

SPOUSES OSCAR AND HAYDEE BADILLO, PETITIONERS, VS. HON. ARTURO G. TAYAG AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 79, MALOLOS, BULACAN; AND THE NATIONAL HOUSING AUT...

G.R. No. 143976. April 03, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The National Housing Authority (NHA), a government-owned and controlled corporation, is exempt from paying appellate docket fees when it sues or is sued in relation to its governmental function of providing mass housing. It is likewise exempt from filing a supersedeas bond that will stay the execution of a forcible entry case. In order to have some bases for fixing the reasonable amount of rent in a forcible entry case, courts must rely on the evidence presented by the parties.

The Case

Before us are two (2) consolidated Petitions for Review under Rule 45 of the Rules of Court, seeking to set aside two rulings of the Regional Trial Court (RTC) of Malolos, Bulacan. The first one is the July 19, 2000 Order[1] issued by Branch 79 in Case No. P-410-M-2000, annulling both the May 23, 2000 Order[2] and the May 30, 2000 Writ of Execution[3] issued by the Municipal Trial Court (MTC) of San Jose del Monte, Bulacan. The dispositive portion of this assailed RTC Order reads as follows:

“WHEREFORE, the [O]rder of the [t]rial [c]ourt dated May 23, 2000 is hereby annulled.

“The [W]rit of [E]xecution issued by the clerk of court of the Municipal Trial Court of San Jose del Monte Bulacan is also annulled.

“Prohibiting the [t]rial [c]ourt from enforcing the [W]rit; and commanding the Municipal Trial Court to transmit the records of the case to the Regional Trial Court of Bulacan together with the Money Order of [t]wo hundred [p]esos Annex ‘I’ and ‘I-2’ as appellate docket fee and the alleged Supersedeas Bond per [Annex] ‘A’, ‘A-1’, ‘A-2’ to ‘A-3’ of the OPPOSITION TO MOTION TO CLARIFY (with manifestation) filed by Petitioner NHA received by this [C]ourt on July 17, 2000 although dated July 14, 2000.”[4]

The second ruling being contested is the October 23, 2000 Decision[5] of Branch 11 in Civil Case No. 512-M-2000, which modified the February 1, 2000 Decision[6] of the MTC of San Jose del Monte, Bulacan. The challenged RTC Decision disposed as follows:

“WHEREFORE, the appealed decision is hereby AFFIRMED insofar as defendants are ordered to vacate plaintiffs’ property and return the possession thereof to the latter and to pay plaintiffs, jointly and severally P20,000.00 for attorney’s fees and P20,000.00 for litigation expenses and to pay the costs are concerned.”[7]

Since the parties were the same and the issues related, the two Petitions were consolidated by this Court in its

Resolution of October 17, 2001.[8]

The Facts

Petitioners are plaintiffs in a forcible entry/ejectment case docketed as Civil Case No. 263-94 in the MTC of San Jose del Monte, Bulacan, entitled “Spouses Oscar and Haydee Badillo v. Triad Construction and Development Corporation and National Housing Authority.” In its February 1, 2000 Decision,[9] the MTC ordered the NHA to vacate the disputed land; to return possession thereof to petitioners; to pay rental for its use and occupation at the rate of P10 per square meter per month; and to shoulder the attorney’s fees, the litigation expenses and the costs of suit.

The disputed parcel of land was part of the Bagong Silang Resettlement Project (BSRP) of the NHA. The NHA contended that the property was part of the Tala Estate and was among the 598 hectares reserved by the government for its housing resettlement site, pursuant to Presidential Proclamation No. 843 issued by then President Ferdinand E. Marcos on April 26, 1971.

In June 1994, the NHA offered for bidding the development of certain portions of the BSRP. It eventually contracted with the Triad Construction and Development Corporation (“Triad”) for the development of parts of the site. These were then developed and subdivided into smaller lots that were allocated, awarded and distributed by the NHA to qualified beneficiaries.

On the other hand, petitioners claimed that they were the owners and exclusive possessors of a portion of the land that had been awarded by the NHA to Triad. They argued that the NHA intruded on, occupied and developed their property despite their protests.

Upon receipt of the February 1, 2000 Decision of the MTC, the NHA filed a Notice of Appeal[10] with the same court on February 24, 2000. The NHA, however, did not pay the appellate docket fees within the reglementary period. Consequently, petitioners filed with that court a Motion for the immediate issuance of a writ of execution and demolition.[11] They contended that because of the NHA’s failure to pay the appellate docket fees within the prescribed period, the MTC Decision became final.

