

**CITY OF NAGA, AS REPRESENTED BY MAYOR JESSE M. ROBREDO,
PETITIONER, VS. HON. ELVI JOHN S. ASUNCION, AS PONENTE AND
CHAIRMAN, HON. JUSTICES JOSE C. MENDOZA AND ARTURO G.
TAYAG, A...**

G.R. No. 174042. July 09, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for certiorari and prohibition under Rule 65 of the Rules of Court seeks the reversal of the Resolution[1] dated August 16, 2006 of the Court of Appeals in CA-G.R. SP No. 90547 which denied the Application for a Writ of Preliminary Prohibitory Injunction[2] filed by petitioner.

Challenged as well is the Order[3] dated August 17, 2006 of the Regional Trial Court (RTC) of Naga City, Branch 26 in Civil Case No. RTC 2005-0030 for unlawful detainer which granted respondents' Motion to Issue Writ of Execution[4] filed on August 16, 2005 and denied petitioner's Motion for Inhibition[5] filed on June 27, 2005. Concomitantly, the processes issued to enforce said Order are equally assailed, namely: the Writ of Execution Pending Appeal[6] dated August 22, 2006; the Notice to Vacate[7] dated August 23, 2006; and the Notice of Garnishment[8] dated August 23, 2006.

The facts as culled from the rollo of this petition and from the averments of the parties to this petition are as follows:

Macario A. Mariano and Jose A. Gimenez were the registered owners of a 229,301-square meter land covered by Transfer Certificate of Title (TCT) No. 671[9] located in Naga City. The land was subdivided into several lots and sold as part of City Heights Subdivision (CHS).

In a Letter[10] dated July 3, 1954, the officers of CHS offered to construct the Naga City Hall on a two (2)-hectare lot within the premises of the subdivision. Said lot was to be designated as an open space for public purpose and donated to petitioner in accordance with the rules and regulations of the National Urban Planning Commission. By Resolution No. 75[11] dated July 12, 1954, the Municipal Board of Naga City (Municipal Board) asked CHS to increase the area of the land to four (4) hectares. Accordingly, CHS amended its offer to five (5) hectares.

On August 11, 1954, the Municipal Board adopted Resolution No. 89[12] accepting CHS' amended offer. Mariano and Gimenez thereafter delivered possession of the lots described as Blocks 25 and 26 to the City Government of Naga (city government). Eventually, the contract for the construction of the city hall was awarded by the Bureau of Public Works through public bidding to Francisco O. Sabaria, a local contractor. This prompted Mariano and Gimenez to demand the return of the parcels of land from petitioner. On assurance, however, of then Naga City Mayor Monico Imperial that petitioner will buy the lots instead, Mariano and Gimenez allowed the city government to continue in possession of the land.

On September 17, 1959, Mariano wrote a letter[13] to Mayor Imperial inquiring on the status of the latter's proposal for the city government to buy the lots instead. Then, through a note[14] dated May 14, 1968, Mariano directed Atty. Eusebio Lopez, Jr., CHS' General Manager, to disregard the proposed donation of lots and insist on Mayor Imperial's offer for the city government to purchase them.

On December 2, 1971, Macario A. Mariano died. Meanwhile, the city government continued in possession of the lots, and constructed the Naga City Hall on Block 25 and the public market on Block 26. It also conveyed to other government offices[15] portions of the land which at present, house the National Bureau of Investigation (NBI), Land Transportation Office, and Hall of Justice, among others.

In a Letter[16] dated September 3, 2003, Danilo D. Mariano, as administrator and representative of the heirs of Macario A. Mariano, demanded from petitioner the return of Blocks 25 and 26 to CHS. Alas, to no avail.

Thus, on February 12, 2004, respondent filed a Complaint[17] for unlawful detainer against petitioner before the Municipal Trial Court (MTC) of Naga City, Branch 1. In a Decision[18] dated February 14, 2005 of the MTC in Civil Case No. 12334, the MTC dismissed the case for lack of jurisdiction. It ruled that the city's claim of ownership over the lots posed an issue not cognizable in an unlawful detainer case.

