

HEIRS OF FRANCISCO GUBALLA, SR. AND GUBALLA MARKETING CORPORATION, PETITIONERS, VS. THE COURT OF APPEALS AND SPOUSES RUFINO B. RISMA AND TECLA GOTICO-RISMA, RESPONDENTS.*G.R. No. 78223. December 19, 1988*

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-78223/>**PARAS, J.:**

These are petitions for review on certiorari, seeking the reversal in: (1) G.R. No. 78223, the resolutions[1] of the Court of Appeals in C.A.-G.R. CV No. 04090, "Risma, et al. vs. Bulaklak Publications, et al.": (a) dismissing the appeal for failure to comply with a lawful order of the Court; and (b) denying the motion for reconsideration of said resolution and (2) G.R. No. 79403, the decision[2] of the same Appellate Court in C.A.-G.R. SP No. 07983, "Mozar vs. Madamba, et al." affirming the decision of the Regional Trial Court of Manila, Branch 54, in Civil Case No. 82-12102 which denied the petition for certiorari and prohibition filed against Judge Ernesto A. Madamba, of the City Court of Manila, the City Sheriff and Francisco Guballa, Sr.

As gathered from the records, the undisputed facts of these cases are as follows:

I. In G.R. No. 78223 - Writ of Possession Case

The late Francisco Guballa, Sr. (Guballa Sr. for short) was the registered owner of a parcel of land, located at 1002-1004 R. Hidalgo St., Quiapo, Manila under TCT No. 15638 of the Register of Deeds of Manila, together with improvements existing thereon, consisting of a building known as the Bulaklak Building (Exh. "3", Folder of Exhibits, p. 27, G.R. No. 78223).

Guballa Sr. used to own and operate Bulaklak Publications housed in the ground and mezzanine floors of said building. After cessation of Guballa Sr.'s business operations BUSCOPE LABOR UNION (BUSCOPE for short), instituted a complaint for non-payment of separation pay against BULAKLAK PUBLICATIONS and/or Francisco Guballa, Sr., docketed as NLRC Case No. 014 and entitled "BUSCOPE LABOR UNION and Amado S. Pagsanjan, as its President, et al. vs. BULAKLAK PUBLICATIONS and/or Francisco Guballa, Sr." (Exhibit "J", Folder of Exhibits, p. 39, G.R. No. 78223). After hearing, judgment was rendered in favor of BUSCOPE and against BULAKLAK PUBLICATIONS, et al., ordering the latter to pay the sum of P139,123.75 as collective Separation Pay of the complainants' union. The NLRC issued a writ of execution and levied upon Guballa's property covered by TCT No. 15638 and subsequently sold the same at public auction on July 8, 1975 in favor of BUSCOPE as highest bidder, the corresponding certificate of sale was issued to it by the Sheriff of Manila and annotated on the back of said title on July 11, 1975 (Rollo, pp. 35-36, G.R. No. 78223; Exhibit "3", Folder of Exhibits, G.R. No. 78223, p. 51). Rentals of said building were delivered to BUSCOPE starting November 1975 and the succeeding months.

On July 7, 1976, and within the period of redemption, a motion for the annulment of the certificate of sale issued

in favor of BUSCOPE was filed in NLRC Case No. 014 and in connection therewith, a Notice of Lis Pendens was duly annotated at the back of TCT No. 15638 under Entry No. 6666. However, despite the pendency of said motion, a Final Deed of Sale was issued by the Sheriff of Manila on November 4, 1976 in favor of BUSCOPE over subject property (Exhibit "B", Folder of Exhibits, G.R. No. 78223, p. 2).

On March 10, 1978, BUSCOPE's President Amado Pagsanjan sold the said property to Atty. Rufino Risma (Exhibit "C", Folder of Exhibits, G.R. No. 78223, p. 3) but without annotating his acquired rights thereon in TCT No. 15638.

Three days later, on March 31, 1978, Mozar and Atty. Risma entered into a lease agreement over the premises in question in the amount of P3,000.00 monthly beginning April 1978 (Exhibit "E", Folder of Exhibits, G.R. No. 79403).

However, on April 10, 1979, a decision was rendered by Deputy Minister Amado G. Inciong in NLRC Case No. 014, setting aside the deed of sale in favor of BUSCOPE, the dispositive portion of which decision reads:

"WHEREFORE, the sale of the property covered by TCT No. 15638 of the Registry of Deeds for the City of Manila on July 8, 1975 is hereby set aside, the judgment claims of the complainants having been fully satisfied.

