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WHEREFORE, the orders of the respondent judge dated May 12, 1970 and January 11, 1971 are hereby annulled and set aside. Let this case be remanded to the National Labor Relations Commission for further proceedings pursuant to Section 1, Rule XVIII of its Rules.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, Aquino, and *Santos, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-37051. July 31, 1978]

ANITA U. LORENZANA, *petitioner, vs.* **POLLY CAYETANO and COURT OF APPEALS,** *respondents.*

SYLLABUS

REMEDIAL LAW; ACTIONS; MOOT AND ACADEMIC; WHEN SUPERVENING LAWFUL ACT RENDERS THE QUESTION OF POSSESSION MOOT AND ACADEMIC; CASE AT BAR.— We agree with the petitioner that the possessory aspect of the judgment of the Court of Appeals which We had affirmed has become moot and academic for the reasons adduced by her. Considering that the owner of the land, subject of the controversy, which is the government, acting thru the Director of the Bureau of Building and Real Property Management with the approval of the Secretary of General Services, had turned over the possession of the premises under a lease contract in favor of petitioner, which lease is admittedly legal and lawful, petitioner can no longer be compelled to restore possession of the same to the prevailing party, the private respondent herein. To do so would certainly be a violation of petitioner's property rights. By reason of a lawful act which supervened after the institution of this case, petitioner's possession of the premises has been legalized.

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RESOLUTION

GUERRERO, *J.*:

There is presented to Us by petitioner a second motion for modification filed with leave of court praying that the possessory aspect of the decision rendered by the Court of Appeals which We had affirmed be modified and that the same should now be converted into a judgment for damages.

Petitioner admits the damage aspect of the appealed decision which ordered her to pay actual and moral damages in the amount of ₱5,500.00 to private respondent, Polly Cayetano. She submits, however, that the possessory aspect of the decision, to wit: "to restore to appellant the possession of the property invaded and occupied by her as shown in Exhibits L-1 to put back appellant's fence and other valuable improvements in their place before the writ of demolition was served;" can no longer be enforced at this stage, first, because the question of possession thereof has become moot and academic, and second, because enforcement thereof or execution is legally impossible. In support of said motion for modification, there is attached a copy of the contract of lease (Annex A) dated May 16, 1974 whereby the Bureau of Building and Real Property Management of the Department of General Services (administrator and custodian of the subject property) leased to petitioner Lot II-B, Block 2201 of the Cadastral Survey of Manila, with an area of 700 square meters, which includes the subject property. The contract of lease is duly approved by the Secretary of General Services and petitioner as lessee, has taken possession of the leased premises and since May 16, 1974 has been paying the monthly rentals therefor.

Respondents, in a *pro forma* comment, merely prays for the dismissal of the motion for modification.

Previously, upon an amended motion of petitioner for prohibition with prayer for the issuance of a writ of preliminary injunction and a restraining order filed May 30, 1978, We issued in this case a restraining order on June 8, 1978 "restraining the Court

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of First Instance of Manila, Branch XVII and the sheriff thereof and private respondent from executing and/or enforcing the judgment issued by the said Court *a quo*."

We agree with the petitioner that the possessory aspect of the judgment of the Court of Appeals which We had affirmed has become moot and academic for the reasons adduced by her. Considering that the owner of the land, subject of the controversy, which is the government, acting thru the Director of the Bureau of Building and Real Property Management with the approval of the Secretary of General Services, had turned over the possession of the premises under a lease contract in favor of petitioner, which lease is admittedly legal and lawful, petitioner can no longer be compelled to restore possession of the same to the prevailing party, the private respondent herein. To do so would certainly be a violation of petitioner's property rights. By reason of a lawful act which supervened after the institution of this case, petitioner's possession of the premises has been legalized.

However, to remand this case to the lower court for execution and to assess and determine after due notice and hearing, the amount of indemnity which will be paid by petitioner to private respondent for the loss or destruction of the improvements made by the latter on the subject property prior to the service and execution of the writ of demolition, as prayed for by movant petitioner, would unduly delay the final disposition of this case. A protracted hearing on the amount of damages is not far-fetched to see. Hence, an amount fixed by Us in the sum of ₱1,500.00 as the value of the fence destroyed, flower pots, trellishes, electric installations and other decorations, cement garden or patio destroyed, would appear to Us to be reasonable and satisfactory to both parties in the interest of peace as well as in fairness to both, and thus terminate this litigation once and for all.

WHEREFORE, the judgment promulgated by Us in this case is hereby modified. We hereby declare that part of the appealed decision ordering petitioner to restore possession of the property invaded and occupied by her to the private

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respondent and to put the fence and other valuable improvements in their place as moot and academic. For the value of the fence and other valuable improvements destroyed, petitioner is hereby ordered to pay respondent the sum of ₱1,500.00. In all other respects, Our decision stands.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, and *Fernandez, JJ.*, concur.

SECOND DIVISION

[G.R. Nos. L-39089-90. July 31, 1978]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **DOMINADOR PAY-AN,** *accused-appellant.*

SYLLABUS

1. CRIMINAL LAW; JUSTIFYING CIRCUMSTANCES; SELF-DEFENSE; REQUISITES.— To prove self-defense the accused must show with clear and convincing evidence, that: (1) he is not the unlawful aggressor; (2) there was lack of sufficient provocation on his part; and (3) he employed reasonable means to prevent or repel the aggression. Self-defense, like alibi is a defense which can easily be concocted. It is well-settled in this jurisdiction that once an accused had admitted that he inflicted the fatal injuries on the deceased, it was incumbent upon him, in order to avoid criminal liability, to prove the justifying circumstance claimed by him with clear, satisfactory and convincing evidence. He cannot rely on the weakness of the prosecution but on the strength of his own evidence, "for even if the evidence of the prosecution were weak it could not be disbelieved after the accused himself had admitted the killing."