After a hearing on the Motion, the MTC promulgated an Order on May 23, 2000, authorizing the issuance of a writ of execution in favor of petitioners:

“For failure of the National Housing Authority to comply with the requirements laid down under Section 5 of Rule 40 as regards the payment of docket fee and for its failure to comply with Section 19 of Rule 70 in regard to the payment of the supersedeas bond, the execution of the judgment rendered in this case has become a ministerial duty of the court in view of the mandatory nature of said requirements.

“Let therefore, a writ of execution be issued immediately against the defendants.”[12]

Thereafter, the Writ of Execution[13] was actually issued by the MTC on May 30, 2000. Pursuant thereto, the sheriff[14] served a Notice of Garnishment of NHA’s funds in the Landbank of the Philippines. The bank, however, refused to release the garnished amount.

On June 9, 2000, the NHA filed a Motion to set aside the Writ of Execution and the Notice of Garnishment.[15] The Motion was, however, denied by the MTC in its June 23, 2000 Order.[16]

The NHA paid the appellate docket fees only on June 29, 2000 -- four months late. It simultaneously filed a Petition for Certiorari, Prohibition, Mandamus and Injunction[17] before the RTC of Malolos, Bulacan, assailing the MTC’s May 23, 2000 Order and May 30, 2000 Writ of Execution.

Acting on the NHA Petition, RTC Executive Judge Danio A. Manalastas issued a 72-hour Temporary Restraining Order.[18] Thereafter, the case was assigned to RTC Branch 79, which issued the first assailed July 19, 2000 Order annulling the Writ. After declaring that the NHA had been able to perfect its appeal on time, the RTC ordered the MTC to transmit the records of the case for appropriate appellate proceedings.

Upon transmittal of the records from the MTC, the case was raffled to RTC Branch 11, which issued the second assailed October 23, 2000 Decision. This Decision was appealed by the NHA to the Court of Appeals (CA). The appeal, docketed as CA-GR No. 61981, is still pending resolution.

Rulings of the RTC

The NHA was able to perfect its appeal on time despite its nonpayment of appellate docket fees, according to the ruling of RTC Branch 79. The NHA as a government-owned corporation was presumed to be always solvent and thus exempt from filing a supersedeas bond, which would stay the immediate execution of a forcible entry case. With the perfection of the appeal, the MTC lost jurisdiction to issue and enforce the Writ of Execution.

Partly affirming the MTC, RTC Branch 11 held that petitioners were entitled to the right of possession of the property and to the award of damages, but that the grant of rental was baseless.

Hence, this recourse.[19]

Issues

Petitioners raise the following issues for our consideration:

I

“Whether or not the Order of Respondent Judge Gabo deleting the payment of rentals for the use and occupation of the lot in question is in accordance with law and existing jurisprudence on the matter”[20]

II

“Whether or not NHA perfected its appeal to the RTC Bulacan despite failure to pay the docket/appeal fee within the 15 day period provided for in Section 5, Rule 40 of the 1997 Rules of Civil Procedure

III

“Whether or not the NHA being a government corporation is exempt from the posting of the supersedeas bond to stay execution as provided for in Section 19, Rule 70 of the 1997 Rules of Civil Procedure

IV

“Whether or not RTC Bulacan was correct in annulling the Order dated May 23, 2000; the Writ of Execution and the Notice of Garnishment issued by MTC, Bulacan” [21]

These issues can be more clearly restated thus:

- (1) Is the failure of the NHA to pay the appellate docket fee within the fifteen-day reglementary period a ground to dismiss its appeal?
- (2) Is the NHA exempt from filing the supersedeas bond in order to stay the execution of the MTC judgment?
- (3) Was it proper for RTC Branch 11 to delete the rentals awarded by the MTC?

Ruling of the Court

The Petitions are unmeritorious.

First Issue:

Payment of Appellate Docket Fees

Created by virtue of PD No. 757,[22] the NHA is a government-owned and controlled corporation with an original charter. As a general rule, however, such corporations -- with or without independent charters -- are required to pay legal fees under Section 21 of Rule 141 of the 1997 Rules of Civil Procedure:

“SEC. 21. Government Exempt. - The Republic of the Philippines, its agencies and instrumentalities, are exempt from paying the legal fees provided in this rule. Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees.”[23]

On the other hand, the NHA contends that it is exempt from paying all kinds of fees and charges, because it performs governmental functions. It cites *Public Estates Authority v. Yujuico*,[24] which holds that the Public Estates Authority (PEA), a government-owned and controlled corporation, is exempt from paying docket fees whenever it files a suit in relation to its governmental functions.