"The Register of Deeds of the City of Manila is hereby ordered to cancel the sale of the property covered by TCT No. 15635 in favor of BUSCOPE Labor Union on 8 July 1975, restoring ownership thereof to the respondent Francisco Guballa, Senior." (Rollo, p. 37, G.R. No. 78223)

No appeal was interposed from the said order. Cancellation of the Sheriff's Certificate of Sale was duly annotated at the back of TCT No. 15638 (Exhibit "3-G", Folder of Exhibits, G.R. No. 78223, p. 52).

On June 26, 1979, an action for the issuance of a writ of possession of property covered by TCT No. 15638 was filed by the Risma spouses against Guballa Sr. at the CFI of Manila, Branch XXXIV, docketed as Civil Case No. 12427, "Rufino B. Risma, et al. vs. Bulaklak Publications and Francisco Guballa, Sr.". In his answer Guballa Sr. prayed for the dismissal of the case on the grounds of: (a) lack of cause of action, the claimants having been paid and the decision having been fully satisfied and (b) lack of jurisdiction of the Court of First Instance on the subject matter thereof, the NLRC having the original and exclusive jurisdiction over the same (R.A. G.R. No. 78223, pp. 8-9). The prayer for dismissal was denied in the Order of the lower court dated December 11, 1979 (Original Record, G.R. No. 78223, pp. 81-82) and the motion for reconsideration said Order was denied in the Order of March 20, 1980 (Ibid., p. 104). On June 19, 1982, subject property was sold by Guballa Sr. to Guballa Marketing Corporation by virtue of a Deed of Sale with Assumption of Mortgage (Original Record, G.R. No. 79403, pp. 547-548) and a new Transfer Certificate of Title No. 153154 was issued by the Register of Deeds of Manila (Ibid., pp. 545-546).

On July 26, 1982, a decision was rendered granting the issuance of a writ of possession over the subject property in favor of the private respondents spouses Risma (Original Records, pp. 241-250).

But on appeal to the Court of Appeals docketed as C.A.-G.R. No. CV No. 04090 and after filing of the appellant's brief (CA Rollo, p. 148), several motions to dismiss were filed by private respondents Risma in view of the sale of the property by appellant Guballa Sr. to Guballa Marketing Corporation which allegedly implied that appellants Guballa Sr., et al. are no longer the real party in interest (CA Rollo, pp. 154, 183). Said motions were all denied by the Second Civil Cases Division and instead party-appellant Guballa Sr., et al. was ordered to be substituted by the present owner upon "the initiative of the adverse party if it so desires" in a resolution dated October 28, 1985 and November 12, 1985 (CA Rollo, pp. 179 and 181).

Petitioners Guballa Sr., et al. did not comply with the aforesaid resolutions. No notice of resolution was sent to Guballa Marketing Corporation. A motion for reconsideration of the latter resolution was filed by private respondents Risma and on December 9, 1986, the appeal was dismissed for failure of appellant to comply with the resolution dated November 12, 1985 (CA Rollo, pp. 209-210).

From said dismissal, petitioners Guballa Sr., et al. filed a motion for reconsideration dated January 2, 1987 and Guballa Marketing Corporation's notice of voluntary appearance dated February 10, 1987 (CA Rollo, pp. 211, 221). On April 13, 1987, the motion was denied and the appearance of petitioner corporation merely noted (CA Rollo, p. 227).

II. In G.R. No. 79403 - Ejectment Case

On the other hand, the records show that there was an existing contract of lease between Guballa Sr. as lessor and Emeterio M. Mozar as lessee, over subject property, for a term of five (5) years beginning January 1, 1973 and expiring on January 1, 1978 (Rollo, p. 8, G.R. No. 79403).

On March 16, 1979, Guballa Sr. filed an ejectment suit at the City Court of Manila (now MTC, Branch 17) docketed as Civil Case No. 042984-CV, against petitioner Mozar for unlawfully detaining the subject premises since the expiry date of the lease contract between them or from January 1, 1978 and for non-payment of rentals.

On January 22, 1980, a decision[3] was rendered by the said City Court, Branch XVII on said ejectment case, ordering Mozar to vacate subject premises and to pay the corresponding rentals thereon (Exhibits "1" - "1-H", pp. 30-38, Folder of Exhibits, G.R. No. 79403).

On appeal, the Court of First Instance, Branch XXXVII, in Civil Case No. 130088, affirmed aforesaid judgment[4] on July 3, 1980 (Folder of Exhibits, G.R. No. 79403, Exhibit "2", pp. 39-44). On review, the Court of Appeals, in C.A.-G.R. SP. No. 11149-R[5] affirmed on March 27, 1981 the decision of the Court of First Instance with the modification that petitioner shall not be liable for the payment of rentals from November 1, 1975 to April 10, 1979 (Exhibit "3-A", Folder of Exhibits, G.R. No. 79403, pp. 46-50). Still further, on appeal by certiorari, in G.R. No. L-57953, this Court finally denied the petition of Mozar on June 2, 1982 and entry of judgment was made (Exhibits "2", "7" and "8", Folder of Exhibits, G.R. No. 79403, pp. 55-57).

