

MAMERTO B. BESA, PETITIONER, VS. HON. BENJAMIN C. TIONGSON, AND STASA INCORPORATED, RESPONDENTS.

G.R. No. 91668. October 31, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

What is put into test in this petition is the legal effect of a final judgment arising from an ejectment case in the execution of a parallel case for collection that has become final and executory.

Private respondent filed an action for collection of a sum of money in the Metropolitan Trial Court (MTC) of Manila against petitioner and several others for reimbursement of payment of electrical consumption of the apartment that private respondent, lessor, made in behalf of petitioner, in the amount of P2,352.00 from May 21, 1978 to August 20, 1985. In due course a judgment was rendered in favor of private respondent and when the judgment became final and executory private respondent filed a motion for the issuance of a writ of execution thereof.

At the hearing, petitioner filed an opposition to the motion alleging that he did not receive any copy of the decision of the court dated February 28, 1989. The trial court in open session ordered that he be immediately served the same.

When the judgment nevertheless became final, the execution of the same was undertaken. This time, petitioner filed a manifestation in court on August 23, 1989 alleging that this Court in a resolution in G.R. No. 82596 dated June 14, 1989 arising from an action for ejectment found that petitioner is not a lessee of private respondent but one Victoria Justiniano thereby affirming a decision of the Court of Appeals to this effect.[1] Petitioner alleges that since he is not a lessee of private respondent the judgment for a sum of money cannot be enforced against him.

The opposition of petitioner was denied in an order of the lower court dated September 22, 1989 wherein it was observed that the collection case is separate and distinct from the ejectment case as they are based on different causes of action, and thus the latter cannot be an obstacle in the execution of the final and executory judgment of the former. A motion for reconsideration of said order which was filed by the petitioner was denied by the inferior court on December 18, 1989. Hence, this petition wherein the petitioner raises the following alleged errors of the lower court:

“I

RESPONDENT JUDGE ERRED IN STATING THAT HIS DECISION DATED FEBRUARY 28, 1989 (Annex “L”) HAD ALREADY BECOME FINAL AND EXECUTORY.

II

RESPONDENT JUDGE FAILED TO CONSIDER THAT A DECISION OF THE SUPREME COURT FORMS PART OF THE LEGAL SYSTEM OF THE PHILIPPINES.

III

RESPONDENT JUDGE EXCEEDED HIS AUTHORITY WHEN HE ORDERED PETITIONER TO PAY ELECTRIC CONSUMPTION USED IN THE APARTMENT OF PRIVATE RESPONDENT CONSIDERING THAT PETITIONER IS NOT A LESSEE/TENANT IN THE SAID APARTMENT.

IV

RESPONDENT COURT HAS NO JURISDICTION OVER THE PERSON OF THE PETITIONER AND ISSUE OF THE CASE.”[2]

The petition is devoid of merit. No doubt the judgment in the collection case has become final and executory for when petitioner claimed in open court he had not been served a copy thereof, he was ordered furnished a copy by the court. His denial now that he was not given a copy of the decision in court cannot be given any credence.

The cause of action in the collection case is different and distinct from that of the ejectment case. Thus, the enforcement of the collection case cannot be prevented by the independent judgment of this Court in the ejectment case.

Indeed, the claim of petitioner that the findings of this Court in the ejectment case to the effect that he was not a lessee of the premises of the private respondent but one Victoria Justiniano so that he should not be made to pay for the electrical consumption of the apartment concerned is a sham allegation. It appears from the comment of private respondent that Victoria Justiniano, who is a co-lessee of the petitioner of the apartment, is petitioner’s common-law-wife.[3] Petitioner has not denied this assertion. This being the situation petitioner is just as liable as Justiniano to reimburse the electrical consumption of the apartment they occupied.

There can be no question that the lessee of the apartment should pay for the electrical consumption of the apartment they occupy unless there is a stipulation to the contrary. Where as in this case, the lessor advanced the payment of electrical consumption, the duty of the petitioner to reimburse the lessor is inescapable.

To say the least, this petition is frivolous and should not have reached this Court.

WHEREFORE, the petition is DISMISSED with treble costs against petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex G to the Petition; pages 38 to 39, Rollo.

[2] Pages 6 to 7, Rollo.

[3] Pages 61 to 62, Rollo; paragraph 3 of the Comment of private respondent to the petition.

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