On appeal, the RTC reversed the court a quo by Decision[19] dated June 20, 2005 in Civil Case No. RTC 2005-0030. It directed petitioner to surrender physical possession of the lots to respondents with forfeiture of all the improvements, and to pay P2,500,000.00 monthly as reasonable compensation for the use and occupation of the land; P587,159.60 as attorney's fees; and the costs of suit.

On June 27, 2005, petitioner filed a Motion for Inhibition against Presiding RTC Judge Filemon B. Montenegro for alleged bias and partiality. Then, petitioner moved for reconsideration/new trial of the June 20, 2005 Decision. On July 15, 2005, the RTC denied both motions.

On July 22, 2005, petitioner filed a Petition for Review with Very Urgent Motion/Application for Temporary Restraining Order and Writ of Preliminary Prohibitory Injunction[20] with the Court of Appeals. Respondents thereafter filed a Motion to Issue Writ of Execution.

On October 13, 2005, respondents manifested that they will not seek execution against the NBI, City Hall and Hall of Justice in case the writ of preliminary injunction is denied. On August 16, 2006, the appellate court issued the challenged Resolution, the decretal portion of which reads:

WHEREFORE, based on the foregoing premises, and in the absence of any immediate threat of grave and irreparable injury, petitioner's prayer for issuance of a writ of preliminary injunction is hereby DENIED. Petitioner had already filed its Memorandum. Hence, the private respondents are given fifteen (15) days from notice within which to submit their Memorandum.

SO ORDERED.[21]

On August 17, 2006, the RTC issued the assailed Order, thus:

WHEREFORE, let the corresponding Writ of Execution Pending Appeal be issued in this case immediately pursuant to Sec. 21, Rule 70. However, in view of the MANIFESTATION of plaintiffs dated October 13, 2005 that they will not take possession of the land and building where the City Hall, Hall of Justice and National Bureau of Investigation are located while this case is still pending before the Court of Appeals, this writ of execution shall be subject to the above-cited exception.

The Sangguniang [Panlungsod] of Naga City is hereby directed to immediately appropriate the necessary amount of [P]2,500,000.00 per month representing the unpaid rentals reckoned from November 30, 2003 up to

the present from its UNAPPROPRIATED FUNDS to satisfy the claim of the plaintiffs, subject to the existing accounting and auditing rules and regulations.

SO ORDERED.[22]

Consequently, Clerk of Court Atty. Jesus Mampo issued a writ of execution pending appeal. Sheriff Jorge B. Lopez on the other hand, served a notice to vacate on respondents, and a notice of garnishment on Land Bank, Naga City Branch.

Hence, this petition for certiorari and prohibition.

On August 28, 2006, we issued a Temporary Restraining Order[23] to maintain the status quo pending resolution of the petition.

Petitioner raises the following issues for our consideration:

I.

WHETHER OR NOT PETITIONER CAN VALIDLY AVAIL OF THE EXTRAORDINARY WRITS OF CERTIORARI AND PROHIBITION IN ASSAILING THE CHALLENGED RESOLUTION, ORDERS AND NOTICES.

II.

WHETHER OR NOT PETITIONER IS GUILTY OF FORUM-SHOPPING.

III.

WHETHER OR NOT PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN ALLOWING THE IMMEDIATE EXECUTION OF ITS JUDGMENT NOTWITHSTANDING THE CATASTROPHIC CONSEQUENCES IT WILL BEAR ON THE DELIVERY OF BASIC GOVERNMENTAL SERVICES TO THE GOOD CITIZENS OF NAGA CITY; THE INCONCLUSIVENESS OF PRIVATE RESPONDENTS' TITLE AND CLAIM OF POSSESSION OVER THE SUBJECT PROPERTY; AND THE IMPUTATION OF BIAS AND PARTIALITY AGAINST PUBLIC RESPONDENT JUDGE.

