

**G&P COMPANY, PETITIONER, VS. THE COURT OF APPEALS,
MANUEL P. MONDEJAR AND CRISTINA E. MONDEJAR,
RESPONDENTS.**

G.R. No. 53476. November 21, 1991

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for review on certiorari of the February 20, 1980 decision of the Court of Appeals* in CA-G.R. No. SP-09081, entitled "Manuel P. Mondejar and Cristina E. Mondejar vs. Hon. Gregorio Pineda, Presiding Judge, Court of First Instance of Rizal, Branch XXI, et al." giving due course to the petition for certiorari filed by herein private respondents and annulling the Orders of Judge Pineda dated February 15 and March 13, 1979 in Civil Case No. 16668.

The antecedent facts, as gathered from the records, are as follows:

G-P and Co. (G-P, for short) is the owner of a house and lot located at No.138 F. Manalo St., San Juan, Metro Manila, which was leased to Manuel Mondejar way back on December 1, 1961 for a period of two years at the rate of P275.00 per month. The lease contract was presumably extended, at the increased rate of P325.00 a month, and with option to buy on the part of Mondejar (Decision, CA, pp. 1-2; Rollo, pp. 20-21).

On February 9, 1972, G-P filed an ejectment suit for non-payment of rentals from August 19, 1970 to April, 1972 with the Municipal Court of San Juan (Civil Case No. 3369). Judgment* was rendered in favor of G-P and against Mondejar. It required the latter to vacate and restore the possession of the property and to pay the sum of P7, 297.50 as house and telephone back rentals plus the sum of P325.00 monthly rentals until he vacates the same.

On May 22, 1972, Mondejar appealed the said decision to the then Court of First Instance (now Regional Trial Court) of Rizal, Branch XXI, docketed therein as Civil Case No. 16668. On September 26, 1972, while the case was pending therein, G-P filed a motion to restore possession of the subject leased property for failure of Mondejar to file a supersedeas bond and to deposit the monthly rentals during the pendency of the appeal as required by Section 8, Rule 70 of the Rules of Court, to stay the execution of the appealed decision.

On October 15, 1972, the then CFI of Rizal issued an order directing the issuance of the writ of execution prayed for in the motion. Mondejar filed a motion for reconsideration of the said order after depositing the sum of P1,950.00 representing the accrued monthly rentals from June to November, 1972 at P325.00 per month. Nevertheless, said motion was denied since "Mondejar has not complied with the mandatory requirement of depositing the monthly rentals within the first 10 days of each month" and the non-filing of supersedeas bond which is likewise mandatory.

It appears that the efficacy of the writ of execution lapsed without having been enforced, as the implementation of the execu-tion order was held in abeyance due to the negotiation for settlement of the case by the parties. On May 23, 1973, G-P filed a motion for issuance of an alias writ of execution which was granted by the then CFI of

Rizal.

In the meantime, on August 2, 1974, the Clerk of Court of the court a quo informed the CFI of Rizal taking cognizance of the appeal, that there was no transcript of stenographic notes taken during the proceedings before it because said court "had no court stenographer yet being employed then." In view thereof, the CFI of Rizal set the case for trial de novo (Petitioner's Brief, p. 5; Rollo, p. 71). On January 16, 1975, upon the ex-parte motion of Mondejar, the CFI of Rizal ordered the lifting of the alias writ of execution until after the parties shall have arrived at an ami-cable settlement (CA Rollo, p. 65).

On February 7, 1975, it appearing that the parties failed to arrive at an amicable settlement, the CFI of Rizal, upon motion of G-P, issued an order reviving the alias writ of execution (Ibid., p. 65).

On March 12, 1975, Mondejar filed a petition to lift the writ of execution but the same was denied in an Order dated March 18, 1975 "it appearing that the writ of execution was issued for non-payment x x x of the rentals that fell due since the perfection of the appeal" (Ibid., p. 57).

From said order, Mondejar instituted mandamus proceedings before the Court of Appeals (CA-G.R. No. SP 04105) to compel the CFI of Rizal to lift said order. However, on February 6, 1976, the Special First Division* of the same court dismissed said petition (CA Decision, p. 6; Ibid., pp. 63-68). Mondejar filed several motions for reconsideration but all were subsequently denied. The first denial was promulgated on November 18, 1976 and the second was promulgated** on May 12, 1977.

As Mondejar's motions were all denied, he appealed to this Court, but the First Division of this Court denied the petition (G.R. No. 45175) for lack of merit on August 22, 1977 (Ibid, p. 44).