On July 12, 1982, Guballa Sr. filed a motion for execution of the decision in the ejectment case as modified by the Court of Appeals, which was opposed by Mozar.

After hearing, the City Court (now MTC), Branch XVII, issued a writ of execution on July 16, 1982 to enforce its decision as modified, and said writ was subsequently served on petitioner Mozar who partially complied by paying the money portion of the execution judgment (Exhibits "A" - "A-1", pp. 1-2, Folder of Exhibits, G.R. No. 79403, pp. 1-2).

On July 23, 1982, Mozar undertook to leave the premises in question on or before August 31, 1982, otherwise, the ejectment execution shall be enforced against him. (Exhibit "4", p. 51, Folder of Exhibits). Mozar, however, did not comply with his undertaking.

Meanwhile, on August 30, 1982, in violation of his undertaking to leave subject premises and to obviate further execution of the judgment in the ejectment case, Mozar filed a special civil action for certiorari with prayers for the issuance of preliminary injunction and/or restraining order before the Regional Trial Court, Manila, Branch 54, docketed as Civil Case No. 82-12102 against the Presiding Judge, City Court of Manila (now MTC, Branch 17) and the City Sheriff of Manila, for the following purposes: (a) to quash the writ of execution issued on July 16, 1982 because of the grant of the writ of possession to the Risma spouses which was affirmed by the Court of

Appeals in C.A.-G.R. C.V. No. 04090 (The Writ of possession Case) and (b) to enjoin respondent court from issuing another writ of execution in connection with the decision of the Court of Appeals in C.A.-G.R. No. SP-11149-R (The Ejectment Case).

Said Regional Trial Court issued on August 30, 1982 a temporary restraining order to maintain the status quo (G.R. No. 79403, Original Records, p. 80).

On November 25, 1982, Mozar acquired the premises in question from Atty. Risma by virtue of a Deed of Absolute Sale (Exhibit "F", Folder of Exhibits, G.R. No. 79403, pp. 18-20) which was also not annotated in TCT No. 15638.

On March 29, 1985, said Regional Trial Court, Branch 54[6] finding no abuse of discretion on the part of the trial judge, denied the petition in Civil Case No. 82-12102 as well as the injunctive relief prayed for (G.R. No. 79403, Original Records, pp. 372, 382).

Guballa moved for the withdrawal of rental deposits on April 9, 1985 (Original Records, p. 384), while the Mozars appealed the above mentioned decision and opposed withdrawal of the deposits with a counter-motion to preserve the status quo of the parties in this case (Ibid., p. 387).

Considering the motion for the withdrawal of the deposits and the opposition of the Mozars primarily based on the fact that the decision of said Regional Trial Court is on appeal with the Court of Appeals, the former issued an Order[7] dated April 16, 1985, granting the prayer for the maintenance of the status quo of the rights of the parties and enjoining the Municipal Trial Court from issuing a writ of execution (G.R. No. 79403, Original Records, pp. 398-399). Noting however, the finality of the decision in the ejectment case, Judge Cabanos reconsidered his status quo order on June 17, 1985 (Ibid., pp. 417-418).

On certiorari and prohibition, filed with the Court of Appeals where it was docketed as C.A.-G.R. No. SP-06516, Mozar sought the annulment of the June 17, 1985 Order of Judge Cabanos. A temporary restraining order was issued on March 23, 1983 to maintain the status quo (G.R. No. 79403, CA Rollo, p. 177), but on November 25, 1986, a decision[8] was finally rendered declaring that no grave abuse of discretion was committed by Judge Cabanos in issuing the Order of June 17, 1985 (Ibid., pp. 170-174).

Earlier, however, before the promulgation of said decision, Mozar moved for the transmittal of the records of the earlier certiorari case, Civil Case No. 82-12102 which was dismissed by the Regional Trial Court, Branch 54, to the Court of Appeals, the case being now docketed as C.A.-G.R. SP No. 07983.

On February 19, 1987, a motion to consolidate C.A.-G.R. No. 06516, the terminated case and C.A.-G.R. No. 07983-R was filed by Guballa Sr. but this was denied on April 22, 1987 (G.R. No. 79403; Court of Appeals Rollo, pp. 175-176).

