

**PEDRO HERMOGENES, PETITIONER, VS. HON. AUGUSTO M. AMORES,
IN HIS CAPACITY AS PRESIDING JUDGE OF THE COURT OF FIRST
INSTANCE OF MANILA, AMOR RAMOS AND CIELO PUBLICO,
RESPONDENTS.**

G.R. No. 58520. January 30, 1982

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court grants the petition for certiorari and prohibition and therefore annuls respondent judge's Orders of July 2, 1981 and September 17, 1981 which set aside his previous Order of April 10, 1981 dismissing as moot and academic the petition for certiorari filed with his court[1] by respondents who were questioning an interlocutory order for judgment on the pleadings issued by the City Court of Manila in the detainer cases filed by petitioner against them and in effect revived the said case of certiorari notwithstanding its already having become moot with the subsequent judgment for their ejectment rendered by the city court, now long final and executory due to respondents' failure to appeal therefrom.

The court of first instance case for certiorari had been filed on November 24, 1980 by herein private respondents Amor Ramos and Cielo Publico as petitioners in respondent judge's court against herein petitioner Pedro Hermogenes and City Judge of Manila Bienvenido Salamanca as respondents therein,[2] seeking to set aside the order issued on January 8, 1980 by City Judge Salamanca in the unlawful detainer cases filed on September 17, 1979 by herein petitioner as plaintiff against private respondents as defendants[3] which granted herein petitioner's motion for judgment on the pleadings therein on the ground that respondents' answers therein did not tender any issues of fact.

After the parties had filed their respective pleadings with respondent judge, the latter per his Order of March 4, 1981 denied herein petitioner's motion as respondent to dismiss the certiorari petition for lack of basis and cause of action and ordered the issuance of a writ of preliminary injunction restraining Judge Salamanca from deciding the detainer cases and from any further proceedings therein upon the filing of an injunction bond in the amount of P3,000.00 each by the two respondents. Said respondents, however, never put up the required bonds and the writ of preliminary injunction was never issued.

In the intervening period, Judge Salamanca of the City Court released his decision of January 20, 1981 in the detainer cases, granting petitioner's complaint and ordering respondents-defendants therein to vacate the premises and pay their rentals in arrears. This judgment in the detainer cases became final and executory as respondents-defendants took no appeal therefrom and on June 9, 1981, Judge Salamanca of the City Court issued the corresponding writ of execution which has not been enforced, however, due to respondent judge's aforesaid Orders of July 2, 1981 and September 17, 1981 herein challenged.

Petitioner herein, after the issuance of the city court's judgment for ejectment of respondents-defendants, filed a motion for reconsideration with respondent judge, asserting that with the city court's judgment of ejectment, the

certiorari case with respondent judge had become moot and academic since the action sought to be enjoined (the rendition of judgment) had already been done and that respondents' proper and adequate remedy was a timely appeal from the judgment of ejectment (with a supersedeas bond to cover the rentals in arrears and monthly deposits of the current rentals). Respondent judge in his Order of April 10, 1981 sustained petitioner's contention and accordingly reconsidered his previous Order of March 4, 1981 and ordered the dismissal of the petition before him, ruling correctly as follows:

"This has reference to respondents' 'Motion for Reconsideration' dated March 18, 1981, which is based, among others, on the ground that this case has become moot and academic, since on January 20, 1981, long before this Court issued its Order of March 4, 1981, respondent judge had already rendered a decision in Civil Cases Nos. 048362-63 CV, entitled 'Pedro Hermogenes, plaintiff, vs. Amor Ramos, defendant and Cielo Publico, defendant.'

"Petitioners did not oppose the aforesaid motion for reconsideration despite the fact that before the hearing thereof on April 10, 1981, their counsel was furnished a copy thereof.

"After a careful consideration of the arguments advanced by respondents, the Court finds the motion for reconsideration to be meritorious. As shown by Annex I of said motion, the respondent court, after issuing its disputed order dated January 8, 1980 granting the motion for judgment on the pleadings, proceeded to decide said two cases and on January 30, 1981 rendered a decision therein ordering herein petitioners to vacate their respective leased premises and to pay rentals in arrears.

"The present action for certiorari with preliminary injunction seeks to annul the order of January 8, 1980 issued by the respondent court and, pending the resolution of the petition, to restrain the respondents from rendering a decision in said two cases. But the reliefs here involved necessarily operate upon unperformed and unexecuted acts. The act complained of has already been consummated. It cannot be undone. Status quo ante cannot be restored. Injunction may no longer be availed of (*Remonte vs. Banto*, 16 SCRA 257; *DBP Employees Union-Natu vs. Perez*, 45 SCRA 180).

