

**MAURO PRIETO, PETITIONER, VS. HON. JUAN P. ENRIQUEZ, AND
CORFESO LICUDINE, RESPONDENTS.***G.R. No. 14310. January 30, 1960*

Ponente: BARRERA, J.

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This case arose from an unlawful detainer suit originally filed by petitioner Mauro Prieto in the Municipal Court of Manila against the respondent Corfeso Licudine.

The Municipal Court of Manila after due trial, entered judgment on June 17, 1954, in favor of petitioner Prieto sentencing the respondent Licudine to vacate the lot in question, to pay Prieto the sum of P285.50, representing unpaid rentals, plus a monthly rental of P14.70 until Licudine vacated the premises, and costs. Licudine appealed the case to the Court of First Instance of Manila. Pending hearing therein, Prieto moved for the execution of the judgment of the Municipal Court on the alleged failure of Licudine to file a supersedeas bond and deposit the monthly payment of P14.70. There was, some dispute in the Court of First Instance as to whether there was default in the payment of these amounts, but finally, the court finding that no such payments had really been made, granted the motion for execution. After the issuance of the corresponding writ and its service on Licudine and upon failure of the latter to remove his house from the land within the period granted by the Sheriff, Prieto filed a motion for the issuance of a demolition order conformably to Section 13, Rule 89, of the Rules of Court. This petition, however, was denied by the Court of First Instance of Manila Judge Hermogenes Concepcion presiding, in its order of August 9, 1955 of the following tenor:

"ORDER

"The petition filed on August 4, 1955 for demolition of house of defendant is hereby denied, this case not having been terminated finally. There might be the possibility for defendant to win, in which case restoration of the house once demolished would be difficult if not impossible.

"SO ORDERED.

A motion for reconsideration of this order having been denied, petitioner Prieto filed a petition for mandamus with this Court (G. R. No. L-9673), praying that the lower court be ordered to issue the order of demolition prayed for in accordance with the provisions of Section 13 of Rule 39. In his answer to this petition, Licudine alleged as special defense that he "need not file a supersedeas bond as he is depositing his current rentals regularly and without fail within the first 10 days of each month with the Court of First Instance of Manila; he is likewise depositing his back rentals regularly and without fail within the first ten days of each month in accordance with the order of the Municipal Court of Manila, Branch II, applying the pertinent provisions of Section 5 of Republic Act No. 1162 regarding payment of arrears in rentals in 18 equal monthly installments".

On August 21, 1956, this Court, finding the reason given for the denial by the court a quo of the motion for demolition as stated in its order of August 9, 1955, above-quoted, untenable, the same was set aside and the case

remanded to the lower court for hearing of the petition for demolition as provided in Section 13, Rule 39 of the Rules of Court.

After the return of that case to the lower court, no hearing as ordered was had for sometime because of the retirement of the then respondent Judge Hermogenes Concepcion, and the delay in the appointment of his successor.

On December 3, 1957, Prieto renewed his motion for the issuance of an order of demolition on the same grounds set forth in his original motion of August 1, 1955. On December 14, 1957, respondent Licudine filed his opposition thereto alleging that there had been filed in the meantime in the Court of First Instance of Manila (Civil Case No. 33385) an expropriation proceeding by the Land Tenure Administration against petitioner Mauro Prieto covering, among others, the lot in question and that under the terms of Republic Act No. 1599 which took effect on June 17, 1956, the ejectment suit against him would have to be suspended until the final termination of the said expropriation proceedings.

On December 27, 1957, the court, Judge Juan P. Enriquez presiding, issued the following order:

"ORDER

"Upon consideration of plaintiff's motion for demolition dated December 3, 1957 and defendant's opposition thereto, and it appearing that the defendant has not filed his supersedeas bond; and even assuming that the allegation of the said defendant to the effect that the land is the object of expropriation proceedings to be true, although no evidence in support thereof has been presented or offered, it appearing however that he has only deposited as monthly rental of P14.70 from April 1954 the total sum of P455.70 instead of P646.80 as required by the decision rendered in this case, the court finds plaintiff's motion to be well taken.

