayuga v. Court of Appeals, G.R. No. 123899, 261 SCRA 309 (1996)

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