We agree. *People’s Homesite and Housing Corporation v. Court of Industrial Relations*[25] declares that the provision of mass housing is a governmental function:

“Coming now to the case at bar, We note that since 1941 when the National Housing Commission (predecessor of PHHC, which is now known as the National Housing Authority [NHA] was created, the Philippine government has pursued a mass housing and resettlement program to meet the needs of Filipinos for decent housing. The agency tasked with implementing such governmental program was the PHHC. These can be gleaned from the provisions of Commonwealth Act 648, the charter of said agency.

“We rule that the PHHC is a governmental institution performing governmental functions.

“This is not the first time We are ruling on the proper characterization of housing as an activity of the government. In the 1985 case of *National Housing Corporation v. Juco* and the NLRC (No. L-64313, January 17, 1985, 134 SCRA 172), We ruled that housing is a governmental function.”

While it has not always been easy to distinguish governmental from proprietary functions, the Court’s declaration in the Decision quoted above is not without basis. Indeed, the characterization of governmental functions has veered away from the traditional constituent-ministrant classification that has become unrealistic, if not obsolete.[26] Justice Isagani A. Cruz avers: “[I]t is now obligatory upon the State itself to promote social justice,[27] to provide adequate social services to promote a rising standard of living,[28] to afford protection to labor to formulate and implement urban and agrarian reform programs, and to adopt other measures intended to ensure the dignity, welfare and security of its citizens. x x x. These functions, while traditionally regarded as merely ministrant and optional, have been made compulsory by the Constitution.”[29]

In addition, the NHA is mandated by PD No. 757 to develop and implement a comprehensive, integrated housing program[30] for the greatest number of people.[31] Thus, to be able to perform its governmental functions, the housing agency is vested with sovereign powers. Such powers include, among others, the exercise of the right of eminent domain or the right to acquire by purchase privately owned lands for purposes of housing development, resettlement, and related services and facilities.[32]

Furthermore, under the Urban Development and Housing Act of 1992, the NHA, in cooperation with other government units and agencies, is mandated to identify and acquire lands for socialized housing for the underprivileged and the homeless.[33]

Notably, it was in its performance of this governmental function to provide mass housing that the NHA was sued by petitioners.

Perfection of the Appeal

We agree with the RTC that, insofar as appeals from the MTC to the RTC are concerned, the 1997 Rules of Civil Procedure do not mandate the dismissal of an appeal as a consequence of the nonpayment of the required fee.

Martinez v. Court of Appeals[34] holds that in such appeals, “the failure to pay the appellate docket fees does not automatically result in the dismissal of the appeal, the dismissal being discretionary on the part of the appellate court.” While that case was governed by Sections 20[35] and 23[36] of the Interim Rules and Guidelines issued by the Court on January 11, 1983 to implement the Judiciary Reorganization Act of 1981 (BP Blg. 129), the present Rules lead to a similar conclusion.

Under the 1997 Rules of Civil Procedure, parties perfect an appeal from the judgment of the MTC to the RTC by filing a notice of appeal within the fifteen day reglementary period, as provided under Section 4 of Rule 40 and Section 9 of Rule 41:

Rule 40 --

“SEC. 4. Perfection of appeal; effect thereof. – The perfection of the appeal and the effect thereof shall be governed by the provisions of Section 9, Rule 41.

Rule 41--

“SEC. 9. Perfection of appeal; effect thereof. - A party’s appeal by notice of appeal is deemed perfected as to him upon filing of the notice of appeal in due time.

xxx xxx xxx

“In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other party.”

Fontanar v. Bonsubre[37] is a case in point. It holds that in appeals from the MTC to the RTC, failure to pay the appellate docket fee within the fifteen-day reglementary period bestows on the appellate court a directory, not a mandatory, power to dismiss an appeal. The Court ratiocinated as follows:

“x x x [T]his Court restated the importance and real purpose of the remedy of appeal as an essential part of our judicial system and advised the courts to proceed with caution so as not to deprive a party of a right to appeal with the instruction that every party-litigant should be afforded the amplest opportunity for the proper and just disposition if his cause, freed from the constraints of technicalities. Rightly so, for the payment of the appellate docket fee is not a requirement for the protection of the prevailing party, and non-compliance therewith within the time prescribed causes no substantial prejudice to anyone.”

