

**CALIXTO ANGEL, PETITIONER, VS. HON. PONCIANO C. INOPIQUEZ,
PRESIDING JUDGE OF THE RTC OF NUEVA VIZCAYA, BRANCH XXX,
AND MARTIN PIMENTEL, RESPONDENTS.**

G.R. No. 66712. January 13, 1989

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for certiorari with preliminary injunction seeking to annul and set aside: the January 16, 1984 Order of the Regional Trial Court of Nueva Vizcaya, Branch XXX (30) in Civil Case No. 26 (formerly docketed with the Court of Agrarian Relations as CAR Case No. 1313-NV-1982) directing the Clerk of Court to issue a partial writ of execution on the decision rendered by that court in this case (Rollo, Annex "D", p. 19) and the Order dated February 22, 1984 denying petitioner's motion for reconsideration of said order (Rollo, Annex "F", p. 21-A).

The facts of the case are as follows:

Petitioner is the owner of two parcels of land in San Luis, Nueva Vizcaya, covered by a leasehold contract dated September, 1979 between him and private respondent for an agreed rental of fifty-five (55) cavans of palay per cropping season. But before the leasehold system was effected, the relationship between them was share tenancy at a 50-50 sharing basis.

Private respondent having failed to cultivate the land allegedly due to circumstances beyond his control, petitioner, on September 25, 1981 filed before the then Court of Agrarian Relations, Branch IV, Bayombong, Nueva Vizcaya, CAR Case No. 1230-NV 81, a complaint, later amended, for declaration of abandonment on the part of private respondent of the landholding in this case (Rollo, p. 57). On July 15, 1982, petitioner verbally moved for the withdrawal of his amended complaint without objection from private respondent. The case was eventually dismissed (Rollo 68479, p. 9).

On the other hand, on August 3, 1982, private respondent filed this CAR Case No. 1313-NV 82 for Reinstatement with Damages against petitioner which was renumbered RTC Civil Case No. 26. Private respondent claimed that petitioner, with the aid of others, surreptitiously plowed, harrowed, and planted palay on the landholdings in question and when private respondent objected, the latter was sternly warned not to enter therein (Rollo, p. 58).

After trial, respondent Judge on November 28, 1983 rendered a decision in this case, the dispositive portion is quoted hereunder, to wit:

"WHEREFORE, judgment is hereby rendered:

1. Ordering the immediate reinstatement of the plaintiff to the landholdings in question;
2. Ordering the defendant, his agent or any person for that matter acting in his behalf to vacate the premises in question and surrender the same to the plaintiff;

3. Ordering the defendant to pay plaintiff the amount of 330 cavans of palay per calendar year from December 19, 1981 up to the time the latter is restored to the peaceful possession and cultivation of the landholdings in question;
4. Ordering the defendant to pay plaintiff the amount of P20,000.00 as exemplary damages and another amount of P2,000.00 as attorney's fees;
5. Declaring the poor plaintiff-tenant to have already paid his indebtedness of P13,000.00 to the defendant;

With cost against the defendant."
(Rollo, pp. 4-5).

On December 19, 1983, petitioner filed a Notice of Appeal from the adverse decision rendered by the lower court (Rollo, Annex "A", p. 15).

On December 20, 1983, respondent Judge issued an Order approving the Notice of Appeal and directing the Clerk of Court to transmit the records of the case and was transmitted to the Intermediate Appellate Court (now Court of Appeals) on January 5, 1984 (Rollo, Annex "B", p. 16).

On January 10, 1984, private respondent filed a Motion for Execution Pending Appeal and to hold the case pending its resolution (Rollo, Annex "C", p. 17).

On January 16, 1984, respondent Judge granted the motion of private respondent for Execution Pending Appeal, the dispositive portion of which reads:

"WHEREFORE, the Clerk of Court is hereby directed to issue a partial Writ of Execution enforcing or effecting only paragraphs 1 and 2 of the dispositive portion of the decision rendered by this Court promulgated on November 28, 1983." (Rollo, Annex "D", p. 19)

On February 3, 1984, the petitioner filed a Motion for Reconsideration of the above order of respondent Judge alleging that it has no jurisdiction to issue the questioned order considering that the petitioner has already perfected his appeal as of December 17, 1983 and the entire records was transmitted to the Intermediate Appellate Court (now Court of Appeals) as early as January 5, 1984 (Rollo, Annex "E", p. 20).