Based on said denial of the motion for consolidation, MTC Judge Caesar Sangco, Branch 17, granted the motion to issue an alias writ of execution on June 29, 1987 to enforce the decision in the ejectment case (p. 321, Court of Appeals Rollo, C.A.-G.R. SP No. 07983-R). An alias writ of execution was issued on June 30, 1987 (Ibid., p. 203). The Deputy Sheriff of Manila filed his return on July 2, 1987, informing the court that the judgment as regards the ejectment of Mozar was satisfied but not as regards the money claim (Ibid., p. 203). Notice of levy on Mozar's personal properties was likewise made on the same date (Ibid., p. 207). Respondent Court of Appeals restrained MTC, Branch 17 and the City Sheriff from implementing the said alias writ of execution dated June 30, 1987 on the ground that Mozar filed a bond of P150,000.00 to answer for the back rentals of the premises from 1982-1987 (Ibid., p. 220). On July 10, 1987, MTC, Branch 17 issued an Order to defer the implementation of the said writ and instructed the Sheriff to remove the lock which he had installed in the premises (Ibid., p. 234). But

this Order was subsequently set aside by the MTC of Manila, Branch 17, on July 20, 1987 (Ibid., pp. 313-315) for having been inadvertently issued, as the alias writ of execution had already been fully implemented four days before the Court of Appeals issued its restraining order. On July 31, 1987, a decision was rendered by the Court of Appeals in C.A.-G.R. SP No. 07983-R, considered as an appeal from the decision of the RTC, Branch 54 in Civil Case No. 82-12102, affirming the judgment of the latter court, which in effect denied the prayer to recall the writ of execution dated July 16, 1982.

Unsatisfied with the decisions of the Court of Appeals in C.A.-G.R. SP No. 06515 and C.A.-G.R. SP No. 07983-R, which involve the same issues, parties, subject matters and facts, Mozar now comes to this Court by way of petition for review to raise once again the same legal questions already ruled upon.

Hence this petition in G.R. No. 79403.

In G.R. No. 78223, private respondents filed their comment on the petition for review on certiorari on September 2, 1987 (Rollo, G.R. No. 78223, p. 61) in compliance with the resolution of the Second Division of this Court dated July 15, 1987 (Ibid., p. 49-a), while the petitioners filed their reply on October 3, 1987 (Ibid., p. 90). A rejoinder to the reply was filed by private respondents on December 8, 1987 (Ibid., p. 101) in compliance with the resolution of October 21, 1987 (Ibid., p. 100).

In G.R. No. 79403, pending action on the petition, petitioner Mozar filed an urgent motion on August 22, 1987 with the Court of Appeals, for protection and preservation of his rights, directing the Deputy Sheriff Alfredo Distor to hold in abeyance the execution sale of his personal properties levied upon earlier until such time as this Court shall have acted on the petition (G.R. No. 79403, CA Rollo, pp. 302-305). The Court of Appeals denied aforesaid motion on August 31, 1987 for having lost jurisdiction over the case (Ibid., p. 307).

Respondents filed their comment on the petition for review on certiorari on September 19, 1987 (Ibid., p. 109) in compliance with the resolution of the Second Division of this Court of August 26, 1987 (Ibid., p. 67), while petitioner filed his reply on September 29, 1987 (Ibid., p. 152) in compliance with the resolution of October 14, 1987 (Ibid., p. 151). Petitioner's urgent ex-parte and supplemental motions filed on August 21, 1987 and September 19, 1987 (Ibid., pp. 59 and 142) for issuance of a temporary restraining order were noted and G.R. No. 78223 and 79403 were consolidated. The Court gave due course to the petitions and considered the cases submitted for deliberation on December 9, 1987 (Ibid., p. 107). Considering the urgent motion and amended urgent motion of the petitioner in G.R. Nos. 79403 to resolve supplemental motion for issuance of order of restitution/restoration, the Court Resolved to require the adverse parties to comment thereon in the resolution dated February 17, 1988 (Ibid., p. 183). Petitioners in G.R. No. 78223 and private respondents in G.R. No. 79403 filed the required comment on March 23, 1988 (Ibid., p. 184).

On May 26, 1988, counsel for Emeterio Mozar manifested to the Court as to the recent death of his client Emeterio Mozar, and submitted a copy of the latter's death certificate (G.R. No. 79403, Rollo, pp. 200, 202). A motion for substitution of the heirs of Emeterio Mozar as co-petitioners in G.R. No. 79403 was filed on May 30, 1988 (Ibid., p. 206), while on June 9, 1988 (Ibid., p. 215) the heirs of deceased Emeterio M. Mozar filed a motion to allow them to retrieve personal records and properties not levied upon.

In G.R. No. 78223, petitioners raised the following assignments of errors:

I

THE RESPONDENT COURT OF APPEALS ERRED IN ORDERING THE OUTRIGHT SUBSTITUTION OF THE ORIGINAL APPELLANTS BY THE PRESENT OWNER, GUBALLA MARKETING CORPORATION, WHO, AS TRANSFEREE PENDENTE LITE, SHOULD AT MOST BE JOINED AS

PARTY APPELLANT.

