

## FIRST DIVISION

[ G.R. No. 128954, October 08, 1998 ]

**AZUCENA GO AND REGENA GLORIA SIONG, PETITIONERS, VS.  
COURT OF APPEALS AND STAR GROUP RESOURCES AND  
DEVELOPMENT, INC., RESPONDENTS.**

### D E C I S I O N

#### **PANGANIBAN, J.:**

Where the trial court abuses its discretion by indefinitely suspending summary proceedings involving ejectment cases, a petition for certiorari may be entertained by the proper court to correct the blunder. In the interest of justice and in view of the procedural void on the subject, an appeal may be treated as a petition for certiorari for this purpose and only in this instance, *pro hac vice*.

#### **The Case**

The petition for review on certiorari before us seeks to set aside and reverse the consolidated Decision of the Court of Appeals<sup>[1]</sup> (CA) promulgated on March 4, 1997, in CA-GR SP No. 37306 and CA-GR SP No. 39403, which disallowed the suspension of the ejectment proceedings, the decretal portion of which reads:

"It bears mentioning again, that due to petitioners' apparent dilatory tactics prolonging both the ejectment and specific performance proceedings, we are convinced beyond cavil that the ejectment case should proceed independently of the specific performance case.

"WHEREFORE, the Orders dated August 30, 1995 and October 17, 1995 issued by the respondent Regional Trial Court (Branch 34) of Iloilo City in Civil Case No. 21713 are declared NULL and VOID on the sole ground of non-compliance with the mandate of Section 14, Article VIII of the Constitution.

"The petition for certiorari assailing the Orders dated January 27, 1995 and March 24, 1995 issued by the same respondent Regional Trial Court (Branch 34) of Iloilo City in Civil Case No. 21713; and the supplemental petition for certiorari assailing the Orders dated February 14, 1996 and March 1, 1996 issued by the respondent MTCC of Iloilo City (Branch 1) in Civil Case No. 332 (93) are DENIED for lack of merit.

"The writ of preliminary injunction is hereby LIFTED."<sup>[2]</sup>

#### **The Facts**

The undisputed facts as found by Respondent Court are reproduced hereunder:

"Private respondent filed with the Municipal Trial Court in Cities (MTCC) of Iloilo City (Branch 1) an ejectment case [docketed as Civil Case No. 332(93)] against petitioners. Upon motion of petitioners, said court issued an Order dated November 29, 1993 holding in abeyance the preliminary conference in said case until after the case for specific performance docketed as Civil Case No. 21142 likewise involving the same parties shall have been finally decided by the RTC of Iloilo City (Branch 37).

"An appeal was taken by private respondent from the aforesaid Order which was assigned to herein public respondent RTC of Iloilo City (Branch 34).

"Thereafter, petitioners filed with the respondent RTC a motion to dismiss the appeal on the ground that the appealed order is interlocutory and therefore not appealable. Said motion was denied by the respondent RTC (Branch 34) per its Order dated January 27, 1995.

"Petitioners subsequently filed a motion for reconsideration which was likewise denied per Order dated March 24, 1995.

"Hence, petitioners filed the present petition for certiorari, docketed as SP No. 37306, raising the issue of whether or not the respondent RTC (Branch 34) acted without or in excess of jurisdiction or with grave abuse of discretion in denying petitioner's motion to dismiss appeal.

"Private respondent then filed with respondent RTC a 'Motion to Resume Proceedings'. On August 30, 1995, respondent RTC issued an Order granting said motion and directed the remand of the records of the case to the MTCC (Branch 1) of Iloilo City for further proceedings. Petitioners filed a motion for reconsideration and clarification but the same was denied in the Order dated October 17, 1995.

"Petitioners then filed with this Court the present petition for 'review,' docketed as SP No. 39403, raising the issue of whether or not the same respondent RTC acted without or in excess of jurisdiction or with grave abuse of discretion in ordering the resumption of the proceedings in the MTCC of Iloilo (Branch 1).

"On October 20, 1995, we issued a temporary restraining order enjoining the respondent RTC from further proceeding with Civil Case No. 21713. Sometime after the restraining order lapsed, respondent court remanded the records to the MTCC.

"Petitioners filed with the MTCC a motion to hold in abeyance further proceedings. In the Order dated February 14, 1996, the MTCC denied the motion and set the case for preliminary conference. Petitioners' motion for reconsideration was likewise denied per Order dated March 1, 1996.

