

SECOND DIVISION

[G.R. NO. 140984, December 13, 2005]

**EMILIANO D. JOVEN, PETITIONER, VS. FEDERICO S. CALILUNG
AND JUDGE WILFRED SURIAGA, PRESIDING JUDGE, MTCC, BR.
2, ANGELES CITY, RESPONDENTS,**

G.R. NO. 148970

**FEDERICO S. CALILUNG, PETITIONER, VS. HON. COURT OF
APPEALS AND EMILIANO D. JOVEN, RESPONDENTS,**

D E C I S I O N

CHICO-NAZARIO, J.:

These consolidated cases before Us involve two Petitions for Review on Certiorari under Rule 45 of the Rules of Civil Procedure. The Petition in G.R. No. 140984 seeks to set aside as null and void the Order^[1] of the Regional Trial Court (RTC), Branch 60, Angeles City, in Civil Case No. 9399, dismissing the complaint for Annulment of Judgment filed by Emiliano D. Joven, as well as the Order dated 29 November 1999 denying the latter's Motion for Reconsideration.

In G.R. No. 148970, the Petition asks that the Decision^[2] of the Court of Appeals in CA-G.R. SP No. 53006 which reversed and set aside the Order of the RTC in Civil Case No. 9314 disqualifying Atty. Carmelino M. Roque,^[3] ordering all the pleadings filed by said counsel to be expunged from the records, and denying Joven's motion to suspend further proceedings, as well as the Resolution dated 09 July 2001, denying the Motion for Reconsideration, be annulled and set aside.

Both petitions trace their origin from the action for unlawful detainer filed by Federico S. Calilung against Emiliano D. Joven before the Municipal Trial Court in Cities (MTCC), Branch II, Angeles City.^[4] The complaint prayed that Joven, his agents, assigns, employees, and all persons found in the leased premises be ordered to vacate and restore possession thereof to Calilung; that Joven be directed to pay just and reasonable compensation for the use of the leased premises pending trial of the case in the amount of P110,000.00 per month plus interest of 25% **per annum** with an escalation of 10% for each passing year from date of the filing of the complaint; and that the latter be ordered to pay attorney's fee in the amount of P200,000.00 and the costs of suit.

On 04 December 1998, Judge Wilfred Suriaga rendered a decision in favor of Calilung, the dispositive portion reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiff, Mr. Federico Calilung and against the defendant, Emiliano Joven ordering the latter and all persons claiming rights under

him to vacate the subject premises and to return the premises to the plaintiff. Defendant is also ordered to pay plaintiff a monthly rent of P110,000.00 from February 1998 until he vacates with interest at 25% per annum, and to pay P50,000.00 as and for attorney's fees plus costs of suit.^[5]

Aggrieved over the adverse decision, Joven elevated the matter on appeal on 23 December 1998 before RTC Branch 58, then presided by Judge Philbert Iturralde. Despite the Notice of Appeal, Calilung filed a Motion for Execution before MTCC Br. II, but said court denied the said motion. Upon the transmittal of the records of the case,^[6] Calilung filed before said court a Motion to Dismiss the appeal, which was subsequently denied.

Thereafter, on 16 April 1999, Calilung gave a sworn statement to the National Bureau of Investigation (NBI) denouncing Judge Suriaga for demanding and receiving P300,000.00 from him in consideration of the favorable decision in Civil Case No. 98-116 which was then under appeal before RTC Br. 58. Calilung further claimed in his sworn statement that Judge Suriaga approached him again and assured him of a favorable decision in the appeal (Civil Case No. 9314) before Judge Iturralde in consideration of P250,000.00. On the basis of Calilung's sworn statement, the NBI conducted an entrapment operation on 19 April 1999 against Judges Suriaga and Iturralde, resulting in the arrest of Judge Suriaga.

On 04 May 1999, the Court issued a Resolution^[7] placing respondent Judge Wilfred S. Suriaga and Judge Philbert I. Iturralde under preventive suspension.

In view of the preventive suspension of Judge Iturralde, Presiding Judge of RTC Branch 60, Ofelia Tuazon-Pinto, acted as Pairing Judge of RTC Branch 58, where the appealed ejectment case filed by Joven against Calilung (Civil Case No. 9314) was pending.

Joven subsequently got hold of the Sworn Statement given to the NBI by Calilung on 16 April 1999, detailing how the latter paid Judge Suriaga P300,000.00 in order to obtain a favorable judgment in the said ejectment case. On 10 May 1999, Joven filed a complaint for annulment of judgment before the RTC of Angeles City, which sought to annul Judge Suriaga's decision in the ejectment case dated 04 December 1998, on the ground of extrinsic fraud. The complaint also prayed that a new trial be ordered. Said complaint was docketed as Civil Case No. 9399 and raffled to Judge Ofelia Tuazon-Pinto, Presiding Judge of RTC Branch 60 of Angeles City, for resolution.

In light of the filing of the complaint for annulment of judgment, Joven filed in Civil Case No. 9314, before RTC Branch 58, a Motion to Suspend Further Proceedings in the appeal, contending that (a) the appealed judgment, being a product of corruption, is void; and (b) there is a need to await the resolution of the Complaint for Annulment of Judgment (Civil Case No. 9399) filed before RTC Branch 60.

