

TRINIDAD OCAMPO-CAÑIZA, PETITIONER, VS. HON. FELIX MARTINEZ, ET AL., RESPONDENTS.*G. R. No. 13272. December 26, 1959*

Ponente: MONTEMAYOR, J.

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This is a petition by certiorari, filed by Trinidad Ocampo Caniza, to review the decision of the Court of Appeals, C.A.-G.R. No. 20872-R, October 31, 1957, which holds that under Section 8, Rule 72 of the Rules of Court, the supersedeas bond filed in the case (Civil Case No. 19123, Municipal Court of Manila) could not be executed to implement the decision of the Court of First Instance (Civil Case No. 17059, on appeal).

The facts in this case are not in dispute. Petitioner filed an action against Apolinario Velasco in the Municipal Court of Manila for ejectment and collection of unpaid rentals (Civil Case No. 19123). The Municipal Court rendered judgment in favor of petitioner and ordered Velasco to pay the amount of P2,237.30 for rentals due and unpaid up to January 31, 1952, and to pay monthly rentals from February 1, 1952 at the rate of P750.00 a month, and to vacate the premises.

On April 23, 1952, petitioner as plaintiff in said case, moved for the immediate execution of the decision, which motion, on June 12, 1952, was granted by the Municipal Court (Annex B). On June 13, 1952, defendant Velasco filed a notice of appeal, appeal bond and docket fee, and the Municipal Court allowed the appeal and suspended the writ of execution issued on June 12, 1952, at the same time giving the defendant three days within which to file a supersedeas bond to stay execution, which period was later extended to June 19, 1952 (Annex C). After the perfection of the appeal, the order for immediate execution was stayed, pending filing of supersedeas bond, Annex D.

Defendant Velasco failed to file the supersedeas bond within the period granted him, and on June 20, 1952, the Municipal Court issued an order for the issuance of a writ of execution (Annex E). Possession of the property in question was given to plaintiff. On July 11, 1952, before the records were elevated to the Court of First Instance, Velasco filed a supersedeas bond which was approved by the Municipal Court. On July 21, 1952, Velasco petitioned the Court of First Instance that he be restored to the possession of the property, on the strength of his supersedeas bond. (Annex G). The trial court issued an order dated July 30, 1952, directing the Sheriff to restore possession to him.

Petitioner Trinidad Ocampo-Cañiza then initiated certiorari proceedings in the Court of Appeals, to annul the said order of the Court of First Instance. The Court of Appeals forthwith issued a writ of preliminary injunction upon the filing of a bond in the sum of P2,000.00 pending hearing and final determination of the petition for certiorari. It also denied the urgent motion for dissolution of the writ of preliminary injunction issued by it on July 31, 1952 (Annex H).

On August 5, 1954, the trial court decided Civil Case No. 17050 in favor of plaintiff Trinidad Ocampo-Cañiza, ordering the defendant, Velasco, to pay plaintiff P6,159.74. Later, an order of execution was issued against the

supersedeas bond filed by Velasco.

On February 5, 1957, a first alias writ of execution was issued by the trial court against the supersedeas bond. On March 23, 1957, Velasco filed a motion to quash the alias writ of execution, but it was denied by the trial court. So was a motion for reconsideration.

On July 26, 1957, respondent Velasco filed a petition for injunction in the Court of Appeals (CA-G. R. No. 20872R). It was opposed by herein petitioner Trinidad. On October 31, 1957, the Court of Appeals decided the case in favor of Velasco, ruling that inasmuch as the supersedeas bond did not stay execution of the judgment of the inferior court, the order of execution of the supersedeas bond was not warranted. Petitioner Trinidad moved for reconsideration. Upon denial of said motion, she filed the present appeal or petition to review said decision of the Court of Appeals, which petition was given due course.

The line of reasoning of the Court of Appeals in deciding the case as it did, is reflected in that portion of its decision which we quote:

"Obviously, a defendant, whose appeal takes the ordinary course if properly perfected, is not required to post a supersedeas bond should he not seek the suspension of the execution of the judgment. In the same token, if a supersedeas bond is filed after the execution of the judgment it answers no purpose at all. This is exactly the situation obtaining in the case at bar. The supersedeas bond in question was put up by the herein petitioner after the judgment rendered against him was executed, and notwithstanding the supersedeas bond he had thus filed, he was never restored to the possession of the leased premises. * * *".

In connection with this question of execution of the judgment of the Municipal Court, the Court of Appeals, in its decision, also said the following:

"* * *. In the case at bar, the execution of the judgment was effected before the appeal was certified to the Court of First Instance, and we may logically assume that such execution included both the restoration of the possession of the leased property and the rents due."

The whole trouble with the above ruling and finding is that the Court of Appeals "logically" assumed that the execution effected included the payment of the rents due. This is not correct. Only the possession of property was given to the plaintiff. The back rentals remained unpaid, as shown by the fact that said back rentals including the P2,237.30 which the Municipal Court ordered defendant to pay as rentals in arrears, were included in the decision of the trial court. So, the judgment was only partly executed. It should be borne in mind that there are two parts to an execution of a judgment in a forcible entry and detainer case; one is the restoration of the possession to the plaintiff; second is the payment of back rentals. The Court of Appeals recognizes this principle because in its decision, it made the following citation:

"The execution of the judgment is not only for the restoration of the possession of the premises leased but also for the, payment of the rents due as determined by said judgment, (p. 318, Comments on the Rules of Court by Moran, 1952 edition)."

It is, therefore, a fact that contrary to the conclusion arrived at by the Court of Appeals, the filing of the supersedeas bond of the defendant was not wholly useless and without a purpose for the reason that the defendant was allowed to prosecute his appeal from the judgment of the Municipal Court without paying the back rentals.

The defendant-respondent Velasco contends that the supersedeas bond he have was invalid and void for the reason that it was given out of time, namely, after the execution of the judgment of the Municipal Court and after the latter had lost jurisdiction over the case because of the perfection of the appeal. As already stated, the execution in this case was only partial, not whole. In the second place, it would appear that the supersedeas bond

was filed by the defendant before the record was elevated by the Municipal Court to the Court of First Instance. Furthermore, the defendant should be the last person to question the validity of the supersedeas bond he filed because in the Court of First Instance, not only did he fail to question said validity, but he led the adverse party and the trial court to believe that said supersedeas bond was valid. In fact, he invoked the existence and validity of his supersedeas bond in his attempt to regain possession of the property in question, and the trial court, acting favorably upon his petition, ordered that he, the defendant, be placed in possession. But the Court of Appeals where the plaintiff resorted for relief from this order of the trial court, restrained the enforcement of the trial court's order about giving possession to the defendant, not because the supersedeas bond was invalid, but for the reason that the Court of Appeals deemed it advisable to keep the parties in status quo, giving its reasons therefor.

In view of the foregoing, the appealed decision of the Court of Appeals is hereby reversed, with costs against the respondent-defendant, Apolinario Velasco.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

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