"Subsequently, petitioners filed their supplemental petition for review impleading the presiding Judge of the MTCC, raising the issue of whether or not the respondent MTCC erred in resuming the proceedings in view of

the timely filing of the petition for 'review,' docketed as SP No. 39403.

"On May 29, 1996, we granted petitioners' motion for a writ of preliminary injunction and ordered herein private and public respondents to refrain from continuing with the proceedings in Civil Case No. 332 (93) before the MTCC until the herein above-entitled petitions are resolved by this Court.

"The issues raised by petitioners in their pleadings are the following[:]

"I. Whether or not the respondent RTC (Branch 34) gravely abused its discretion when it denied the motion to dismiss an appeal from an interlocutory order.

"II. Whether or not the respondent RTC (Branch 34) gravely abused its discretion when it granted private respondent's Motion to Resume Proceedings' and ordered the remand of the records to the MTCC (Branch 1).

"III. Whether or not the respondent MTCC (Branch 1) erred when it resumed the ejectment proceedings despite the timely filing of the petition for 'review'."

### **Respondent Court's Ruling**

Recognizing the existence of a procedural void in the Rules on Summary Procedure, the Court of Appeals sustained the propriety of appeal as a remedy to challenge the suspension of the ejectment suit by the Municipal Trial Court in Cities (MTCC) of Iloilo City:

"Verily, the respondent RTC was cognizant of the impropriety of an appeal from an interlocutory order. However, in denying the motion to dismiss the appeal it considered the following circumstances: 1) the procedural void where the aggrieved party (herein private respondent) will have no remedy for the ventilation of his rights; and 2) the fact that herein petitioners as plaintiffs in the case for specific performance (Civil Case No. 21142) also filed a motion to hold in abeyance the pre-trial of said case.

"We find that the respondent RTC did not abuse its discretion in taking cognizance of the appeal. Neither did it act without or in excess of its jurisdiction.

"First, it must be stated that the purpose of the Rule[s] on Summary Procedure is 'to achieve an expeditious and inexpensive determination of cases without regard to technical rules.' (Section 36, Chapter III, B.P. Blg. 129).

"Apparently, the prohibition against petitions for certiorari involving interlocutory orders was included to forestall useless petitions and avoid undue inconvenience and delays. In effect, a party is prevented from having to assail orders on incidental matters as they are issued by the

court. Instead, a party is obliged to contest all such expeditious resolution of the case.

"However, in the case at bench, what the private respondent sought to be reviewed by way of appeal was a suspension order. An order which to all intents and purposes runs counter to the summary nature of ejectment proceedings. Thus, the private respondent as plaintiff in the ejectment proceeding should be given a remedy to question said order which the respondent court had judiciously provided for.

"All told, inaction on the MTCC's order of suspension due to the procedural void created by Section 19 of the Rule[s] on Summary Procedure and Section 2, Rule 41 of the Rules of Court will defeat rather than promote the thrust of the summary rules which is the speedy disposition of cases.

"After all, while technicalities have their uses, resort to them should not be encouraged when they serve only to impede the speedy and just resolution of the case, least of all an ejectment case which, under the Rules, is supposed to be summary in nature (Top Rate International Services, Inc. vs. CA, 170 SCRA 84). Further, actions for forcible entry and unlawful detainer must be abated as promptly as possible without any undue reliance on technical and procedural rules which only cause delay because they involve a disturbance of social order (Co Keng Kian vs. IAC, 189 SCRA 112)."

### **The Issues**

In their Memorandum, petitioners raise two issues:

1. "The Honorable Court of Appeals erred in allowing the appeal of an interlocutory order."<sup>[3]</sup>
2. "The Honorable Court of Appeals erred in not applying the exceptions provided for in the Vda. de Legaspi and Wilmon cases allowing the suspension of the ejectment case based on strong reasons of equity or when the right of the private respondent to the property in question is seriously placed in issue."<sup>[4]</sup>

In the main, the crux of this case is the propriety of an appeal as a remedy to challenge the suspension of proceedings in an ejectment suit.

### **The Court's Ruling**

The petition is devoid of merit.

#### **First Issue:** **Remedy to Contest Interlocutory Orders** **in Summary Proceedings**

In affirming the ruling of the Regional Trial Court (RTC) of Iloilo City, the Court of Appeals noted that there was a "procedural void" in the summary proceedings