IV.

WHETHER OR NOT PUBLIC RESPONDENTS JUDGE FILEMON B. MONTENEGRO, ATTY. JESUS MAMPO AND SHERIFF JORGE B. LOPEZ EXCEEDED THEIR AUTHORITY AND/OR COMMITTED GRAVE ABUSE OF DISCRETION IN TRYING TO EVICT PETITIONER AND VARIOUS DEPARTMENTS AND OFFICES THEREOF FROM THE SUBJECT PROPERTY.

V.

WHETHER OR NOT PUBLIC RESPONDENT JUDGE FILEMON B. MONTENEGRO EXCEEDED HIS JURISDICTION AND/OR COMMITTED GRAVE ABUSE OF DISCRETION IN DIRECTING PETITIONER TO PAY PRIVATE RESPONDENTS MONTHLY RENTALS OF ABOUT [P]81,500,000.00.

VI.

WHETHER OR NOT THE ORDER DIRECTING PETITIONER TO PAY PRIVATE RESPONDENT MONTHLY RENTALS [DISREGARDED] THE HONORABLE COURT'S ADMINISTRATIVE CIRCULAR NO. 10-2000 AND THE LAW AND THE JURISPRUDENCE CITED THEREIN.

VII.

WHETHER OR NOT PUBLIC RESPONDENTS JUDGE FILEMON B. MONTENEGRO, ATTY. JESUS MAMPO AND SHERIFF JORGE B. LOPEZ EXCEEDED THEIR AUTHORITY AND/OR COMMITTED GRAVE ABUSE OF DISCRETION IN CAUSING THE GARNISHMENT OF PETITIONER'S ACCOUNT WITH LAND BANK OF THE PHILIPPINES.

VIII.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE PETITIONER'S APPLICATION FOR WRIT OF PRELIMINARY PROHIBITORY INJUNCTION.[24]

The pertinent issues, in our view, are as follows: (1) whether petitioner availed of the proper remedy to contest the disputed order, resolution, and notices; (2) whether petitioner was guilty of forum-shopping in filing the instant petition pending the petition for review before the Court of Appeals; (3) whether RTC Judge Montenegro committed grave abuse of discretion in granting execution pending appeal; and (4) whether the Court of Appeals committed grave abuse of discretion in denying petitioner's application for a writ of preliminary injunction.

Petitioner City of Naga ascribes grave abuse of discretion on Judge Montenegro for allowing execution pending appeal and for refusing to inhibit himself from the proceedings. It contends that its claim of ownership over the lots behooved the RTC of jurisdiction to try the illegal detainer case. Granting *arguendo* that the RTC had jurisdiction and its judgment was immediately executory, petitioner insists that the circumstances in the case at bar warranted against it. For one, the people of Naga would be deprived of access to basic social services even before respondents' right to possess the land has been conclusively established. The City of Naga assails the validity of the order of execution issued by the court inasmuch as it excluded the NBI, City Hall and Hall of Justice from its coverage; ordered garnishment of government funds; and directed the Sangguniang Panlungsod to appropriate money in violation of the Supreme Court Administrative Circular No. 10-2000.[25] Petitioner likewise claims that Atty. Jesus Mampo and Sheriff Jorge B. Lopez acted with manifest abuse when they issued the writ of execution pending appeal, and served notice to vacate and notice of garnishment, respectively.

Finally, petitioner imputes grave abuse of discretion on the Court of Appeals for denying its application for a writ of preliminary injunction. The appellate tribunal struck down petitioner's application pending resolution by the RTC of respondent's motion to execute its June 20, 2005 Decision. Also, it found no merit in petitioner's claim that grave and irreparable injury will result to the City of Naga by the implementation of said decision. Nevertheless, it excused the NBI, Naga City Hall and Hall of Justice from execution.