"Wherefore, and in consonance with the decision of the Supreme Court in G. R. No. L-9673, promulgated August 21, 1956, defendant is ordered to remove his house from the premises within ten (10) days from receipt hereof; otherwise upon the expiration of the said period defendant's house shall be demolished at his expense.

"SO ORDERED."

On January 8, 1958, respondent Licudine filed a motion for reconsideration affirming that he had already deposited pursuant to the decision of the Municipal Court all the rentals due and payable up to said date except a balance of P215.00 which he asked he be given at least 15 days within which to deposit, invoking Section 5 of Republic Act 1599.

On January 27, 1958, the court reconsidered its order of December 27, and granted respondent Licudine time until February 10, 1958, within which to deposit the said sum of P215.00. On February 6, Licudine made the deposit.

In the meantime, or on February 1, Prieto in turn filed a motion for reconsideration, which was denied on February 12 as follows:

"Considering that the defendant, pursuant to the order of this Court issued on January 27, 1958, has deposited the sum of P215.00 on February 6, 1958 under Official Receipt No. 179686 and is up to date in the payment of the monthly rentals in the sum of P14.70 as adjudged by the lower court, plaintiff's motion for reconsideration dated February 1, 1958 is hereby denied. Defendant is admonished to deposit with this Court the current rentals of P14.70 a month on or before the due date, otherwise, the corresponding demolition order will issue.

"SO ORDERED."

On February 28, 1958, Prieto filed an urgent motion before this Court in G. R. No. L-9673 praying that this Tribunal set aside the order of the lower court of January 27, 1958, granting the respondent extension of time

within which to deposit the balance of P215.00, and require the lower court to issue the order of demolition. Said urgent motion was denied by this Court on March 3, 1958.

On March 11, 1958, Prieto again filed a motion for demolition with the trial court, which was denied on March 22, 1958.

On July 25, 1958, another motion for demolition was filed by Prieto on the same grounds as before insisted by him, and once more the same was denied by the trial court on August 6, 1958, "it appearing that defendant is up to date in his payment of the monthly rentals". Undaunted, Prieto moved for reconsideration which was likewise denied by the court on August 20, 1958 in the following reasoned

"ORDER

"The Court has before it a motion for reconsideration dated August 11, 1958. Section 8 Rule 72, considered alone would sustain the plaintiff's stand. However, in allowing the defendant to bring up-to-date the back rentals, the Court took into account Republic Act 1162 as amended by Republic Act 1599 and the pendency of Civil Case No. 33385 for expropriation before Branch XV of this Court. Indeed if despite defendant's being up-to-date in the payment of rentals, his house be demolished, such procedure would defeat the purpose of Republic Act 1599. While judgment, specially of high court, should be generally executed, there are well-defined exceptions to the rule as when such execution would be inequitable in view of new element that has arisen in the meantime, as here. Conformably with the above views, this Court as early as January 27, 1958 denied plaintiff's motion for demolition and gave defendant until February 10, 1958 to bring up-to-date his rental,—which order has long become final without any appeal having been taken therefrom by plaintiff.

"Wherefore, not finding the motion for reconsideration to be well taken, the same is hereby denied.

"SO ORDERED."

Thereupon, Prieto filed the present petition for certiorari and mandamus praying for the setting aside of (a) the order of the lower court of January 27, 1958 giving defendant-respondent time until February 10, 1958 to deposit the balance of P215.00; (b) the order of March 22, 1958 denying the motion for the issuance of an order of demolition; (c) the order dated August 6, 1958 likewise denying the subsequent petition for a demolition order; and (c) the order of August 20, 1958 denying his motion for reconsideration, all orders, according to petitioner, being contrary to the provisions of Section 8, Rule 72, of the Rules of Court and Section 5 of Republic Act 1162, as amended by Republic Act 1599, as well as to the decision of this Court in G. R. No. L-9673 of August 21, 1956. Petitioner further prays for an order commanding the respondent Judge or any other judge who may act in his stead, to issue the demolition order and to condemn the respondent to pay the sum of P500.00 as attorney's fees.

