

GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER, VS. HON. COURT OF APPEALS, LEONIDES MAKIRAMDAM, RESPONDENTS.

G.R. No. 62542. February 28, 1983

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Petition for review on certiorari of the resolution of the Court of Appeals (now Intermediate Appellate Court), dated October 28, 1982, dismissing the appeal interposed by petitioner Government Service Insurance System (GSIS) from the judgment rendered by the Court of First Instance of Rizal, Branch XI, presided by respondent Judge Ricardo Pronove, in Civil Case No. 36606.

This case had its incipience in an ejectment suit instituted by petitioner against respondent Leonidas Makiramdam before the Municipal Court of Marikina. Petitioner prayed that Makiramdam be ordered to pay rentals in arrears and to vacate the premises known as Lot No. 26, Block 44(6), together with the house erected thereon, situated in Nangka, Marikina, Metro Manila.

After trial, said court rendered a decision ordering "the defendant Makiramdam and all persons claiming rights under him to vacate the premises and the housing unit constructed by the GSIS in the lot, and further ordering defendant Makiramdam to pay the rentals for the use of the residential building and the lot from March 1967 at the rate of P34.02 a month as rental for fifty-eight (58) months or until the latter vacates the premises, and to pay the amount of P1,000.00 as attorney's fees together with the costs of the suit."

On appeal, the Court of First Instance of Rizal reversed and set aside the said judgment, without costs.

Petitioner seasonably filed a notice of appeal, appeal bond and record on appeal, and on March 1, 1982, Judge Pronove approved the record on appeal.

Upon transmittal of the records to the Court of Appeals, private respondent filed a motion to dismiss the appeal. Acting on this motion, the respondent Court of Appeals issued the challenged resolution dismissing the appeal, but granting counsel for appellant GSIS the right to file a petition for review within 30 days from notice."^[1]

Instead of filing a petition for review, as required by the Court of Appeals, petitioner instituted the instant petition with this Court, contending, among others, that

"The Honorable Court of Appeals gravely erred in refraining to resolve on appeal that the decision of respondent Judge Pronove dated February 13, 1981 are not supported by substantial evidence and the conclusions are clearly against the law and jurisprudence."

We sustain the challenged resolution of respondent Court of Appeals. It is a settled rule that a decision of the Court of First Instance in an ejectment suit originating from the Municipal Court is reviewable only by petition for review, not by ordinary appeal or by record on appeal. In *Gutierrez v. Magat*^[2], this Court laid down the rule that:

"Section 45 of the Judiciary Law as amended by Rep. Act No. 6031 does not allow an appeal by record on appeal from the decision of the court of first instance an appealed case falling within the exclusive original jurisdiction of the municipal or city court."

The same rule was reiterated in *Buenbrazo v. Marave*^[3] as follows:

"... Review of the decision of the court of first instance in a case exclusively cognizable by the inferior court [as in this case], cannot be made by an ordinary appeal or by record on appeal. That should be known to the members of the Bench and the Bar since the enactment of Rep. Act No. 6031 in 1969. . . ."

It is pertinent to point out that Section 22 of Batas Pambansa Blg. 129 likewise provides that a review of the decisions of the Regional Trial Court in cases falling within the original exclusive jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall be made by petition for review to the Intermediate Appellate Court. Thus:

"Sec. 22. Appellate jurisdiction.— Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Intermediate Appellate Court which may give it due course only when the petition shows prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed."

WHEREFORE, the petition is hereby dismissed, without prejudice to the filing of an appropriate petition for review before the Intermediate Appellate Court. No costs.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos and De Castro, JJ., concur.
Aquino, J., is on leave.

[1] Annex A of Petition.

[2] 67 SCRA 262.

[3] 101 SCRA 849.

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