For their part, respondents (Marianos) call for the dismissal of the instant petition on the ground of forum-shopping. They aver that the petition for review in the Court of Appeals and the present petition are but similar attempts to stop the immediate enforcement of the June 20, 2005 RTC Decision. They add that the court *a quo* merely acted in obedience to the provisions of Section 21[26] of Rule 70 of the Rules of Court when it ordered execution. Thus, the writ of execution, notice to vacate and notice of garnishment are also valid as incidents of the August 17, 2006 RTC Order. Respondents agree with the appellate court that there is no immediate threat of grave and irreparable injury to petitioner. In any case, the Marianos suggest that petitioner just seek reparation for damages should the appellate court reverse the RTC. Lastly, respondents allege that the court *a quo* correctly ruled on the merits despite its finding that the MTC erroneously dismissed the unlawful detainer case for lack of jurisdiction. The MTC based its decision on the affidavits and position papers submitted by the parties.

The petition is partly meritorious.

In the interest of justice, we decided to give due course to the petition for certiorari and prohibition concerning the

August 17, 2006 Order of the RTC. As a rule, petitions for the issuance of such extraordinary writs against an RTC should be filed with the Court of Appeals. A direct invocation of this Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.[27] Under the present circumstance however, we agree to take cognizance of this case as an exception to the principle of hierarchy of courts.[28] For while it has been held by this Court that a motion for reconsideration is a condition sine qua non for the grant of a writ of certiorari, nevertheless such requirement may be dispensed with where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government.[29] Such is the situation in the case at bar.

Thus, we find no merit in respondents' contention that petitioner erred in its choice of remedy before this Court. Under Section 1(c) and (f),[30] Rule 41 of the Rules of Court, no appeal may be taken from an interlocutory order and an order of execution, respectively. An interlocutory order is one which does not dispose of the case completely but leaves something to be decided upon.[31] Such is the nature of an order granting or denying an application for preliminary injunction; hence, not appealable.[32] The proper remedy, as petitioner did in this case, is to file a petition for certiorari and/or prohibition under Rule 65.

Nor can we agree that petitioner was guilty of forum-shopping. Under the Same Objective Standard enunciated in the case of *First Philippine International Bank v. Court of Appeals*,[33] the filing by a party of two apparently different actions, but with the same objective, constitutes forum-shopping.[34] Here, the special civil action of certiorari before us is an independent action. The ultimate purpose of such action is to keep the inferior tribunal within the bounds of its jurisdiction or relieve parties from arbitrary acts of the court.[35] In contrast, the petition for review before the Court of Appeals under Rule 42 involves an evaluation of the case on the merits. Clearly, petitioner did not commit forum-shopping.

Now, we shall proceed to resolve the contentious issues in this case.

Section 21, Rule 70 of the Rules of Court is pertinent:

SEC. 21.Immediate execution on appeal to Court of Appeals or Supreme Court. – The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom.

Thus, the judgment of the RTC against the defendant in an ejectment case is immediately executory. Unlike Section 19,[36] Rule 70 of the Rules, Section 21 does not provide a means to prevent execution; hence, the court's duty to order such execution is practically ministerial.[37] Section 21 of Rule 70 presupposes that the defendant in a forcible entry or unlawful detainer case is unsatisfied with the judgment of the RTC and decides to appeal to a superior court. It authorizes the RTC to immediately issue a writ of execution without prejudice to the appeal taking its due course. Nevertheless, it should be stressed that the appellate court may stay the said writ should circumstances so require.[38]

Petitioner herein invokes seasonably the exceptions to immediate execution of judgments in ejectment cases cited in *Hualam Construction and Dev't. Corp. v. Court of Appeals*[39] and *Laurel v. Abalos*,[40] thus:

Where supervening events (occurring subsequent to the judgment) bring about a material change in the situation of the parties which makes the execution inequitable, or where there is no compelling urgency for the execution because it is not justified by the prevailing circumstances, the court may stay immediate execution of the judgment.[41]

Noteworthy, the foregoing exceptions were made in reference to Section 8,[42] Rule 70 of the old Rules of Court which has been substantially reproduced as Section 19, Rule 70 of the 1997 Rules of Civil Procedure. Therefore,

even if the appealing defendant was not able to file a supersedeas bond, and make periodic deposits to the appellate court, immediate execution of the RTC decision is not proper where the circumstances of the case fall under any of the above-mentioned exceptions. Yet, Section 21, Rule 70 of the Rules does not provide for a procedure to avert immediate execution of an RTC decision.

