

**RUFINO S. CAMUTIN, EDDIE P. CAMUTIN, GINA P. CAMUTIN,
REPRESENTED BY NOMINARIO SARIA, AS ATTORNEY-IN-FACT,
PETITIONERS, VS. SPS. NORBERTO POTENTE, AND PASCUALA
POTENTE, RESPONDE...**

G.R. No. 181642. January 29, 2009

Ponente: TINGA, J.

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TINGA, J.:

In a petition for review dated 18 February 2008,[1] petitioners Rufino S. Camutin, Eddie P. Camutin and Gina P. Camutin, represented by their attorney-in-fact, Nominario Saria, assail the Order dated 23 January 2008 of the Regional Trial Court (RTC), Br. 23, Trece Martires City, Cavite in SP. Civil Action Case No. TMSCA-0010-07 dismissing the case.[2]

Petitioners were the registered owners of parcels of land covered by TCT Nos. 1117266, 1117267 and 1117268 in their names issued by the Register of Deeds of Cavite. Petitioners, who reside abroad, discovered upon coming back to the Philippines in 1998 that the house and warehouse of respondents Spouses Norberto and Pascuala Potente were erected on the subject lots. Thereupon, respondents agreed to pay petitioners a P1,000.00 monthly rental starting 1 January 1998 for the use of the lots. They also agreed that should the properties be sold, respondents would have the right of first refusal and should respondents be unable to purchase the properties, they would peacefully vacate the premises.

However, respondents failed and refused to pay the agreed rentals. Neither were they able to purchase the lots. Consequently, petitioners sold a portion of the lots to a third party who had it fenced.

After the fence was erected, respondents in October 2006 filed a complaint for partition against petitioners and the buyer of the properties before the RTC of Trece Martires City, docketed as Civil Case No. TMSCA-0023-06.[3] Respondents claimed they had a right over one-half of the property by virtue of the acknowledgment of rights allegedly executed by petitioners' deceased mother in 9 June 1970.

In view of respondents' continued refusal to vacate the property and petitioners' consequent inability to deliver the property to the buyer free from any lien and existing improvement, petitioners filed on 12 October 2006 a complaint with the barangay to have respondents' warehouse removed from the properties. During the conference on 13 October 2006, the parties agreed to wait for the outcome of the 17 October 2006 hearing on the case for partition before the RTC. After the 13 October 2006 conference, the parties no longer appeared before the Barangay.[4]

On 20 November 2006, petitioners filed a complaint for unlawful detainer against respondents before the Municipal Trial Court (MTC) of Gen. Trias, Cavite docketed as Civil Case No. 805.[5] Respondents filed an Answer with Motion to Enforce the Agreement entered into before the Lupong Tagapamayapa of the Barangay.[6] The MTC subpoenaed the members of the Lupong Tagapamayapa. The Barangay Chairperson

clarified that the agreement was only to wait for the result of the RTC's 17 October 2006 hearing in the case for partition and not to wait for the termination of the case altogether.[7]

On 5 June 2007, the MTC issued an Order/Writ of Execution[8] where it noted the pendency of Civil Case No. TMSCA-0023-06 before the RTC and the existence of an "amicable settlement to await first the resolution of the Court on the said pending civil case." [9] Apparently, the MTC treated the 13 October 2006 agreement as an amicable settlement when the agreement was only to defer the barangay case pending the hearing before the RTC on 17 October 2006. The MTC thus ordered that the proceedings in the ejectment case be indefinitely suspended and archived subject to its revival upon the final resolution of Civil Case No. TMSCA-0023-06. The MTC also denied petitioners' motion for reconsideration of the order on 16 August 2007.[10]

Petitioners filed a petition for certiorari under Rule 65 with the RTC of Trece Martires City, raffled to Br. 23. Respondents filed a motion to dismiss thereto, alleging that the petition for certiorari is a prohibited pleading. The RTC granted the motion to dismiss in the assailed Order dated 23 January 2008.[11]

Petitioners thus come before this Court, arguing that the RTC erred in dismissing the petition for certiorari and that the MTC likewise erred in suspending the proceedings in the case for unlawful detainer until the final resolution of Civil Case No. TMSCA-0023-06 before the RTC. They allege that the MTC erroneously interpreted the barangay agreement differently from the clear testimony of the Barangay Chairperson and acted capriciously and whimsically in ordering the case archived without basis. Consequently, it was only proper for them to file the petition for certiorari before the RTC, which should have exercised its authority over the MTC and corrected the error that the inferior court had committed instead of dismissing their petition. Petitioners thus prayed that the RTC's order be annulled and declared null and void.

