

TOP RATE INTERNATIONAL SERVICES, INC., PETITIONER, VS. THE COURT OF APPEALS, JUDGE IGNACIO CAPULONG, IN HIS CAPACITY AS PRESID-ING JUDGE OF BRANCH 134 OF THE REGIONAL TRIAL COUR...

G.R. No. 84141. February 08, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is a petition for review of the decision of the Court of Appeals dated May 31, 1988 in CA-G.R. No. SP 12334.

Petitioner, as owner-lessor of the Banco Filipino building on Ayala Avenue, Metro Manila, filed against Banco Filipino Savings and Mortgage Bank on June 20, 1985 a complaint for ejectment which was docketed as Civil Case No. 28903 in the Metropolitan Trial Court of Makati for violation of the terms of the lease agreement by the lessee which failed to obtain a comprehensive fire insurance policy on the building as covenanted in the lease agreement.

Defendant Banco Filipino filed a motion to dismiss the complaint on the ground that it was defective, it having failed to allege that a demand to pay the rent or to vacate the premises was made in writing by the lessor, or by posting a notice in the premises, prior to filing the complaint.

The motion to dismiss was denied. Banco Filipino answered the ejectment complaint. However, on October 25, 1985 it filed a petition for certiorari and prohibition with preliminary injunction in the Regional Trial Court of Makati assailing the denial of its motion to dismiss. It was docketed as Civil Case No. 12071 in the Regional Trial Court.

On November 6, 1985, Top Rate filed an amended ejectment complaint alleging therein that it made a demand to vacate the leased premises on or about May 24, 1985. It thereafter filed a motion to dismiss the certiorari case (Civil Case No. 12071) for having become moot and academic. Its motion was opposed by Banco Filipino. Other pleadings were exchanged between the parties.

On July 11, 1986, petitioner filed in the Regional Trial Court an urgent motion for resolution of its motion to dismiss the certiorari case on the additional ground of failure to prosecute for an unreasonable period of time. It filed a second motion to dismiss, then a third motion to dismiss, which the Regional Trial Court denied on March 4, 1987.

On March 24, 1987, it filed another motion to resolve the pending-incidents and for reconsideration of the court's order dated March 4, 1987. The motion was denied by the trial court in its order of June 29, 1987.

Petitioner filed in the Court of Appeals a petition for certiorari and mandamus to annul the RTC's orders (CA-G.R. No. SP 12334).

On May 31, 1988, the Court of Appeals denied the petition on the ground that the assailed orders were merely interlocutory and that there was no grave abuse of discretion on the part of the respondent judge as he acted well within his jurisdiction. It ordered the remand of the records of the case to the regional trial court with instruction to hear the merits and resolve the case.

Hence, this petition for review.

We find merit in the petition. In sustaining the Regional Trial Court's refusal to dismiss the lessee's certiorari petition notwithstanding its having become moot and academic after the ejectment complaint had been amended to cure the technical defect therein, the Court of Appeals sanctioned a clear dilatory maneuver of Banco Filipino as defendant-lessee in the ejectment case (Civil Case No. 28903). No other purpose could possibly be served by the filing of the certiorari case in the Regional Trial Court except to hold up the trial of the ejectment case in the Metropolitan Trial Court, as in fact it has already been delayed for nearly four (4) years.

While technicalities have their uses, resort to them should not be encouraged when they serve only to impede the speedy and just resolution of a case, least of all in an ejectment case which, under the Rules, is supposed to be summary in nature.

WHEREFORE, the petition for review is granted. The decision of the Court of Appeals in CA-G.R. SP No. 12334 is hereby set aside. The Regional Trial Court of Makati, Metro Manila, Branch 134 is ordered to dismiss the certiorari case Sp. Civ. Case No. 12071. The Metropolitan Trial Court of Makati is ordered to proceed with the trial of the ejectment case Civil Case No. 28903 without further delay. Costs against the private respondent Banco Filipino Savings and Mortgage Bank.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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