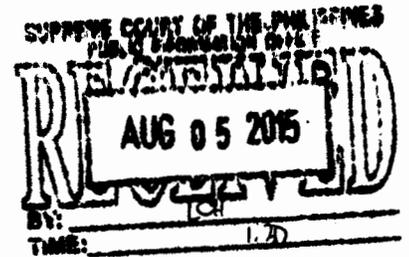




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated June 17, 2015 which reads as follows:*

**“G.R. No. 160052 - CYNTHIA DE DIOS, Petitioner, v. FLERIDA ARABE, Respondent.**

On December 18, 2000,<sup>1</sup> the respondent filed an ejectment case against the petitioner (Civil Case No. 8172) in the Metropolitan Trial Court (MeTC) in Valenzuela City. After the MeTC rendered judgment on October 26, 2001 in favor of the respondent,<sup>2</sup> the petitioner appealed to the Regional Trial Court (RTC) in Valenzuela City (Branch 171), which, on January 25, 2002,<sup>3</sup> affirmed the decision of the MeTC. The petitioner still appealed to the Court of Appeals (CA), the appeal being docketed as CA-G.R. SP No. 69154.<sup>4</sup>

While the appeal was pending in the CA, the respondent moved in the RTC for the execution of the decision. The petitioner opposed the motion. Initially, on June 21, 2002, the RTC denied the motion for lack of jurisdiction, observing that the motion should have been filed in the MeTC pursuant to Section 1, Rule 39 of the *Rules of Court*, stating:

Indeed, after perfection of an appeal in an ejectment case, the inferior court loses jurisdiction over the case and any motion for execution pending appeal shall be filed with the Regional Trial Court (City of Manila vs. CA, 204 SCRA 362; Mocles vs. Maravilla, 239

- over - six (6) pages .....

94

<sup>1</sup> Records, pp. 3-5.

<sup>2</sup> Id. at 45-48; penned by Acting Presiding Judge Esteban V. Gonzaga.

<sup>3</sup> Id. at 103-111; penned by Pairing Judge Floro P. Alejo.

<sup>4</sup> CA rollo, pp. 6-28.

SCRA 188). However, if the decision of the Regional Trial Court is further appealed to the Court of Appeals, the prevailing party does not have to file a motion for execution pending appeal with the Regional Trial court concerned, for such decision is immediately executory notwithstanding the appeal. (Sec. 21, Rule 70, 1997 Rule of Civil Procedure). Appropriate is Motion for Execution which ought to be filed, and acted upon by, the Metropolitan Trial Court concerned following the procedure laid down in Sec. 1, Rule 39, Rules of Civil Procedure.”

WHEREFORE, premises considered, the “Motion for Execution Pending Appeal” is hereby DENIED.

SO ORDERED.<sup>5</sup>

On August 5, 2002, however, the RTC reconsidered the denial, and granted the motion for execution of the respondent, holding:

The recent decision of the Supreme Court in the case of Uy vs. Santiago, 336 SCRA, made clear that it is only execution of the Metropolitan or Municipal Trial Court’s judgment pending appeal with the Regional Trial Court which may be stayed by a compliance with the requisites provided in Rule 70, Sec. 19 of the 1997 Rules on Civil Procedure. On the other hand, once the Regional Trial Court has rendered a decision in its appellate jurisdiction, such decision shall, under Rule 70, Sec. 21 of the 1997 Rules on Civil Procedure, be immediately executory, without prejudice to an appeal, via a petition for review, before the Court of Appeals and/or Supreme Court. In the latter case, the Supreme Court further elucidated that it is the ministerial duty of the Regional Trial Court, as appellate court, to immediately execute its decision.

In this case, while the plaintiff cited the wrong reason for moving for the immediate execution of the decision of the MeTC which was affirmed in toto by this Court, the fact remains that a decision had already been rendered in this appealed case and this decision is immediately executory.

WHEREFORE, in view of the foregoing, the Resolution issued by this Court on June 21, 2002, is hereby vacated and the motion for execution is, as it is hereby, GRANTED. Consequently, let a Writ of Execution be issued in this case.

SO ORDERED.<sup>6</sup>

The petitioner moved for reconsideration, but her motion was denied on December 16, 2002.<sup>7</sup>

- over -

<sup>5</sup> Records, pp. 99-100.

<sup>6</sup> Id. at 114-115.

<sup>7</sup> Id. at 157.

On July 31, 2002, the petitioner filed an undated motion to stay execution in CA-G.R. SP No. 69154 praying that the execution of the judgment of the MeTC be stopped.<sup>8</sup>

On October 14, 2002, the petitioner also filed in CA-G.R. SP No. 69154 an application for temporary restraining order and/or writ of preliminary injunction.<sup>9</sup>

On December 13, 2002, the CA denied the motion to stay execution and the application for temporary restraining order and/or writ of preliminary injunction for lack of merit.<sup>10</sup>

The petitioner moved for reconsideration,<sup>11</sup> but the CA denied the same on September 17, 2003.<sup>12</sup>

The petitioner then brought in the CA a petition for *certiorari* (with application for temporary restraining order/preliminary injunction) to assail the August 5, 2002 and December 16, 2002 orders of the RTC.<sup>13</sup> The petition, dated January 2, 2003, was received by the CA on January 7, 2003, and was docketed as CA-G.R. SP No. 74746. The special civil action for *certiorari* was consolidated with CA-G.R. SP No. 69154.