This is not to say that the losing defendant in an ejectment case is without recourse to avoid immediate execution of the RTC decision. The defendant may, as in this case, appeal said judgment to the Court of Appeals and therein apply for a writ of preliminary injunction. Thus, as held in *Benedicto v. Court of Appeals*,^[43] even if RTC judgments in unlawful detainer cases are immediately executory, preliminary injunction may still be granted.^[44]

In the present case, the Court of Appeals denied petitioner's application for a writ of preliminary injunction because the RTC has yet to rule on respondents' Motion to Issue Writ of Execution. Significantly, however, it also made a finding that said application was without merit. On this score, we are unable to agree with the appellate court.

A writ of preliminary injunction is available to prevent threatened or continuous irremediable injury to parties before their claims can be thoroughly studied and adjudicated. Its sole objective is to preserve the status quo until the merits of the case can be heard fully.^[45] Status quo is the last actual, peaceable and uncontested situation which precedes a controversy.^[46]

As a rule, the issuance of a preliminary injunction rests entirely within the discretion of the court taking cognizance of the case and will not be interfered with, except in cases of manifest abuse.^[47] Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack or excess of jurisdiction. The exercise of power must have been done in an arbitrary or a despotic manner by reason of passion or personal hostility. It must have been so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.^[48]

Considering the circumstances in this case, we find that the Court of Appeals abused its discretion when it denied petitioner's application for a writ of preliminary injunction because of the pendency of respondents' Motion to Issue Writ of Execution with the RTC, but ruled on the merits of the application at the same time. At most, the appellate court should have deferred resolution on the application until the RTC has decided on the motion for execution pending appeal. Moreover, nothing in the rules allow a qualified execution pending appeal that would have justified the exclusion of the NBI, City Hall and Hall of Justice from the effects of the writ.

In any case, we have ploughed through the records of this case and we are convinced of the pressing need for a writ of preliminary injunction. Be it noted that for a writ of preliminary injunction to be issued, the Rules of Court do not require that the act complained of be in clear violation of the rights of the applicant. Indeed, what the Rules require is that the act complained of be probably in violation of the rights of the applicant. Under the Rules, probability is enough basis for injunction to issue as a provisional remedy. This situation is different from injunction as a main action where one needs to establish absolute certainty as basis for a final and permanent injunction.^[49]

Thus, we have stressed the foregoing distinction to justify the issuance of a writ of preliminary injunction in actions for unlawful detainer:

...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.[50]

Needless to reiterate, grave and irreparable injury will be inflicted on the City of Naga by the immediate execution of the June 20, 2005 RTC Decision. Foremost, as pointed out by petitioner, the people of Naga would be deprived of access to basic social services. It should not be forgotten that the land subject of the ejectment case houses government offices which perform important functions vital to the orderly operation of the local government. As regards the garnishment of Naga City's account with the Land Bank, the rule is and has always been that all government funds deposited in official depository of the Philippine Government by any of its agencies or instrumentalities, whether by general or special deposit, remain government funds. Hence, they may not be subject to garnishment or levy, in the absence of corresponding appropriation as required by law.[51] For this reason, we hold that the Notice of Garnishment dated August 23, 2006 is void.