On the other hand, the cases cited by petitioners involve appeals -- not from the MTC to the RTC -- but from the RTC to the CA and from the CA to the SC, for which the payment of appellate fees is indeed mandatory according to the Rules.[38] We quote Manalili v. Arsenio and De Leon:[39]

“Appeal is not a right, but a mere statutory privilege. Corollary to this principle is that the appeal must be exercised strictly in accordance with provisions set by law. x x x

“x x x [T]he payment of the appellate docket fee is not a mere technicality of law or procedure. It is an essential requirement, without which the decision or final order appealed from would become final and executory as if no appeal was filed at all.”[40]

In the instant cases, when the NHA filed a Notice of Appeal on February 22, 2000 -- two days before the appeal period lapsed -- it perfected its appeal and the MTC thereby lost its jurisdiction. The MTC therefore acted without jurisdiction in issuing the May 23, 2000 Order and the May 30, 2000 Writ of Execution.

Second Issue:

The Filing of a Supersedeas Bond

There is a rationale for requiring a losing party to file a supersedeas bond in order to stay the immediate execution of a judgment in an ejectment case. Such bond is required to assure the payment of damages to the winning party in case the appeal is found frivolous.

In the present cases, the posting of a supersedeas bond is not necessary to stay the execution of the MTC Order. When a case involves provable rents or damages incurred by a government-owned or controlled corporation, the real party in interest is the Republic of the Philippines. When the State litigates, it is not required to put up a bond for damages or even an appeal bond -- either directly or indirectly through its authorized officers -- because it is presumed to be always solvent.[41]

Thus, it would be unnecessary to ask the NHA to file a bond because to do so would be to indirectly require the government to submit the bond. And the State is not required to file a bond for the obvious reason that it is capable of paying its obligation.[42] In any event, the NHA has already paid the appellate docket fees and filed the supersedeas bond as ordered by the RTC, albeit late.

Third Issue:

The Award of Rentals

Citing *Sia v. Court of Appeals*,[43] petitioners argue that the MTC may take judicial notice of the reasonable rental or the general price increase of land in order to determine the amount of rent that may be awarded to them. In that case, however, this Court relied on the CA's factual findings, which were based on the evidence presented before the trial court. In determining reasonable rent, the RTC therein took account of the following factors: 1) the realty assessment of the land, 2) the increase in realty taxes, and 3) the prevailing rate of rentals in the vicinity. Clearly, the trial court relied, not on mere judicial notice, but on the evidence presented before it.

Indeed, courts may fix the reasonable amount of rent for the use and occupation of a disputed property. However, petitioners herein erred in assuming that courts, in determining the amount of rent, could simply rely on their own appreciation of land values without considering any evidence. As we have said earlier, a court may fix the reasonable amount of rent, but it must still base its action on the evidence adduced by the parties.

In *Herrera v. Bollos*,[44] the trial court awarded rent to the defendants in a forcible entry case. Reversing the RTC, this Court declared that the reasonable amount of rent could be determined not by mere judicial notice, but by supporting evidence:

“x x x. A court cannot take judicial notice of a factual matter in controversy. The court may take judicial notice of matters of public knowledge, or which are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. Before taking such judicial notice, the court must ‘allow the parties to be heard thereon.’ Hence, there can be no judicial notice on the rental value of the premises in question without supporting evidence.[45]

In the instant cases, the RTC has already declared that there is no evidence on record to support the MTC's award of rent. We find no cogent reason to disturb this pronouncement.

Finally, the belated prayer of the NHA for the dismissal of the forcible entry case cannot be granted, because it appealed the RTC Decision to the CA, not to this Court. As a mere respondent in these appealed cases, the NHA is not entitled to any affirmative relief. Besides, we would not want to preempt the CA's action on the said appeal.

WHEREFORE, the Petitions are hereby DENIED. Costs against petitioners.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and Carpio Morales, JJ., concur.

[1] See pp. 24-39 of the rollo in GR No. 143976; penned by Judge Arturo G. Tayag.

[2] Id., p. 51.

[3] Id., pp. 52-54.

[4] Assailed RTC Order, p. 16; page 39 of the rollo in GR No. 143973.

[5] Penned by Judge Basilio Gabo Jr.; see pp. 17-19 of the rollo in GR No. 145846.

[6] Written by Judge Aznar D. Lindayag; pp. 20-30 of the rollo in GR No. 145846.

[7] Id., p. 19.

[8] October 17, 2001 Resolution; id., p. 111.

[9] GR No. 143976; rollo, pp. 40-50.

[10] Records, Vol. II, pp. 280-281.

[11] Id., pp. 292-294.

[12] GR No. 143976; rollo, p. 51.

[13] Id., pp. 52-54.

[14] Benjamin C. Hao; id., p. 55.

