

## FIRST DIVISION

[ G.R. No. 131686, March 18, 2002 ]

**ROUEL AD. REYES, PETITIONER, VS. SPOUSES PEPITO AND MARTA TORRES, HON. ELIEZER R. DELOS SANTOS, EXECUTIVE JUDGE, RTC, ANGELES CITY, RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This petition for certiorari originates from a case for ejectment with damages concerning a parcel of land<sup>[1]</sup> located in Mabalacat, Pampanga. Sometime in 1993, petitioner Rouel AD. Reyes purchased the subject property. At that time, the property was already occupied by several tenants who had constructed their homes and commercial establishments thereon. These residents were informed that petitioner had acquired the property and were asked to vacate the same.

Respondent spouses Pepito and Marta Torres and Arcelli T. Manalo refused to vacate and remove their structure. Moreover, they erected one more structure and leased the same to Lolita Ticse for a monthly rental of One Thousand Pesos (P1,000.00). Several written demands<sup>[2]</sup> to vacate addressed to the Torres couple and Manalo went unheeded, which prompted petitioner Reyes to file a complaint before the Barangay Lupon for conciliation proceedings. When no settlement was reached, a certificate to file action was issued to petitioner, who filed a case for ejectment<sup>[3]</sup> against respondents and Manalo before the Municipal Circuit Trial Court of Mabalacat and Magalang, Pampanga.

On May 29, 1997, the MCTC rendered a decision, disposing of the case as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against herein defendants by ordering the latter:

1. To vacate the premises and to surrender the same peacefully to the plaintiff or to any of his authorized representative/s;
2. To remove the structure/s standing on the premises;
3. To pay the plaintiff a rental of P1,000.00 a month commencing from the date of filing of the complaint on July 22, 1996, up to the time defendants finally vacate the premises;
4. To pay the plaintiff the amount of P20,000.00 as attorney's fees and to pay the cost of this suit.

Plaintiff's claims for moral damages and defendants' counterclaim are hereby denied for lack of proof.

SO ORDERED.<sup>[4]</sup>

The Torres couple and co-defendant Manalo appealed to the Regional Trial Court of Angeles City and filed the required supersedeas bond. The case was docketed as Civil Case No. 8746. On September 18, 1997, the RTC dismissed the appeal for failure to pay docket and other legal fees.<sup>[5]</sup>

Respondents filed a motion for reconsideration,<sup>[6]</sup> averring that they had paid the proper docket fees as early as August 27, 1997, annexing thereto the receipts. They manifested that it was the Clerk of Court of the MCTC of Mabalacat and Magalang who neglected to attach the said receipts to the records of the case. The motion for reconsideration was set for hearing at 2:00 in the afternoon of October 3, 1997.

The day before the hearing, respondents filed a petition for certiorari and prohibition<sup>[7]</sup> with Branch 62 of the Regional Trial Court of Angeles City, docketed as Civil Case No. 8794. Respondents assailed the writ of execution issued by the MCTC on September 30, 1997 despite their filing of the supersedeas bond to stay execution of judgment pending appeal. Nevertheless, the sheriff executed the writ and demolished respondents' house and other structure on the subject property.

Respondents failed to appear at the hearing of their motion for reconsideration before Branch 59 of the RTC. The motion for reconsideration was denied and its earlier order dismissing the appeal was sustained.

The following day, respondents filed another motion for reconsideration<sup>[8]</sup> of the order denying their first motion for reconsideration. They alleged that their counsel arrived late at the hearing on October 3, 1997; that their counsel was at Branch 62 of the RTC Angeles City awaiting the issuance of a temporary restraining order in Civil Case No. 8794, which was issued only a few minutes before 2:00 o'clock; that he thereafter rushed to Branch 59 to attend the hearing but was delayed by heavy traffic due to a vehicular accident.

On November 17, 1997, the Regional Trial Court issued an Order,<sup>[9]</sup> ruling as follows:

Without necessarily touching on the issue as to whether the appeal was filed on time and it appearing that indeed there was payment of the appellate docket fees as evidenced by Official Receipt Nos. 5864393 and 6674615, the Branch Clerk of Court of the Municipal Circuit Trial Court, Mabalacat-Magalang, Pampanga, is hereby ORDERED to immediately transmit the entire records of this case to this Court for inclusion in the raffle.

SO ORDERED.

Petitioner filed a motion for reconsideration.<sup>[10]</sup> While his motion for reconsideration remained unresolved, the case was raffled to Branch 57 of the Regional Trial Court of Angeles City.<sup>[11]</sup> On December 5, 1997, said court issued an Order<sup>[12]</sup> directing the parties to submit their respective memoranda, after which the case would be considered submitted for decision.