Anent Judge Montenegro's refusal to recuse himself from the proceedings, we find no grave abuse of discretion. We have held time and again that inhibition must be for just and valid causes. The mere imputation of bias and partiality is not enough ground for judges to inhibit, especially when the charge is without sufficient basis. This Court has to be shown acts or conduct clearly indicative of arbitrariness or prejudice before it can brand concerned judges with the stigma of bias and partiality. Bare allegations of partiality will not suffice "in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence without fear and favor.[52] The Resolution[53] of the Court En Banc dated June 27, 2006 which dismissed the complaint filed by Mayor Jesse Robredo against Judge Montenegro served to negate petitioner's allegations. Nevertheless, when the ground sought for the judge's inhibition is not among those enumerated in Section 1,[54] Rule 137 of the Rules of Court, a judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons.

Similarly, in our view, the charge of grave abuse of discretion against Clerk of Court Atty. Jesus Mampo and Sheriff Jorge B. Lopez cannot prosper. When Judge Montenegro issued the order directing the issuance of a writ of execution, Atty. Jesus Mampo was left with no choice but to issue the writ. Such was his ministerial duty in accordance with Section 4,[55] Rule 136 of the Rules of Court.[56] In the same vein, when the writ was placed in the hands of Sheriff Lopez, it was his duty, in the absence of instructions to the contrary, to proceed with reasonable celerity and promptness to implement it in accordance with its mandate. It is elementary that a sheriff's duty in the execution of the writ is purely ministerial; he is to execute the order of the court strictly to the letter. He has no discretion whether to execute the judgment or not. The rule may appear harsh, but such is the rule we have to observe.[57]

WHEREFORE, the instant petition is PARTLY GRANTED, and it is hereby ORDERED that:

(A) The Resolution dated August 16, 2006 of the Court of Appeals in CA-G.R. SP No. 90547 is REVERSED and SET ASIDE. The Court of Appeals is ORDERED to issue a writ of preliminary injunction to restrain the execution of the Decision dated June 20, 2005 of the Regional Trial Court, Branch 26, Naga City pending resolution of the petition for review before it;

(B) The Writ of Execution Pending Appeal dated August 22, 2006, Notice to Vacate dated August 23, 2006, and the Notice of Garnishment dated August 23, 2006 are SET ASIDE.

Lastly, the Court of Appeals is hereby ENJOINED to resolve the pending petition for review before it, CA-G.R. SP No. 90547, without further delay, in a manner not inconsistent with this Decision.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 75-76. Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Jose C. Mendoza and Arturo G. Tayag concurring.

[2] Id. at 138-223.

[3] Id. at 78-84.

[4] Records (Vol. II), pp. 910-915.

[5] Id. at 712-713.

[6] Rollo, pp. 85-86.

[7] Id. at 87.

[8] Id. at 88.

[9] Id. at 379-404.

[10] Id. at 326-327.

[11] Id. at 328-330.

[12] Id. at 335.

[13] Records (Vol. I), p. 428.

[14] Id. at 429.

[15] Rollo, p. 87. Land Transportation Office, Department of Labor and [E]mployment, Philippine Postal Corporation, Integrated Bar of the Philippines, Senior Citizen, PICPA, Radyo ng Bayan, Naga City Health Office, Camarines Sur Dental Association, Philippine Nurses Association, Naga Centrum, City Engineer's Office, Lingkod Barangay, Naga City Youth Center, Naga City Library, Naga City Canteen.

[16] Records (Vol. I), p. 378.

[17] Id. at 1-9.

[18] Rollo, pp. 259-263. Penned by Presiding Judge Jose P. Nacional.

[19] Id. at 224-250.

[20] Id. at 138-223.

[21] Rollo, p. 76.

[22] Id. at 83-84.

[23] Id. at 764-765.

[24] Id. at 1095-1097.

[25] RE: EXERCISE OF UTMOST CAUTION, PRUDENCE AND JUDICIOUSNESS IN THE ISSUANCE OF WRITS OF EXECUTION TO SATISFY MONEY JUDGMENTS AGAINST GOVERNMENT AGENCIES AND LOCAL GOVERNMENT UNITS, issued on October 25, 2000.

[26] SEC. 21. Immediate execution on appeal to Court of Appeals or Supreme Court. – The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom.