On November 14, 2003, the petitioner appealed to the Court the resolution promulgated on December 13, 2002 denying her motion to stay execution and application for temporary restraining order/writ of preliminary injunction, as well as the resolution of September 17, 2003 denying her motion for reconsideration.

On November 28, 2003, the CA promulgated its decision in CA-G.R. SP No. 69154 and CA-G.R. SP No. 74746, decreeing:

- over -

94

---

<sup>8</sup> CA *rollo*, pp. 113-124.

<sup>9</sup> Id. at 156-159.

<sup>10</sup> Id. at 171-172.

<sup>11</sup> Id. at 173-177.

<sup>12</sup> Id. at 196.

<sup>13</sup> CA *rollo* (CA-G.R. SP No. 74746), pp. 2-11.

**WHEREFORE**, the decision dated January 25, 2002 of the Regional Trial Court of Valenzuela City (Branch 171) is **REVERSED** and **SET ASIDE** and another rendered **DISMISSING** the complaint for ejectment without prejudice. On the other hand, the petition in CA-G.R. SP. No. 74746 is **DENIED** due course and, accordingly, **DISMISSED**.

**SO ORDERED.**<sup>14</sup>

In her comment to the petition, the respondent formally informed the Court of the promulgation of the November 28, 2003 decision by the CA, stressing that there was no longer any need to comment on the petition because the decision of the CA had rendered the petition moot and academic; that she did not anymore appeal the decision; and that the petitioner was guilty of forum shopping in appealing despite the pendency of CA-G.R. SP No. 69154.<sup>15</sup>

On May 13, 2004, the petitioner apologized for her failure to inform the Court of the November 28, 2003 decision of the CA; and denied the respondent's contention that she had committed forum shopping. She prayed that her petition be dismissed or be considered withdrawn.<sup>16</sup>

The main issues presented herein – whether or not the CA erred in denying the petitioner's motion to stay the execution of the judgment of the MTC; and whether or not the CA erred in not issuing a temporary restraining order or writ of preliminary injunction – have been rendered moot and academic by the decision promulgated on November 28, 2003, whereby the CA said:

With the reversal of the judgment in the ejectment suit, the RTC's resolution dated August 5, 2002 allowing immediate execution of its decision has become *functus officio*. And if said judgment has already been executed, petitioner would be entitled to an order of 'restitution or reparation of damages as equity and justice may warrant under the circumstances' (Sec. 5, Rule 39 of the 1997 Rules of Civil Procedure).<sup>17</sup>

- over -

---

<sup>14</sup> CA rollo, p. 205.

<sup>15</sup> Rollo, pp. 60-61.

<sup>16</sup> Id. at 64-65.

<sup>17</sup> CA decision, p. 8 (attached to back cover of CA rollo).

A moot and academic case is “one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value.”<sup>18</sup> It is well-settled that courts will not determine questions that have become moot and academic because there is no longer any justiciable controversy to speak of. The judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.<sup>19</sup>

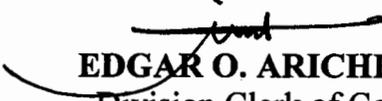
In view of the foregoing, to still pass upon the merits of the case will be inappropriate considering that the reliefs prayed for by the petitioner are no longer called for. Indeed, the “great and irreparable damage” that she feared she would suffer should the decision of the MeTC (and affirmed by the RTC) be executed would no longer occur following the reversal of the decision and the dismissal of the ejectment case by the CA. With the respondent not having anymore appealed the adverse decision of the CA, there is no longer any legal impediment to declare the petition herein moot and academic.

**WHEREFORE**, the Court **DISMISSES** this case for having become moot and academic.

No pronouncement on costs of suit.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court <sup>11</sup>

**94**

PEOPLE'S LAW OFFICE  
Counsel for Petitioner  
Suite 511, Victoria Bldg.  
11<sup>th</sup> Ave. 1400 Caloocan City

Court of Appeals (x)  
Manila  
(CA-G.R. SP No. 69154)

Atty. Edgardo V. Cruz  
Counsel for Respondent  
No. 14, Danding Bldg.  
Municipal Site  
1440 Valenzuela City

- over -

<sup>18</sup> *Mendoza v. Villas*, G.R. No. 187256, February 23, 2011, 644 SCRA 347, 357.

<sup>19</sup> *Philippine Savings Bank (PSBANK) v. Senate Impeachment Court*, G.R. No. 200238, November 20, 2012, 686 SCRA 35, 37.

The Hon. Presiding Judge  
Regional Trial Court, Br. 171  
1440 Valenzuela City  
(Civil Case No. 288-V-01)

The Hon. Presiding Judge  
Metropolitan Trial Court, Br. 82  
1440 Valenzuela City  
(Civil Case No. 8172)

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

Judgment Division (x)  
Supreme Court

94

SR

*Handwritten mark*