II

THE RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT PETITIONER HEIRS OF FRANCISCO GUBALLA SR. FAILED TO COMPLY WITH THE AMENDED RESOLUTION DATED NOVEMBER 12, 1986.

III

THE RESPONDENT COURT OF APPEALS ERRED IN DISMISSING THE APPEAL ON A GROUND NOT PROVIDED FOR IN THE RULES OF COURT, EVEN DISREGARDING THE FACT THAT THE APPELLANTS' BRIEF HAD LONG BEEN FILED.

IV

THE RESPONDENT COURT OF APPEALS ERRED IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION OF THE RESOLUTION DATED DECEMBER 9, 1986, MERELY NOTING THE VOLUNTARY APPEARANCE OF GUBALLA MARKETING CORPORATION. (Rollo, p. 13)

In G.R. No. 79403, petitioner Mozar raised the following assigned errors:

FIRST

ISSUANCE OF THE WRIT OF EXECUTION BY RESPONDENT THEN CITY COURT OF MANILA ON JULY 16, 1982 WAS PREMATURE FOR BEING VIOLATIVE OF THE RULE STATED IN THE SECOND PARAGRAPH OF SECTION 1, RULE 39 THAT "[I]F THE JUDGMENT HAS BEEN DULY APPEALED, EXECUTION MAY ISSUE AS A MATTER OF RIGHT FROM THE DATE OF THE SERVICE OF THE NOTICE PROVIDED IN SECTION 11 OF RULE 51."

SECOND

THE SETTLED RULE THAT AN EXECUTORY JUDGMENT CANNOT BE EXECUTED IF THE CIRCUMSTANCES BETWEEN THE PARTIES HAVE CHANGED MATERIALLY AS TO MAKE ANY EXECUTION UNJUST AND INEQUITABLE MAKES NO DISTINCTION WHETHER THE RIGHT OF THE PARTY AFFECTED BY THE EXECUTION OF THE JUDGMENT IS ALREADY SETTLED OR IS MERELY INCHOATE OR CONTINGENT. THE RULE IS A RULE OF EQUITY ANCHORED ON "SIMPLE JUSTICE" AND CONSEQUENTLY WHAT IS CRUCIAL IS THAT THE MATERIAL CHANGE IN THE CIRCUMSTANCES BETWEEN THE PARTIES RENDERS EXECUTION OF THE JUDGMENT UNJUST AND INEQUITABLE. (Rollo, p. 19)

At the outset, it is significant to note that the decisions in question in both cases have already become final and executory.

In G.R. No. 78223, it is beyond dispute that the decision of Deputy Minister Amado G. Inciong in NLRC Case No. 014 on April 10, 1979: (a) has been fully satisfied by the payment by Guballa Sr. of the judgment claims of the complainants as stated in the decision itself and as evidenced by the "Deed of Conveyance and Reversion" dated May 26, 1977 and "Satisfaction of Judgment and/or Release and Quitclaim" dated May 26, 1977 signed by the members of the Union as claimants in NLRC Case No. 014 (Exhibits "6" to "6-B", G.R. No. 78223, Record on Appeal, p. 74); (b) has become final and executory there being no appeal from either party as certified to by the Executive Director NLRC, dated June 14, 1979 (Ibid., p. 47); and (c) has in fact been executed by the cancellation of the Sheriff's sale of the property in favor of BUSCOPE Labor Union in the Registry of Deeds and the restoration of ownership thereof to its original owner, Guballa Sr. (Rollo, p. 37, G.R. No. 78223). Said property had remained titled under the name of Guballa Sr. until it was transferred to Guballa Marketing Corporation (G.R. No. 78223, Record on Appeal, p. 87).

However, the bone of contention in this case, arose in the issuance of the Final Deed of Sale by the Sheriff of Manila despite the pendency of the motion for annulment of the Sheriff's sale filed with the NLRC and the subsequent sale of said property to Atty. Rufino Risma, all of which transpired despite a Notice of Lis Pendens duly annotated on the back of TCT No. 15638. In contrast, such subsequent sale in favor of Risma was not annotated in subject title.

As previously stated, an action for the issuance of a writ of possession of subject property was filed by the Risma spouses, which was granted by the Court of First instance of Manila, Branch XXXIV, but on appeal to the Court of Appeals, the case was not decided on the merits. Instead the appeal was dismissed in the resolution of December 9, 1986 of the Court of Appeals for failure of the Guballa Marketing Corporation to comply with a lawful order of the Court. (Resolution of Second Civil Cases Division dated November 12, 1985 amending Resolution dated October 28, 1985; G.R. No. 78223, CA Rollo, p. 181).

