

FIRST DIVISION

[G.R. No. 136751, January 15, 2002]

**NATIVIDAD CANDIDO AND MARIVELES PAWNSHOP, INC.,
PETITIONERS, VS. RICARDO CAMACHO AND MARILOU
HERNANDEZ, RESPONDENTS.**

DECISION

PUNO, J.:

This is a petition for review on certiorari impugning the May 25, 1998 Decision of the Court of Appeals^[1] which dismissed the petition for certiorari, prohibition and mandamus filed by petitioners NATIVIDAD CANDIDO and MARIVELES PAWNSHOP, INC. and affirmed the order of the Regional Trial Court enjoining the immediate execution of the decision of the Municipal Trial Court in the forcible entry case.

The records show that in November 1994, petitioner NATIVIDAD CANDIDO, as a representative of Mariveles Pawnshop, Inc., filed a forcible entry case before the Municipal Trial Court (MTC) of Balanga, Bataan, against respondents RICARDO CAMACHO and MARILOU HERNANDEZ. In her complaint, petitioner alleged that on July 21, 1994, she was excluded by the respondents from physical possession of the Mariveles Pawnshop stall in Bataan, by means of strategy and stealth when the respondents padlocked the pawnshop premises and took control and possession thereof. In December 1994, after respondents filed their Answer, the case was submitted for decision on the basis of the pleadings.

In February 1995, respondents filed a Motion To Dismiss alleging that the MTC has no jurisdiction over the case as it involves an intracorporate dispute and jurisdiction belonged with the SEC. On March 8, 1995, the MTC judge denied petitioner's motion to set the case for hearing the motion to dismiss.

On April 16, 1997, **the MTC of Balanga, Bataan, rendered a decision in favor of the petitioner in the forcible entry case (Civil Case No. 1701),** thus:

"WHEREFORE, judgment is hereby rendered ordering the defendants and their representatives to **immediately vacate the premises of Mariveles Pawnshop, Inc.,** located at the Plaza Arcade, Balan, Bataan, **and to restore to plaintiff Natividad Candido the full possession thereof including all articles and money found therein, valued at P2,000,000.00 and to pay rental which is fixed at P8,000.00 per month beginning July 21, 1994.**

"The counterclaim of the defendants are hereby dismissed, they not being substantiated by evidence.

"Cost against the defendants.

"SO ORDERED."^[2]

On May 13, 1997, petitioner Candido filed a **motion for immediate execution of the MTC decision**. On May 9, 1997, upon receipt of the MTC Decision, respondents filed a **notice of appeal**^[3] **with the MTC** and requested that all court records be forwarded to the RTC of Bataan. On May 22, 1997, respondents filed their Opposition to the motion for execution on the ground, *inter alia*, that the MTC could no longer grant the immediate execution as the filing of their notice of appeal stayed execution.

In its Order,^[4] dated June 5, 1997, the **MTC of Bataan granted** petitioner's motion and directed the **immediate execution of its decision for failure of the respondents to post a supersedeas bond**.

In the meantime, petitioner Mariveles Pawnshop, Inc. and one Nelson Rodriguez filed with the Securities and Exchange Commission (SEC) a petition,^[5] dated May 30, 1997, for accounting, injunction, attachment, receivership and declaration of constructive trust attachment against petitioner Candido, *et al*.

On June 9, 1997, respondents filed with the **Regional Trial Court (RTC)** of Balanga, Bataan, **a petition for certiorari (Civil Case No. 6651)**,^[6] with prayer for issuance of a temporary restraining order, **assailing both the decision of the MTC in the forcible entry case and the Order granting immediate execution**. Accordingly, in an Order dated June 30, 1997, presiding RTC Judge Lorenzo R. Silva, Jr., issued a **preliminary injunction against the MTC** restraining the enforcement of its writ of execution.

Petitioners filed a **petition for certiorari**, prohibition and mandamus^[7] **with the Court of Appeals assailing the injunction order issued by the RTC** on the following grounds: (1) the certiorari petition filed by the respondents with the RTC cannot substitute for the appeal respondents had earlier made and did not withdraw; (2) the same certiorari petition should not have prospered as they already made an appeal and this plain, speedy and adequate recourse is available; and (3) private respondents were guilty of forum-shopping.

The Court of Appeals, in its Decision, dated March 25, 1998,^[8] **dismissed the petition on two grounds: First**, petitioners failed to move for reconsideration of the RTC Order enjoining the immediate execution of the MTC Decision. **Second**, the RTC judge did not abuse his discretion in issuing the injunction Order because the MTC, in awarding the amount of P2,000,000.00 exceeded what can be properly awarded as damages. Citing the case of **Hualam Construction Development Corporation vs. Court of Appeals**,^[9] the Court of Appeals held that the **damages recoverable in an ejectment case cover only the reasonable rent** for the loss of the use or occupation of the premises. It ruled that the **amount of P2,000,000.00 in the MTC decision representing the value of pawned articles inside the padlocked pawnshop could not be subsumed under the concept of damages for purposes of inclusion in the supersedeas bond**. It held that the **filing of the supersedeas was unnecessary to stay execution pending appeal**.

Petitioners' motion for reconsideration was denied. Hence, this petition for review on the following grounds:

I

The general rule in ejectment cases is (to grant) execution pending appeal. Such execution can only be stayed by the posting of a supersedeas bond equal to the amount of accrued rentals and damages directly affecting the loss of material possession.

II

Even if the requisite supersedeas bond has been posted, execution shall nevertheless issue if subsequent rentals are not deposited in court Sec. 8 (now Sec. 19), Rule 70.

III

Respondents' multiple resort to the RTC Balanga – through appeal and then certiorari – and at the same time invoking the jurisdiction of the SEC to obtain the same relief, to wit: enjoin the execution of the MTC Balanga Decision, is a glaring case of forum-shopping.

IV

The CA should have struck down respondents' resort to certiorari after having invoked the appellate jurisdiction of the RTC of Balanga.

We find merit in the petition.

At the outset, there is a need to discuss a procedural matter which, although not raised in the petition before this Court, is relevant to the full disposition of the case at bar.

One of the grounds relied by the Court of Appeals in dismissing the petition before it was petitioners' failure to move for a reconsideration of the impugned RTC injunctive order. This omission is not fatal. We have ruled that "(a) prior motion for reconsideration is not indispensable for commencement of certiorari proceedings **if the errors sought to be corrected in such proceedings had been duly heard and passed upon** or were similar to the issues already resolved by the tribunal or agency below. Accordingly, the Court has excused the non-filing of a motion for reconsideration when such a motion would be basically pro-forma in nature and content, and **where x x x the questions raised are essentially legal in nature.**"^[10] In the case at bar, the parties have argued their positions and have been duly heard by the RTC before it issued the assailed injunction order. Moreover, as the issues involved therein are essentially legal, the filing of motion for reconsideration assailing the RTC's injunction order may be properly dispensed with.

We now go to the legal issues.

Anent the first two issues, Section 8, Rule 70 of the old Rules of Court provides that