"Furthermore, said Civil Cases Nos. 048362-63 have already been decided by respondent court. The present case wherein petitioners seek to annul the order of respondent court granting the motion for judgment on the pleadings thus becomes moot and academic. A court will not determine moot questions or abstract propositions, nor express an opinion in a case where no practical relief can be granted (*Meralco Workers Union vs. Yatco*, 19 SCRA 177; *Arsenio Luz vs. Hon. Court of Appeals, et al.*, G. R. No. L-20585, September 30, 1963; *Pan American World Airways vs. PAA Employees' Assn. and CIR*, G.R. No. L-18345, January 30, 1964).

"In consequence, the Court need not pass upon the validity of the Order dated January 8, 1980. The same issue may be ventilated in an appeal from the decision rendered in the two cases.

"WHEREFORE, the Motion for Reconsideration dated March 18, 1981 filed by the respondents is hereby granted, and the Order of this Court dated March 4, 1981 is set aside, and another order issued dismissing the petition filed in the present case.

"SO ORDERED."[4]

On a counter-motion for reconsideration of said order of dismissal filed by respondents, however, respondent judge in his Order of July 2, 1981 "flip-flopped" to his original Order of March 4, 1981 denying the dismissal of the case before him erroneously finding merit in respondents' bare contention that respondent judge had in his original Order of March 4, 1981 sustained their cause that their answers to the detainer cases tendered issues of fact and should annul all the proceedings therein "including the decision rendered by (Judge Salamanca) which was a continuation of the act complained of."

Hence, the present action after respondent judge's denial on September 17, 1981 of petitioner's motion for reconsideration of his latest order reinstating the case. After receipt of respondents' comments, the Court has dispensed with the filing of memoranda and renders this decision finding merit in the petition.

The grounds for dismissal of the certiorari case questioning City Judge Salamanca's order for judgment on the pleadings as stated in respondent judge's above-quoted Order of April 10, 1981 are manifestly well-taken. In the face of these cogent grounds, respondent judge's reversal of his order of dismissal of the case must necessarily be set aside. Judgment for ejectment having been rendered by the City Court, the certiorari case had clearly become moot, no injunction having been issued against the rendition of the judgment due to respondents' own fault and failure to put up the required injunction bonds and the status quo ante could no longer be restored as pointed out by respondent judge himself in his said order. Assuming *arguendo* that City Judge Salamanca had erred in issuing his order for judgment on the pleadings, this was but an error of judgment, not of jurisdiction, and, therefore, not correctible by certiorari. There is no question that the city court's judgment was duly rendered within its jurisdiction. Respondents' proper and adequate recourse after the rendition of the judgment of ejectment was a timely appeal therefrom. They cannot substitute their lost appeal with the action of certiorari that they had filed before judgment, seeking to enjoin the rendition or issuance of any judgment, when their case had failed and become moot due to their own failure to put up the required injunction bonds.

Respondents do not deny petitioner's claim that "as of the end of October, 1981, respondent Amor Ramos has back rentals of P4,200.00 and respondent Cielo Publico in the amount of P5,000.00 at the rate of P200.00 a month each." The judgment of ejectment having long become final and executory due to respondents' failure to appeal therefrom, respondent judge has no jurisdiction to review, alter or set aside the same and to impede enforcement thereof, by virtue of his questioned orders reviving the moot certiorari case in his court.

ACCORDINGLY, judgment is hereby rendered setting aside respondent judge's Orders of April 10, 1981 and September 17, 1981 in Civil Case No. 136330 of his court and the temporary restraining order issued by this Court on November 9, 1981 enjoining respondent judge from further proceeding with the said case (except to dismiss the same) is hereby made permanent. With costs against private respondents.

Makasiar, Fernandez, Guerrero, Melencio-Herrera, and Plana, JJ., concur.

[1] Docketed as Civil Case No. 136330 of Branch XXIV of the CFI of Manila, entitled "Amor Ramos, et al. vs. Hon. Bienvenido Salamanca as Judge of the City Court of Manila, et al."

[2] Presiding Judge of Branch XIV of the City Court of Manila.

[3] Docketed as Civil Cases Nos. 048362 and 048363 entitled "Pedro Hermogenes vs. Amor Ramos" and "Pedro Hermogenes vs. Cielo Publico," respectively.

[4] Rollo, page 52; emphasis supplied.

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