As an aftermath, Mozar who subsequently bought subject property from Risma, again without the corresponding annotation on the title, filed a special civil action for certiorari with the Court of First instance, Branch XXXVII, seeking to quash the execution of the decision of the City Court, Branch XVII in the ejectment case in favor of Guballa Sr. That said decision had already become final and executory is likewise beyond question. The same was affirmed by the aforesaid Court of First Instance, then by the Court of Appeals with modification and finally by the Supreme Court and the corresponding entry of judgment had already been made, as earlier stated. In fact said judgment had also been partially executed by the payment of the money judgment by Mozar with a promise to leave the premises. Mozar, however, reneged on his undertaking.

In G.R. No. 78223, the main thrust of the petition is that failure of party-appellant to be substituted by a transferee pendente lite in the case at bar is not a proper ground for the dismissal of the appeal.

The petition is impressed with merit.

Petitioners argue that substitution or joinder of parties under Section 20 of Rule 3 of the Rules of Court is not mandatory, it being permissible to continue the action by or against the original party in cases of transfer of interest pendente lite. As the original party stands to be bound by the final outcome of the case, non-joinder or substitution as party-appellant of Guballa Sr., et al. by Guballa Marketing Corporation as buyer of subject property is not deemed necessary and does not warrant dismissal of the appeal (Rollo, pp. 18, 24, G.R. No. 78223).

Dismissal of the appeal in the writ of possession case is primarily anchored on non-compliance by petitioners Guballa Sr., et al. of respondent Court of Appeals' resolution dated November 12, 1975, which reads:

"After a mature deliberation on the Motion to Dismiss Appeal filed by counsel for the petitioners-appellees on August 15, 1985, the Comment filed thereto, and the Manifestation filed by the appellee on September 5, 1985, the Court RESOLVED to deny the said motion and to order the substitution of the party appellant on record by the present owner, within ten (10) days from notice, and the substitution should be set at the initiative of the adverse party if it so desires." (Rollo, p. 16)

It has been held that a transferee pendente lite does not have to be included or impleaded by name in order to be bound by the judgment because the action or suit may be continued for or against the original party or the transferor and still be binding on the transferee (*Association de Agricultores de Talisay-Silay, Inc. vs. Talisay-Silay Milling Co., Inc.*, 88 SCRA 462 [1979]). More specifically, this Court has ruled that a transferee pendente lite is a proper party in the case but it is not an indispensable party (*Fetalino vs. Sanz*, 44 Phil. 691 [1923]; *Jose vs. Blue*, 42 SCRA 361 [1971]; *Tanchoco vs. Quiño*, 154 SCRA 18 [1987]).

There is likewise no argument on the fact that the courts are authorized to order the outright substitution of the transferee pendente lite, as the Court of Appeals has done in the instant case in its resolution of November 12, 1985. But the ambiguity of the aforesaid resolution is readily apparent.

The appellate court speaks of an adverse party at whose initiative the substitution should be made.

If the adverse party alluded to is Guballa Marketing Corporation, as could be gleaned from the use of the pronoun IT, the same could not be bound by said resolution, notice thereof not having been given to said corporation, much less was it a participant in said proceedings. Under the circumstances, respondent Court of Appeals has no basis for its charge that there has been a patent and deliberate failure to comply with a lawful order of the court.

More than that, the tenor of the resolution in question: "if it so desires" is clearly indicative of an option given to the adverse party as to whether or not it desires to be substituted. Having opted as it did, said corporation can hardly be held liable for disobedience to a court order.

Accordingly, failure of substitution in the case at bar, could at most be a mere technical defect which may be cured without much ado. Respondent Court of Appeals could have reconsidered its resolution dismissing the appeal upon the voluntary appearance of Guballa Marketing Corporation, but it did not, and on the contrary ruled that if such appearance is intended for compliance, it came too late in the day (Resolution, CA-G.R. CV No. 04090 dated April 13, 1987; Rollo, p. 227, G.R. No. 78223).

It is an oft-repeated axiom that dismissal of appeals on purely technical grounds is frowned upon, where the policy of the courts is to encourage hearings of appeals on their merits. The rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override, substantial justice. If a technical and rigid enforcement of the rules is made, their aim would be defeated (*Gregorio vs. C.A.*, 72 SCRA 120 [1976]; *De las Alas vs. C.A., et al.*, 83 SCRA 216 [1978]; *Galdo vs. Rosete*, 84 SCRA 243 [1978]). The trend of rulings of this Court is to afford every party-litigant amplest opportunity for determination of their cause, freed from constraints or technicalities (*Abad vs. Court of Appeals*, 137 SCRA 416 [1985]).

