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and establish a permanent abode. "A man with a home and a means of subsistence is a lover of peace and order and will profess affections for his country, whereas one without a home and in penury is not only a social parasite but also a dangerous element in the social order" (Moran, *J.*, dissent in *Kasilag vs. Rodriguez*, 69 Phil. 217, 254, 264). The Government, as the biggest employer, should be the first to help its employees in the solution of their housing problem.

WHEREFORE, the petition is dismissed. No costs.

Makalintal, C.J., Antonio, and *Fernandez, JJ.*, concur.

Fernando (Chairman), J., concurs in the result.

Aquino, J., did not take part.

SECOND DIVISION

[G.R. No. L-34370. January 17, 1975]

CESAR SERRANO, *petitioner, vs.* **HONORABLE AUGUSTO M. AMORES, as Judge of Branch I of the Court of First Instance of Zambales (Olongapo City), and OSCAR LOPEZ, GREGORIO BOLASCO, Deputy Sheriff of the Office of the City Sheriff of Olongapo City,** *respondents.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; DISMISSAL OF ACTIONS; DISMISSAL OF A PETITION FOR *CERTIORARI* AND PROHIBITION FOR BEING MOOT AND ACADEMIC IS PROPER DESPITE OPPOSITION OF THE PETITIONER; RATIONALE.— