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**SUPREME COURT
SECOND DIVISION**

PETER RODRIGUEZ,
Petitioner,

-versus-

**G.R. No. 79968
August 23, 1995**

**PROJECT 6 MARKET SERVICE
COOPERATIVE, INC., AND HON.
MAXIMINO C. ASUNCION, JUDGE,
REGIONAL TRIAL COURT, BRANCH
104, QUEZON CITY,**

Respondents.

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DECISION

PUNO, J.:

This Petition for *Certiorari* seeks to Annul and Set Aside the Orders dated August 31, 1987 and September 18, 1987 of the Regional Trial Court, Branch 104, Quezon City in Civil Case No. Q-47100.

Petitioner Peter Rodriguez is a vendor occupying and leasing one of the stalls at the Project 6 Market, Project 6, Quezon City from respondent Project 6 Market Service Cooperative, Inc. (Cooperative), the operator of said market.

The instant petition stems from Civil Case No. Q-45781 filed in 1984 by the a Cooperative against petitioner with the Metropolitan Trial Court (MTC), Branch 39, Quezon City. The Cooperative sought to eject petitioner from his market stall and recover from him arrears in his monthly rent over the property.

Judgment was rendered by the MTC on November 28, 1985 ordering petitioner to vacate the leased premises and pay rent in arrears and until such time as he vacates the leased property. The dispositive portion of the decision reads as follows:

“WHEREFORE, judgment is hereby rendered ordering the defendant and all persons claiming interest thru him to vacate the leased premises and restore possession thereof to the plaintiff, to pay the plaintiff the sum of P19,076.24 representing the accrued rent on the leased premises as of November 30, 1985, with interest thereon at the legal rate of 12% per annum from today until the amount shall have been fully paid as well as the succeeding daily rents, at the same rate of interest, until the defendant shall have vacated the leased premises and an additional sum of P5,000.00 as and for attorney’s fees, plus costs of this suit.”^[1]

On appeal, the Regional Trial Court (RTC), Branch 104, Quezon City, affirmed the decision of the MTC (Rollo, p. 94). The Court of Appeals denied petitioner’s petition for review for late filing,^[2] which action the Supreme Court affirmed on May 27, 1987 in G.R. No. 77926. Entry of judgment was made on July 3, 1987.^[3]

The judgment of the MTC having become final and executory, the Cooperative moved for its execution with the RTC and a writ of execution was issued accordingly. Petitioner however moved to quash the writ on the ground that the situation of the parties had changed

after trial that would now render execution inequitable. The Cooperative opposed this motion.

The trial court denied the motion to quash on August 31, 1987^[4] and reconsideration thereof on September 18, 1987.^[5]

Hence this petition. As prayed for, we issued on October 7, 1987 a temporary restraining order enjoining respondents from enforcing the judgment and writ of execution in Civil Case No. Q-47100.^[6]

Before us, petitioner claims that the trial court gravely abused its discretion when it disregarded the change in circumstances of the case brought about by: (1) the filing of Civil Case No. Q-49819 by petitioner against the Cooperative for rescission of the lease agreement between them; and (2) the notices sent by the National Housing Authority (NHA) assuming control over the Project 6 Market and demanding payment to it of all rent and amortizations due from the stallholders.

In this jurisdiction, the general rule is when a court judgment or order becomes final and executory, it is the ministerial duty of the trial court to issue a writ of execution to enforce this judgment.^[7] A writ of execution may however be refused on equitable grounds as when there is a change in the situation of the parties that, would make execution inequitable^[8] or when certain circumstances which transpired after judgment became final render execution of judgment unjust.^[9]

The issue in this petition is whether the filing of Civil Case No. Q-49819 and the notices sent by the NHA to petitioner constitute such circumstances as would render execution of judgment in Civil Case No. Q-47100 unjust and inequitable and therefore justify a stay of execution.

Civil Case No. Q-49819 was filed by petitioner against the Cooperative on January 21, 1987 before the Regional Trial Court, Branch 95, Quezon City. Petitioner alleged that the lease over his market stall was a verbal lease-purchase agreement, and that when Civil Case No. Q-47100, the ejectment case against him was still pending with the Supreme Court, he discovered that this contract was legally untenable

since the Cooperative was not the owner but a mere lessee of the land on which the market building was constructed. Claiming fraud and misrepresentation, he therefore filed the complaint for rescission of the lease-purchase agreement and damages. This complaint was, however, dismissed by the trial court for lack of merit and the dismissal affirmed by the Court of Appeals on September 28, 1993 in CA-G.R. CV No. 30334. The court found that long before petitioner entered into the said contract, he already knew that the land was owned by the NHA and that the Cooperative was to lease this land with the option to purchase after 25 years, construct the market, building thereon and operate the market. In, short, petitioner was aware of the kind of agreement he had with the Cooperative over his market stall.^[10] The decision of the Court of Appeals became final and executory on October 27, 1993.^[11]

Clearly, the existence of Civil Case No, Q-49819 does not in any way affect Civil Case No. Q-47100. For one, the issue in Civil Case No. Q-49819 was the validity of the lease-purchase agreement between petitioner and the Cooperative while that in Civil Case No. Q-47100 was the non-payment of rent and the fact of physical possession of the leased property. Petitioner has never disputed the fact that he has been in physical possession of the market stall since 1983 and that he has not been paying rent regularly since the first installment in the same year.^[12] Moreover, Civil Case No. Q-49819 was finally dismissed for lack of merit after finding that petitioner was aware of the kind of contract he entered into with the Cooperative. The findings of the court in Civil Case No. Q-49819 actually support the cause of action in Civil Case No. Q-47100.

Petitioner also claims that after the decision of the Supreme Court became final, there was another change in circumstance when he and all stallholders at the Project 6 Market received notices from the NHA informing them that effective May 21, 1987, the NHA had terminated its Contract of Lease with the Cooperative and that it (NHA) had taken over the management and operation of the market for failure of the Cooperative to pay rent over the land. The stallholders were instructed to transact business with and make all payments over their stalls to the NHA, and any, payment made to the Cooperative after May 21, 1987 would not be recognized and deducted from whatever

obligation the stallholders had with the NHA.^[13] Again, this circumstance does not justify a stay of execution.

It must be pointed out that Civil Case No. Q-47100 was instituted by the Cooperative against petitioner for his failure to pay rent in arrears over his market stall under the so-called lease-purchase agreement between them. The judgment of the MTC explicitly ordered petitioner to pay the Cooperative P19,076.24 for back rentals as of November 30, 1985 with 12% interest per annum, and the succeeding daily rents at the same rate of interest until petitioner vacates the property.

The judgment sought to be executed by the Cooperative covers petitioner's failure to comply with his obligation to the latter way before the NHA allegedly took over the management and operation of the market. The order for petitioner's ejectment was a result of his non-payment of rent since 1983, and the monetary award granted the Cooperative was to cover petitioner's back rentals and succeeding rent until such time as he shall have vacated the property. The takeover of the possession, management and control of the Project 6 Market and the demand for payment by the NHA was made on May 21, 1987 — four years after petitioner incurred arrears in his rent.

Notably, the takeover of the Project 6 Market was a unilateral decision of the NHA allegedly authorized under its Contract of Lease with the Cooperative.^[14] This has been contested by the Cooperative and the issue is now pending before the MTC, Branch 36, Quezon City in Civil Case No. 2483. The NHA filed on June 25, 1987 a complaint for unlawful detainer and damages with a prayer for the issuance of a preliminary mandatory injunction against the Cooperative, its officers and manager. No preliminary mandatory injunction has as yet been issued and the case is still to be scheduled for trial.^[15]

As things stand, the Cooperative is still the possessor and operator of the Project 6 Market and whatever contracts it entered into in such capacity remains the status quo, until and unless the court declares otherwise.

Indeed, that the NHA is the owner and lessor of the land on which the Project 6 Market stands is of no moment to the contract between the Cooperative and petitioner. The lessor of the property is a stranger in

a contract of sublease between the lessee/sublessor and the sublessee.^[16]

Petitioner contends that he was deprived of procedural due process when the trial court issued the order of August 31, 1987 without any hearing and without him having been furnished a copy of the Cooperative's opposition to his motion to quash. However, petitioner admits that when he moved for reconsideration of said order, he received his copy of the opposition and respondent judge conducted a hearing on his motion.^[17] Indeed, deprivation of due process cannot be successfully invoked where a party was given the chance to be heard on his motion for reconsideration.^[18]

IN VIEW WHEREOF, the petition is dismissed, the temporary restraining order is lifted and the orders dated August 31, 1987 and September 18, 1987 of respondent judge are affirmed. Costs against petitioner.

SO ORDERED.

**Regalado, Mendoza and Francisco, JJ., concur.
Narvasa, C.J., took no part.**

[1] Rollo, p. 93.

[2] Rollo, p. 95.

[3] Rollo, p. 96.

[4] Rollo, p. 51.

[5] Rollo, p. 56.

[6] Rollo, p. 57.

[7] Revised Rules of Court, Rule 39, Sec. 1; Nique vs. Zapatos, 219 SCRA 639 [1994]; Ortigas vs. Hidalgo, 198 SCRA 635 [1992]; Esquivel vs. Alegre, 172 SCRA 315 [1989].

[8] Luna vs. Court of Appeals, 137 SCRA 7 [1985]; Heirs of Guminpin vs. Court of Appeals, 120 SCRA 687 (1983); Albar vs. Carandang, 6 SCRA 211 [1962].

[9] Baclayon vs. Court of Appeals, 182 SCRA 761 (1990); Ngo Bun Tiong vs. Sayo, 163 SCRA 237 [1988]; Lipana vs. Development Bank of Rizal, 154 SCRA, 257 [1987].

[10] Rollo, pp. 216-223; Decision, CA-G.R. CV No. 30334, pp. 1-8).

[11] Rollo, p. 248.

[12] Rollo, p. 47; Complaint in Civil Case No. Q-49819; p. 2.

[13] Rollo, pp. 12-13.

- [14] Rollo, p. 143; Consolidated Comment of the NHA, p. 2.
- [15] Rollo, 211-215, 247; Decision, CA-G. R. SP No. 17850, pp. 1-5.
- [16] Ouano vs. Court of Appeals, 211 SCRA 740 [1993]; Blas vs. Court of Appeals, 180 SCRA 61 [1989].
- [17] Rollo, pp. 5-6; Petition, pp. 4-5.
- [18] Mendiola vs. Civil Service Commission, 221 SCRA 295 [1993]; Villareal vs. Court of Appeals, 219 SCRA 292 [1993]; Imperial Textile Mills, Inc. vs. National Labor Relations Commission, 217 SCRA 237 [1993].

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