In their Comment dated 2 June 2008, respondents point out several technical errors supposedly committed by petitioners.[12] First, petitioners have availed of the wrong remedy. Since the assailed Order dated 23 January 2008 was rendered by the RTC in the exercise of its original jurisdiction, respondents argue that the correct mode of review is an appeal to the Court of Appeals under Sec. 2(a), Rule 41 of the Rules of Court. Second, the petition raises questions of fact, not of law, as petitioners seek a review and reexamination of the testimony of the Barangay Chairperson. Third, petitioners ignored the rule on the hierarchy of courts for no apparent reason. And lastly, the petition is patently bereft of merit. Petitioners assert that the MTC has already made a finding of fact that there was an agreement between the parties to await the resolution of the case for partition before the RTC. In ordering the stay of the proceedings in the unlawful detainer case, the MTC merely ordered the implementation of the agreement between the parties. The dismissal by the RTC of petitioners' petition for certiorari is also in full accord with the summary rules governing cases for ejectment and unlawful detainer, respondents conclude.

In a Manifestation/Motion dated 24 November 2008, respondents state that the case at bar has become moot and academic in view of the dismissal of the unlawful detainer case filed before the MTC and on that basis seek the dismissal of the petition for review.[13] Attached to the motion is a copy of the Order/Resolution dated 9 October 2008 issued by the MTC in Civil Case No. 805,[14] where it dismissed the unlawful detainer case in view of its findings that: (1) the legal requirement of a barangay conciliation proceeding and/or barangay certificate to file action, a condition precedent for filing the ejectment case was not complied with, the 13 October 2006 agreement not being the legal requirement contemplated by Sec. 12, Rule 70 of the Rules of Court; and (2) the fact of unilateral demolition of respondents' warehouse and petitioners' possession of the lots which have rendered the pending unlawful detainer case ineffectual and futile.

Petitioners filed their Opposition to the Manifestation/Motion,[15] claiming that respondents are misleading the Court into thinking that the dismissal of the case is already final when the truth is respondents are aware that

petitioners had filed a Notice of Appeal of the RTC's Order of 9 October 2008 on 5 November 2008.[16] The MTC, in its Joint Order dated 24 November 2008, gave due course to the notice of appeal and also ordered the elevation of the records of the case to the RTC.[17]

The petition should be dismissed for being moot and academic.

Certiorari is an extraordinary remedy available only when there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law.[18] While a petition for certiorari is not allowed against any interlocutory order issued by the court in the unlawful detainer or ejectment case,[19] in the case at bar, the filing of a petition for certiorari challenging the MTC's Orders dated 5 June 2007 and 16 August 2007 cannot be deemed a dilatory remedy resorted to by petitioners. On the contrary, sustaining the MTC's orders would unnecessarily and unfairly delay the unlawful detainer case, a result contrary to the rules' objective of speedy disposition of cases. Petitioners could also not appeal from the orders of the MTC because these only ordered the indefinite suspension and archiving of the case. The case was not resolved on the merits so there is actually no decision from which petitioners can appeal. Thus, the RTC could have validly ruled on the petition for certiorari instead of dismissing it on the ground that it is a prohibited pleading.

However, the MTC's revival of the unlawful detainer case and its subsequent dismissal thereof on the grounds aforestated have rendered the resolution of the present petition for review superfluous and unnecessary. In their petition for review, petitioners seek the nullification of the RTC's orders and the subsequent recall of the MTC's orders suspending the proceedings in the unlawful detainer case and archiving it. The suspension of the unlawful detainer case has apparently been lifted and the case has been decided. There is thus no more need for the Court to decide the present petition on the merits.

WHEREFORE, the petition for review is DENIED for being moot and academic.

SO ORDERED.

Quisumbing, (Chairperson), Corona,[*] Carpio-Morales, and Brion, JJ., concur.

* Additional member in lieu of Associate Justice Presbitero J. Velasco, Jr. per Special Order No. 558.

[1] Rollo, pp. 3-16.

[2] Id. at 90.

[3] Id. at 43-50.

[4] Id. at 6.

[5] Id. at 17-20.

[6] Id. at 29-36.

[7] The agreement states: "Napagkasunduan ng dalawang panig na hintayin na lang nila ang pagtatagpo sa korte kasi ang kanilang problema ay nasa korte na nakatakda sa Oct. 17, 2006." Id. at 42.

[8] Id. at 84-86.

[9] Id. at 84.

[10] Id. at 134-137.

[11] Id. at 90.

[12] Id. at 97-120.

[13] Id. at 139-141.

[14] Id. at 142-144.

[15] Id. at 145-146.

[16] Id. at 147-148.

[17] Id. at 149-150.

[18] RULES OF COURT, Sec. 1.

[19] RULES OF COURT, Sec. 13(7).

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