In fine, the appeal interposed by petitioners from the decision of the Court of First Instance granting the writ of possession should be given due course or reinstated as prayed for. However, instead of remanding the case to the Court of Appeals which would only be productive of further delays in the final adjudication of the litigation, it is deemed expedient as held by this Court in a long line of decisions, that the appeal be now resolved on the merits, where the same can be readily determined from the uncontroverted facts on record (*Pagdonsalan vs. NLRC*, L-63701, 127 468 [1984]; *Diferia vs. Paras, et al.*, 141 SCRA 519 [1986]; *Board of Transportation vs. Castro*, L-53431, 125 SCRA 418 [1983]; *Quisumbing vs. C.A.*, L-60364, 122 SCRA 709 [1983]; *Board of Liquidators vs. Zulueta*, L-30738, 115 SCRA 557 [1982]; *Velasco vs. C.A.*, L-47544, 95 SCRA 621-622 [1980]; *Sacdalan vs. Bautista*, L-38014, 56 SCRA 179 [1974]; *Quimaon vs. PNB*, L-24920, 36 SCRA 37 [1970]).

It is unquestioned that the NLRC had jurisdiction over the subject matter in the labor dispute which is a claim for separation pay of the complainants' union whereby the amount of P139,123.75 was adjudged in their favor. Counsel for Guballa Sr., therefore, correctly argued that the Court of First Instance had no jurisdiction over the res, the same having been already acquired by the NLRC (Rollo, p. 39, G.R. No. 78223). When a court of competent jurisdiction acquires jurisdiction over the subject matter of a case, its authority continues, subject only to the appellate authority until the matter is finally and completely disposed of (*Lee vs. Municipal Trial Court of Legaspi City, Branch I*, 145 SCRA 408 [1986]).

That the Commission has authority to execute its decisions, orders or awards, is specifically provided for in Article 224 of the Labor Code.

The Commission gained authority over the res upon the issuance of a writ of execution in pursuance of the judgment in NLRC Case No. 014 when the property in question was levied upon and subsequently sold at public auction (*Banco Español-Filipino vs. Palanca*, 37 Phil. 927-928 [1918]).

The power of the NLRC to issue a writ of execution carries with it the right to look into the correctness of the execution of the decision in this case and to consider the supervening events that may affect such execution (*Dy vs. National Labor Relations Commission*, 145 SCRA 210 [1986]). The NLRC has exclusive jurisdiction over all matters and incidents prior to and after a decision has been rendered and arising out of and in connection with a labor dispute (*Kaisahan ng mga Manggagawa sa La Campana vs. Sarmiento*, 133 SCRA 234 [1984]).

The Commission had jurisdiction to entertain motions to quash its writs of execution or set aside a sheriff's sale on the ground of satisfaction of judgment or by reason of the full payment of the judgment debt because every court has the inherent power for the advancement of justice, to correct errors of its ministerial officers and to control its own processes (*Dimayuga vs. Raymundo*, 76 Phil. 146 [1946]; *Cobb-Perez vs. Lantin*, 23 SCRA 642-643 [1968]).

The Court which rendered the judgment has general supervisory control over its process of execution, being merely adjunct to the main case, with right to determine every question of fact and law which may be involved in the execution. Any irregularities in the execution of judgment brought about by the enforcement of a dead writ of execution must be litigated in the court which issued the controversial writ of execution (*Paper Industries Corporation of the Philippines vs. Intermediate Appellate Court*, 151 SCRA 168 [1987]).

From the foregoing discussion, it can be readily seen that the issuing Court of First Instance had no jurisdiction to grant the writ of possession in question, ergo, the writ is null and void.

More importantly, it is evident that respondent Union acquired no interest in the property by virtue of the levy and sale. Under such circumstances, as ruled by this Court (*Cometa vs. IAC*, 151 SCRA 568 [1987]), it is not entitled to the claimed possession and so are its successors in interest Risma and Mozar who bought the property despite a Notice of Lis Pendens annotated in the title. They cannot claim a better right than their predecessor.

In G.R. No. 79403, petitioner Mozar presents the issue of whether or not the execution of a final judgment in an ejectment case which has gone all the way to the Supreme Court may be stayed by a trial court on the ground of a supervening event, namely, a decision in the Regional Trial Court granting the writ of possession in favor of private respondent Risma.

By and large, this Court has ruled that the pendency of a writ of possession case where ownership is concededly the principal issue before the Regional Trial Court does not preclude nor bar the execution of the judgment rendered in an unlawful detainer suit where the only issue involved is the material possession or possession de facto of the land under litigation. Such action which involves the title over the premises is entirely independent from unlawful detainer. The judgment of the MTC is res judicata as to the issue of possession de facto but is not conclusive as to the title of ownership. Possession and ownership of a parcel of land may be held by different persons. The winning party is entitled to the execution of the municipal court's final judgment as to possession. The enforcement of that judgment would not cause "chaos and confusion" (*Ramirez vs. Bleza*, 106 SCRA 187 [1981]; *Dela Cruz vs. Court of Appeals*, 133 SCRA 520 [1984]; *Ang Ping vs. Regional Trial Court of Manila*, Br. 40, 154 SCRA 84 [1987]).