[27] Cabarles v. Maceda, G.R. No. 161330, February 20, 2007, 516 SCRA 303, 320.

[28] Id. at 321.

[29] Nisce v. Equitable PCI Bank, Inc., G.R. No. 167434, February 19, 2007, 516 SCRA 231, 251.

[30] SECTION. 1. Subject of appeal. – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein where declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(c) An interlocutory order;

x x x x

(f) An order of execution;

x x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

[31] Valenzuela v. Court of Appeals, G.R. No. 149449, February 20, 2006, 482 SCRA 637, 642.

[32] Allgemeine-Bau-Chemie Phils., Inc. v. Metropolitan Bank & Trust Co., G.R. No. 159296, February 10, 2006, 482 SCRA 247, 255.

[33] G.R. No. 115849, January 24, 1996, 252 SCRA 259.

[34] Id. at 285; Clark Development Corporation v. Mondragon Leisure and Resorts Corporation, G.R. No. 150986, March 2, 2007, 517 SCRA 203, 214.

[35] Espinoza v. Provincial Adjudicator of the Provincial Agrarian Reform Adjudication Office of Pampanga, G.R. No. 147525, February 26, 2007, 516 SCRA 635, 639-640.

[36] SEC. 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.

x x x x

[37] *Puncia v. Gerona*, G.R. No. 107640, January 29, 1996, 252 SCRA 425, 430.

[38] *Benedicto v. Court of Appeals*, G.R. No. 157604, October 19, 2005, 473 SCRA 363, 370.

[39] G.R. No. 85466, October 16, 1992, 214 SCRA 612.

[40] No. L-26098, October 31, 1969, 30 SCRA 281.

[41] *Hualam Construction and Dev't. Corp. v. Court of Appeals*, supra at 627; *Laurel v. Abalos*, supra at 291.

[42] SEC. 8. Immediate execution of judgment. How to stay same.- If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond approved by the justice of the peace or municipal court and executed to the plaintiff to enter the action in the Court of First Instance and 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 found by the judgment of the justice of the peace or municipal court to exist...

x x x x

[43] Supra note 38.

[44] Id. at 371.

[45] *Food Terminal, Inc. v. Shoppers Paradise FTI Corporation*, G.R. No. 153925, August 10, 2006, 498 SCRA 429, 436.

[46] *Preysler, Jr. v. Court of Appeals*, G.R. No. 158141, July 11, 2006, 494 SCRA 547, 553.

[47] *University of the East v. Wong*, G.R. No. 150280, April 26, 2006, 488 SCRA 361, 363.

[48] *Reyes-Rara v. Chan*, G.R. No. 142961, August 4, 2006, 497 SCRA 616, 621-622.

[49] *Hernandez v. National Power Corporation*, G.R. No. 145328, March 23, 2006, 485 SCRA 166, 180-181 (Underscoring supplied).

[50] *Amagan v. Marayag*, G.R. No. 138377, February 28, 2000, 326 SCRA 581, 591.

[51] *City of Caloocan v. Allarde*, G.R. No. 107271, September 10, 2003, 410 SCRA 432, 439.

[52] *Sarmiento v. Zaratan*, G.R. No. 167471, February 5, 2007, 514 SCRA 246, 263.

[53] Rollo, p. 137.

[54] SECTION. 1. Disqualification of judges. – No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

x x x x

[55] SEC. 4. Issuance by clerk of process. – The clerk of a superior court shall issue under the seal of the court all ordinary writs and process incident to pending cases, the issuance of which does not involve the exercise of functions appertaining to the court or judge only; and may, under the direction of the court or judge, make out and

sign letters of administration, appointments of guardians, trustees and receivers, and all writs and process issuing from the court.

[56] *Mariano v. Garfin*, A.M. No. RTJ-06-2024, October 17, 2006, 504 SCRA 605, 615.

[57] *Salcedo v. Caguioa*, A.M. No. MTJ-00-1328, February 11, 2004, 422 SCRA 426, 433.

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