From the various pleadings filed by Prieto both in the lower court and in this Court, it would appear that his theory is predicated on the proposition that the act of the trial court in granting respondent Licudine an extension up to February 10, 1958 within which to deposit the sum of P215.00 representing the unpaid balance on account of the arrears in rent, is contrary to the provisions of Section 8 of Rule 72 of the Rules of Court and the pertinent decisions to the effect that such provisions are mandatory and the periods therein provided can not be extended by the trial court.

Undoubtedly, if this case were an ordinary ejectment proceeding, unaffected by Republic Act 1162, as amended by Republic Act 1599, petitioner's contention must be upheld. However, in view of the specific provisions of Section 5 of Republic Act 1599, it seems clear that in this case, as in all cases falling within the scope of this Act, which both parties invoke, the actuations of the lower court are duly justified. For a clear understanding of the

issue, the law is quoted hereunder:

"SEC. 5. From the approval of this Act, even before the commencement of the expropriation herein provided, ejection proceedings against any tenant or occupant of any landed estates or haciendas or lands herein authorized to be expropriated, shall be suspended for a period of two years, upon motion of the defendant, if he pays his current rentals, and such suspension shall continue upon the filing of expropriation proceedings until the final determination of the latter: Provided, however, That if any tenant or occupant is in arrears in the payment of rentals or any amounts due in favor of the owners of said landed estates or haciendas or lands, the amount legally due shall be liquidated and shall be payable in eighteen equal monthly installments from the time of liquidation, but this payment of rentals in arrears shall not be a condition precedent to the suspension of ejection proceedings: * * *".

Under the above quoted provisions, from the approval of the Act on June 17, 1956, and even before the commencement of the expropriation therein provided, ejection proceedings against any tenant or occupant of any land authorized by the law to be expropriated, shall be suspended for a period of 2 years upon motion of the defendant and such suspension shall continue, if expropriation proceeding is instituted within the two-year period, until the final determination thereof and as long as the defendant pays the current rentals. If, in addition, the defendant is in arrears in the payment of rentals or any amounts due in favor of the owner, the same shall be liquidated and be payable in 18 equal monthly installments from the time of liquidation. It is further provided that the payment of rentals in arrears (not the current rentals) shall not be a condition precedent to the suspension of the ejection proceedings.

In the case before us, it appears that at the time the petition for demolition was filed on December 3, 1957, after the institution of the expropriation proceedings, the lower court found the defendant Licudine in arrears of rent to the amount of P215.00 only. Pursuant to the provisions of Republic Act 1599, the court could, if it saw fit, have required the defendant Licudine to pay such arrears in 18 equal monthly installments, but instead of doing so, it ordered defendant to deposit the total amount on or before February 10, 1958, which is well within the 18 months authorized by law. It follows, therefore, that the lower court, in issuing its order of January 27, 1958 giving the defendant time until February 10, 1958 to deposit the arrears in rent in the total sum of P215.00, acted within its jurisdiction and in the proper use of its sound discretion.

The denial of the issuance of a demolition order under the circumstances of the case, likewise, was legal and proper, in view of the finding of the court that the defendant Licudine was up-to-date in the payment of the current monthly rentals in the sum of P14.70 as adjudged by the Municipal Court. This denial was in consonance with the provisions of Section 5 of Republic Act 1599, which authorizes suspension of "the ejection proceedings, (in the present incident, the execution of the judgment of the Municipal Court, pending the appeal) if the defendant pays his current rentals.

Wherefore, there being no reversible error in the orders of the trial court complained of, the same are hereby affirmed and the present petition dismissed, with costs against the petitioner. So ordered.

Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia and Gutierrez David, JJ., concur.
Paras, C. J., reserves vote.

Bengzon and Padilla, JJ., took no part.

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