Meanwhile, Calilung filed in the appeal proceedings a Motion to Withdraw Monthly Rental Deposits and another motion to disqualify Joven's counsel on the ground of conflict of interest, and to expunge all pleadings filed by the said counsel.

On 24 May 1999, Judge Pinto issued the assailed order, which resolved the following pending incidents: the motion to withdraw monthly rental, the motion to disqualify Joven's counsel, and the motion to suspend the appeal proceedings. The dispositive portion of the said order reads:

WHEREFORE, the court hereby resolves:

1. To grant the first motion,

a) Ordering the Clerk of Court of this Court to release to plaintiff the monthly rental for March 1999 in the amount of P133,100.00 under O.R. No. 84583962 dated March 3, 1999; and

b) Ordering the Manila Insurance Co., Inc. to release and/or pay to plaintiff the supersedeas bond in the sum of P1,004,000.00.

2. To grant the second motion,

a) Ordering the disqualification of Atty. Carmelino Roque to appear in this case as counsel for the defendant; and

b) Expunging/striking out from the record of this case all pleadings that Atty. Carmelino Roque has filed in this case.

3) To deny the third motion for want of merit.^[8]

Two days later, or on 26 May 1999, Judge Pinto promulgated her decision affirming *in toto* the judgment of Judge Suriaga in the ejectment case.

Questioning the issuance of the aforesaid Order and Decision, Joven filed a Petition for *Certiorari*, Prohibition and *Mandamus* with Prayer for a Restraining Order/Preliminary Injunction before the Court of Appeals. On 03 June 1999, the appellate court directed Judge Pinto to "maintain the status quo and refrain from enforcing the Order dated 24 May 1999, and the Decision dated 26 May 1999, and from further proceeding on Civil Case No. 9314 until further orders from this Court. . ."^[9]

Meanwhile, on 16 August 1999, RTC Br. 60 issued an Order dismissing Joven's petition for Annulment of Judgment, the dispositive portion of which reads:

Under the circumstances, the MTC Decision dated December 4, 1998 has been superseded by the Regional Trial Court decision dated May 26, 1999. In fact, it is now the subject of plaintiff's "Petition for Certiorari, Prohibition and Mandamus with Prayer for Restraining Order/Preliminary Injunction before the Honorable Court of Appeals.

As correctly pointed out by defendant movant [Calilung], this Court has no jurisdiction to take cognizance of the case as it is now within the jurisdiction of the Court of Appeals. The matter has become moot and academic. It results in a situation where a decision (dated December 4, 1998) rendered by Municipal Trial Court and affirmed by the Regional Trial Court would still be the subject of an annulment proceedings in the

Regional Trial Court.

Wherefore, the cause of action in this case having become moot and academic. The motion is granted and this case is hereby ordered dismissed.

The Motion for Inhibition is now considered moot.^[10]

Joven sought a reconsideration of said Order on the ground that: (1) The RTC Br. 58 Decision of 26 May 1999 could not be deemed to have superseded the MTCC Decision of 04 December 1998 because the enforceability of said RTC Decision has been enjoined by the Court of Appeals and the same RTC decision is the present subject of a Petition For *Certiorari*; (2) The action to annul the judgment of MTCC Br. II dated 04 December 1998, based on extrinsic fraud, may be filed within four (4) years from the discovery of the fraud, and the subsequent Decision of RTC Br. 58 affirming the said MTCC Decision; and (3) Honorable Judge Pinto should have, in good grace, inhibited from deciding the instant case for Annulment of Judgment. On 07 December 1999, Joven received an Order dated 29 November 1999 denying his Motion for Reconsideration.

Assailing that serious errors of law were committed by Judge Pinto in dismissing the Petition for Annulment of Judgment, Joven filed directly with this Court herein Petition for Review on *Certiorari* on 20 January 2000.

Meanwhile, an event of great significance to the disposition of the issues contained in the two consolidated petitions had taken place. In a Decision rendered by the Court on 31 August 2000 in the administrative case filed against Judge Suriaga and Judge Iturralde, the former was found guilty of irregular activities (bribery) amounting to serious misconduct in office. According to the Court:

As regards to respondent Suriaga, the Investigating Justice observed that the testimonies of the Calilung spouses were replete with important details that could not be ignored. He pointed out that mere denials and an unsatisfactory refutation on the part of Judge Suriaga to prove his innocence do not persuade to establish the falsity of complainant's testimony and that of his wife. *It was no less than a bribe for Judge Suriaga to demand and receive money from a party in a case before him for which act he has no place in the judiciary. Neither is respondent judge's improper and illegal act, of asking from complainant the amount of P250,000.00 to be given to Judge Iturralde, to be condoned.*

The Court agrees with [sic] the foregoing findings and conclusion of Justice Ramirez. *The culpability of respondent Judge Suriaga for serious misconduct has been established not just by substantial evidence which suffices in an administrative investigation but by an overwhelming preponderance thereof. . . .*

...

Given the factual circumstances prevailing in this case, the Court does not hesitate to conclude that "[r]espondent Judge tainted the image of the judiciary to which he owes fealty and the obligation to keep it all