The rationale is that forcible entry and unlawful detainer cases are summary proceedings designed to provide for an expeditious means of protecting actual possession or the right of possession of the property involved. It does not admit of delay in the determination thereof. Procedural technicality is therefore obviated and reliance thereon to stay eviction from the property should not be tolerated and cannot override substantial justice. So much so that

judgment must be executed immediately when it is in favor of the plaintiff in order to prevent further damages arising from loss of possession (*Ang Ping vs. RTC*, supra.).

Moreover, the assailed writ of execution dated July 16, 1982 issued by MTC, Branch 17 to implement the long final decision in the ejectment case has been superseded by an alias writ of execution dated June 30, 1987.

As an alias writ sought to be enjoined is now functus officio as petitioner has already been ejected from the subject premises and possession thereof having already been delivered to the owner, while the instant case was still pending in the Court of Appeals, resolution of the propriety of the writ of execution dated July 16, 1982 or of the alias writ dated June 30, 1987 can no longer be restrained, attacked nor relief be granted thereon (*Santiago vs. Castro*, 128 SCRA 545 [1984]; *Tinio vs. Castro*, 136 SCRA 658 [1985]).

It may be mentioned that the filing of multiple petitions by Mozar and counsel constitutes abuse of the Court's processes and improper conduct that tends to impede, obstruct and degrade the administration of justice. To state the unnecessary, the lawyer who files such multiple or repetitious petitions delays the execution of a final and executory judgment and may be held liable for willful violation of his duties as an attorney to act with all good fidelity to the courts and to maintain only such actions as appear to him to be just and are consistent with truth and honor (*Gabriel vs. Court of Appeals*, 72 SCRA 275 [1976]).

Petitioner Mozar and his lawyer have tried to use them to subvert the very ends of justice.

The conduct of one particular counsel of his who made the inaccurate statements regarding the feigned non-enforcement of the questioned writ and alias writ of execution in the ejectment case which are belied by his pleadings: (1) dated July 8, 1987 before the Court of Appeals, whereby they moved for the immediate restoration of possession of the premises in question (*Rollo*, pp. 89-91); (2) a motion to breakopen padlock before the MTC, Branch 17 (Order dated July 20, 1987, *CA Rollo*, pp. 313-315); and (3) urgent motion for protection and preservation of rights dated August 22, 1987 with the Court of Appeals (*CA Rollo*, pp. 302-305), falls short of the exacting standard of candor and fairness required of lawyers (*Canon 22, Canons of Professional Ethics*) and the same is censurable. It is unprofessional and dishonorable to deal other than candidly with the facts in the presentation of the causes (*Monzon vs. Reyes*, 67 SCRA 402 [1975]).

PREMISES CONSIDERED, the petition in (1) G.R. No. 78223 is GRANTED, the appeal in C.A.-G.R. CV No. 04090 is REINSTATED, and Civil Case No. 124627 is DISMISSED for lack of jurisdiction; and (2) G.R. No. 79403 is DISMISSED for having become moot and academic, and treble costs are assessed against petitioner Mozar to be paid by his counsel in accordance with the ruling laid down in *Cobb-Perez vs. Lantin*, (23 SCRA 646 [1968]).

SO ORDERED.

Melencio-Herrera, (Chairperson), Padilla, and Regalado, JJ., concur.
Sarmiento, J., on leave.

[1] Fifth Division, Court of Appeals; penned by Associate Justice Nathanael P. de Paño, Jr.; concurred in by Associate Justices Carolina C. Griño-Aquino and Segundino G. Chua.

[2] Fifteenth Division, Court of Appeals; penned by Associate Justice Nicolas P. Lapena, Jr.; concurred in by Associate Justices Esteban N. Lising and Segundino G. Chua.

[3] Penned by Judge Ernesto A. Madamba, now retired.

[4] Penned by Judge Bienvenido C. Ejercito, now retired.

[5] Penned by Justice Guillermo P. Villasor, now retired, and concurred in by Justice Venicio Escolin and Justice Onofre A. Villaluz.

[6] Presided by Judge Florencio B. Cabanos.

[7] Presided by Judge Florencio B. Cabanos.

[8] Penned by Associate Justice Jorge R. Coquia and concurred in by Justices Leonor Ines-Luciano and Emeterio C. Cui.

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