On February 22, 1984, the respondent Judge denied the petitioner's Motion for Reconsideration (Rollo, Annex "F", p. 21-A).

Hence, this petition for Certiorari with Preliminary Injunction filed with this Court on March 21, 1984 (Rollo, pp. 1-4). The petition was given due course in the resolution of January 30, 1985 (Rollo, p. 83) and the parties were required to submit their respective memoranda which the parties complied with.

Petitioner contends that the Court has lost jurisdiction over the case upon the perfection of the appeal to the Intermediate Appellate Court (now Court of Appeals) and the transmittal of the entire records to said Appellate Court.

The contention is without merit.

Meanwhile, on June 29, 1984, the Second Special Cases Division of the Intermediate Appellate Court (now Court of Appeals) rendered a decision on the appeal made by petitioner Calixto Angel in AC-G.R. CAR No. 02987, the dispositive portion of which reads:

"WHEREFORE, the judgment appealed from being supported by substantial evidence is hereby **AFFIRMED** insofar as it orders: (a) the immediate reinstatement of appellee to the land-holding in question; (b) appellant and any person acting in his behalf to vacate the aforesaid premises; and (c) appellant to pay appellee the

amount of 330 cavans of palay per calendar year from December 1981 up to the time appellee is restored to the peaceful possession and cultivation of said landholding. The award of exemplary damages and attorney's fees is ordered deleted and set aside. Costs against defendant-appellant." (Rollo, p. 66)

On September 3, 1984, petitioner-appellant Calixto Angel filed with this Court a petition for Review on Certiorari in G.R. No. 68479 "Calixto Angel v. I.A.C., et al.," seeking the reversal and setting aside of aforementioned decision dated June 29, 1984, rendered by the Intermediate Appellate Court (now Court of Appeals) in AC-G.R. Sp. No. 02987, entitled "Martin Pimentel, Plaintiff-Appellee, versus Calixto Angel, Defendant-Appellant."

On September 12, 1984, a resolution was rendered by the Supreme Court in G.R. No. 68479, the dispositive portion of which reads as follows:

"G.R. No. 68479 (Calixto Angel vs. The Intermediate Appellate Court, et al). Acting on the aforesaid petition for review on Certiorari the Court Resolved to DENY the petition for having been filed late and for lack of merit."

which became final and executory on October 12, 1984.

Verily, as things now stand, considering the lapse of time, and the fact that the decision of the Intermediate Appellate Court (now Court of Appeals) affirmed the decision of the lower court on the merits, the aforesaid resolution of this Court in G.R. No. 68479 (Calixto Angel vs. Intermediate Appellate Court, et al.) which became final and executory, rendered this petition for review on Certiorari with Preliminary Injunction moot and academic.

This court ruled in *Munoz v. Bagasao, et al.* (44 SCRA 526 [1972]) that "where a decision on the merits in a case is rendered and the same has become final and executory, as in the case at bar, the action on procedural matters or issues is thereby rendered moot and academic." Therefore, an adjudication of the procedural issue presented for resolution (similar to this case with respect to the issuance of a writ of execution pending appeal) would be futile exercise in exegesis (*Ibid*).

Considering, however, the nature and importance of the legal question raised in this petition, it is necessary to discuss and resolve the same with finality (*De la Camara v. Enage*, 41 SCRA 1 [1971]; *Salonga v. Pano*, 134 SCRA 438 [1985]; *Filipinas Engineering and Machine Shop v. Ferrer*, 135 SCRA 25 [1985]).

The sole issue to be resolved is: Whether or not execution pending appeal may be issued after the perfection of the appeal in agrarian cases.

