

MASAGANA TELAMART, INC., AND DAVID S. TIU, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT AND RODOLFO G. MERTO, RESPONDENTS.

G.R. No. 69623. May 31, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

How a simple ejectment case can reach the Supreme Court, not once but twice, is shown in this decision.

Petition to set aside the resolution of the respondent Intermediate Appellate Court dated December 28, 1984, which restrained the execution of the judgment in Civil Case No. 063696-CV for ejectment of the Metropolitan Trial Court of Manila.

On April 30, 1981, David S. Tiu and Masagana Telamart, Inc. (petitioners at bar) filed Civil Case. No. 063696 for ejectment in the City Court of Manila against Rodolfo G. Merto, (private respondent herein).

On February 9, 1982, the City Court rendered judgment in favor of the plaintiffs ordering the defendant to vacate the leased premises, pay back rentals and attorney's fees.

Defendant Merto went to the court of First Instance of Manila not by ordinary appeal but on certiorari in Civil Case No. 82-6915. The petition alleged that the lower court based its decision on unreliable evidence, that it failed to appreciate the true and factual basis for a judicious and impartial finding, and that it did not accord him substantive due process. He prayed that the decision of the City Court be annulled and set aside.

The Court of First Instance dismissed Merto's petition on May 5, 1982. On a motion for reconsideration, the petition was reinstated on September 5, 1982.

The reinstatement of the petition prompted Masagana Telamart, Inc. and Tiu to go to the Court of Appeals on certiorari where they questioned the propriety of the reinstatement of Merto's certiorari petition.

On February 28, 1983, the Intermediate Appellate Court in CA G.R. No. Sp-14907-R, granted the petition of Masagana Telamart, Inc. and Tiu. It set aside the order which reinstated Merto's petition.

Merto went to this Court in G.R. No. 66798 to question the resolution of the Intermediate Appellate Court mentioned in the preceding paragraph but his petition was denied on May 7, 1984. Entry of judgment was made on August 10, 1984.

While the reinstatement of Merto's petition for certiorari was still being litigated, the following took place:

On May 18, 1983, he filed Civil Case No. 83-17552 in the Regional Trial Court of Manila against Masagana Telamart, Inc., et al. for annulment of the decision in the ejectment case.

The Regional Trial Court, upon a motion to dismiss, ordered the dismissal of the case on ground of res judicata on August 24, 1983.

Merto appealed the dismissal to the Intermediate Appellate Court in AC-G.R. CV No. 02754 and said court issued a writ of preliminary injunction to restrain the execution of the decision in the ejectment case. It is the resolution which enjoins the execution of the decision which is the subject of the instant petition.

The petition is highly impressed with merit.

The dilatory tactics of the private respondent must be severely condemned.

The issues and the reliefs sought in the Certiorari case filed in the Court of First Instance of Manila are substantially the same as those in the annulment suit filed in the Regional Trial Court also of Manila. In both cases there is also substantial identity of parties. Accordingly, when the first case was finally decided, the second case, aside from violating the rule on multiplicity of suits, became moot and academic and should have been dismissed. It is worthwhile to remember what this Court said under similar circumstances:

"Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them." (Li Kim Tho vs. Go Siu Kao, et al., 82 Phil. 776, 778 [1949].)

WHEREFORE , the petition is granted; the questioned resolution is hereby set aside and the case where it was issued is dismissed.

SO ORDERED.

Aquino and Escolin, JJ., concur.

Makasiar, J., (Chairman), joins with concurrence of J. Cuevas.

Concepcion, Jr., J., on leave.

Cuevas, J., concur. But in view of the clearly unquestionable dilatory tactics perpetrated by the private respondent and his counsel thus making a mockery of the administration of justice, treble costs must be imposed upon both of them.

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