[15] Records, Vol. II, pp. 364-367.

[16] GR No. 143976; rollo, pp. 59-60.

[17] Records, Vol. III, pp. 1-32.

[18] Dated June 29, 2000; records, Vol. III, pp. 64-65.

[19] This case was deemed submitted for decision on December 18, 2001, upon receipt by this Court of respondents' Memorandum signed by Mario P. Escobar, Ma. Magdalena T. de Leon-Siacon and Jose M. Manuel Jr. of the Legal Department of the NHA. Petitioners' Memorandum, signed by Walter T. Young, was received by this Court on November 26, 2001.

[20] See Petitioners' Memorandum, p. 5; GR No. 145846; rollo, p. 116. Original in upper case.

[21] See Petitioner's Memorandum, pp. 6-7; GR No. 143976; rollo, pp. 131-132. Original in upper case.

[22] Entitled "Creating the National Housing Authority and Dissolving the Existing Housing Agencies, Defining Its Powers and Functions, Providing Funds Therefor, and for Other Purposes"; dated July 31, 1975.

[23] Resolution Amending Rule 141 (Legal Fees) of the Rules of Court, issued in AM No. 00-2-01-SC.

[24] 351 SCRA 280, February 6, 2001.

[25] 150 SCRA 296, May 29, 1987, per Cortes, J.

[26] People's Homesite and Housing Corporation v. Court of Industrial Relations, 150 SCRA 296, May 29, 1987.

[27] Constitution, Art. II, Sec. 10. "The State shall promote social justice in all phases of national development."

[28] Constitution, Art. II, Sec. 9. "The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation, free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all."

[29] I. Cruz, Philippine Political Law (1998), pp. 21-22.

[30] "SECTION 1. Housing Program. Pursuant to the mandate of the New Constitution, there shall be developed a comprehensive and integrated housing program which shall embrace, among others, housing development and resettlement, sources and schemes of financing, and delineation of government and private sector participation x x x."

"SEC 2. Creation of the National Housing Authority. There is hereby created a government corporation to be known as the National Housing Authority, hereinafter referred to as 'Authority,' to develop and implement the housing program above-mentioned. x x x."

[31] "SEC 3. Purposes and Objectives. The Authority shall have the following purposes and objectives:

(a) To provide and maintain adequate housing for the greatest possible number of people;

(b) To undertake housing, development, resettlement or other activities as would enhance the provision of housing to every Filipino;

(c) To harness and promote private participation in housing ventures in terms of capital expenditures, land expertise, financing and other facilities for the sustained growth of the housing industry."

[32] "SEC 6. Powers and Functions of the Authority. The Authority shall have the following powers and functions to be exercised by the Board in accordance with the established national human settlements plan prepared by the Human Settlements Commission:

xxx xxx xxx

(d) Exercise the right of eminent domain or acquire by purchase privately owned lands for purposes of housing development, resettlement and related services and facilities; x x x."

[33] See Sections 8, 9 and 12 of RA No. 7279.

[34] 358 SCRA 38, May 21, 2001, per Mendoza, J., citing Fontanar v. Bonsubre, 145 SCRA 663, November 25, 1986; and Del Rosario & Sons Logging Enterprises, Inc. v. NLRC, 136 SCRA 669, May 31, 1985.

[35] "SEC. 20. Procedure for taking appeal.- An appeal from the metropolitan trial courts, municipal trial courts or municipal circuit trial courts to the regional trial courts, and from the regional trial courts to the Intermediate Appellate Court in actions or proceedings originally filed in the former shall be taken by filing a notice of appeal with the court that rendered the judgment or order appealed from."

[36] "SEC. 23. Perfection of appeal.- In cases where appeal is taken, the perfection of the appeal shall be upon the expiration of the last day to appeal by any party."

[37] Supra.

[38] The payment of appellate fees within the 15-day reglementary period is mandatory for the perfection of all appeal to the CA from a decision of the RTC rendered in the exercise of its appellate jurisdiction under Section 8,

Rule 42; an appeal from the CA to the Supreme Court is governed by Section 5, Rule 45 of the 1997 Rules of Civil Procedure.

[39] GR No. 140858, November 27, 2001.

[40] *Id.*, pp. 6-7, per Panganiban, J.

[41] *Araneta v. Gatmaitan*, 101 Phil. 328, April 30, 1957.

[42] *Ibid.*

[43] 272 SCRA 141, May 5, 1997.

[44] GR No. 138258, January 18, 2002.

[45] *Id.*, p. 8; per Pardo, J.

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