A careful examination of the records show that the Writ of Execution Pending Appeal was issued by respondent Judge on January 16, 1984, twenty-six (26) days after the approval of the Notice of Appeal filed by petitioner on December 20, 1983; and barely eleven (11) days after the transmittal of the records to the Intermediate Appellate Court (now Court of Appeals). It is clear, therefore, that the Writ of Execution Pending Appeal was issued after the perfection of the appeal as provided for in Section 9, Rule 41 of the Rules of Court, as amended by the Interim Rules.

It is well settled in this jurisdiction that once appeal is perfected, the trial court loses its jurisdiction over the case and to issue writ of execution (*Universal Far East Corporation v. C.A., et al.*, 131 SCRA 642 [1984]; *Montelibano v. Bacolod-Murcia Milling Co., and C.A.*, 136 SCRA 294 [1985]).

It should be pointed out, however, that this ruling does not apply to the case at bar.

This is a tenancy and/or agrarian case. Hence, the perfection of the appeal does not necessarily mean that the court a quo loses jurisdiction over the case, since the rules of procedure as defined under Presidential Decree 946 apply.

Section 16 of P.D. 946 provides:

"SEC. 16. Rules of Procedure. - The Courts of Agrarian Relations shall adopt uniform rules of procedure on matters not provided for in this Decree in order to achieve a just, expeditious and inexpensive determination of every action or proceeding filed before them. The Rules of Court shall not be applicable to agrarian cases, even in suppletory character. It is the spirit and intention of this Decree that the Courts of Agrarian Relations shall utilize and employ every and all reasonable means to ascertain the facts of every case in accordance with justice and equity and the merits of the case without regard to technicalities of law and procedure. To this end, each Court of Agrarian Relations shall have the authority to adopt any appropriate measure of procedure in any situation or matter not provided for or covered by this Decree and in the uniform rules of procedure of the Courts of Agrarian Relations. All such special measures or procedures, and the situations to which they are applied shall be reported to the Supreme Court by the individual Judge through the Executive Judge who shall furnish copies of such reports to all the other Judges.

"Where there is doubt in the application of the uniform rules or in the construction and interpretation of this Decree or of any contract between the parties, the doubt shall be resolved in favor of the tenant-farmers, agricultural leases, settlers, owner-cultivators, amortizing owner-cultivators, the Samahang Nayon, compact farms, farmers' cooperatives and other registered farmer's associations or organizations." (Underscoring supplied)

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Moreover, Section 18 of the same Decree, explicitly provides:

"SEC. 18. Appeals. x x x x x

"Appeal shall not stay the decision or order except where the ejectment of a tenant, farmer, agricultural lessee or tiller, settler or amortizing owner-cultivator is directed."

And under Section 24 of Batas Pambansa Blg. 129, Judiciary Reorganization Act of 1980, the rules of procedure, as defined in the aforecited provisions of P.D. 946 shall continue to be applied in tenancy cases.

Section 24 of Batas Pambansa 129 provides as follow:

"SEC. 24. Special Rules of Procedure. - Whenever a Regional Trial Court takes cognizance of juvenile and domestic relations cases and/or agrarian cases, the special rules of procedure applicable under present laws to such cases shall continue to be applied, unless subsequently amended by law, or by the Rules of Court promulgated by the Supreme Court."

Sections 16 and 18 of Presidential Decree No. 946 are too clear and explicit in this respect as to require interpretation or construction. Section 16 precludes the application of the Rules of Court to agrarian cases while Section 18 provides that appeal shall not stay the decision in agrarian cases. Consequently, said decision may be executed notwithstanding the perfection of the appeal therefrom except where the appealed decision directs the ejectment of the tenant.

Moreover, "rules of procedure are intended to promote, not to defeat substantial justice, and therefore, they should not be applied in a very rigid and technical sense." (Calasiao Farmers Cooperative Marketing Association v. C.A., 106 SCRA 630 [1981]; Director of Lands v. Romamban, et al., 131 SCRA 431 [1984]).

Finally, Presidential Decree No. 946 being a special law, the same shall have precedence over the Rules of Court which is of general applicability (De Joya v. Lantin, 19 SCRA 893 [1967]; Papa v. Mago, 22 SCRA 857 [1968]).

WHEREFORE, the petition is DISMISSED for LACK OF MERIT and for being MOOT AND ACADEMIC.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

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