Upon the finality of the resolution of the Court of Appeals dismissing the mandamus proceedings, G-P, on January 9, 1979, filed with the then Court of First Instance of Rizal a motion for the issuance of another alias writ of execution since the alias writ previously issued had already expired (Petitioner's Brief, pp. 6-7).

On February 15, 1979, the CFI of Rizal issued an order grant-ing G-P's motion. Accordingly, a second alias writ of execution was issued for the execution of the judgment of the Municipal Court of San Juan (CA Rollo, p. 7). Mondejar filed a motion to set aside the said order but the same was denied in an order dated March 13, 1979 (Ibid., p. 8). By reason thereof, on March 29, 1979, Mondejar, joined by private respondent Cristina Mondejar, again instituted a certiorari proceeding with the Court of Appeals in CA-G.R. No. 09081 to annul the said order of February 15, 1979 as well as the order of March 13, 1979 (Ibid., pp. 1-6).

On February 20, 1980, the Court of Appeals promulgated its decision, the dispositive portion of which reads as follows:

"WHEREFORE, the Petition is hereby given due course and the questioned orders dated February 15, and March 13, 1979 are hereby annulled and set aside, with costs against the private respondents.

The temporary restraining order issued in this case is hereby made permanent.

SO ORDERED." (CA Decision, p. 5; Rollo, p. 24).

From said decision, a motion for reconsideration was filed by G-P on February 26, 1980, but in the resolution of March 18, 1980, the Court of Appeals denied said motion.

Hence, this petition praying for reinstatement of the dis-puted orders of the CFI of Rizal dated February 15 and March 13, 1979.

In the resolution of January 19, 1981, the petition was given due course. The brief for G-P was filed on March 13,

1981, while the Mondejars, in their manifestation dated July 7, 1981 stated that their comment filed on August 6, 1980 be considered as their answer to the petition and brief of petitioner (Rollo, p. 78).

It is significant to note that during the pendency of the case, G-P filed on May 28, 1984 a motion to set the case for trial on the merits in the same Civil Case No. 16668 with the Regional Trial Court of Pasig, Branch CLX (CA Rollo, p. 209). The case was set for trial on the merits on July 25, 1984 during which Mondejar appeared without counsel. The case was reset for hearing on September 24, 1984 but Mondejar failed to appear. Upon motion, G-P was allowed to present evidence ex-parte.

On September 9, 1985, judgment* was rendered in favor of G-P and against Mondejar ordering the latter to vacate the subject leased property and surrender the possession thereof to G-P (RTC Decision, p. 3; CA Rollo, p. 220). In an order dated November 22, 1985, the motion for issuance of a writ of execution was granted (Order, p. 2; Ibid., p. 228) and a writ of execution was correspondingly issued to Deputy Sheriff Romeo de la Cruz (Ibid., p. 231). On April 3 and 4, 1986, Deputy Sheriff de la Cruz levied the properties of Mondejar (Ibid., p. 267), and the Mondejars were subsequently ejected from the leased property.

Considering therefore that the *raison d'être* of this petition has already been resolved, i.e., private respondent Mondejar has already been ejected from the subject property, it is evident that the same has become moot and academic.

Under similar circumstances, this Court held that a case becomes moot and academic and should be dismissed where the tenant had already vacated the premises and possession thereof had already been delivered to the owner (*Tinio v. Castro*, 136 SCRA 658 [1985]). A case is likewise dismissed as moot and academic where a related case had resolved all the varied issues raised between the parties (*GSIS v. CA*, 149 SCRA 379 [1987]).

It is a settled rule that a court will not determine moot questions or abstract propositions nor express an opinion in a case in which no practical relief can be granted (*Meralco Workers Union v. Yatco*, 19 SCRA 177 [1967] ; *Bongat v. Bureau of Labor Relations*, 136 SCRA 225 [1985] ; *Lomo v. Mabelin*, 146 SCRA 473 [1986]).

WHEREFORE, the instant petition is Dismissed for having become moot and academic.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Davide, Jr., and Romero, JJ., concur.

* Penned by Associate Justice Milagros A. German, concurred in by Associate Justices B.S. de la Fuente and Pedro D. Cenzon.

* Penned by Judge Alfredo N. Gorgonio

* Penned by Associate Justice Sixto A. Domondon and concurred in by Associate Justices Lourdes San Diego and Ameurfina Melencio-Herrera.

** Penned by Associate Justice Ameurfina Melencio-Herrera and concurred in by Associate Justices Lourdes P. San Diego and Crisolito Pascual.

* Penned by Judge Rafael de la Cruz

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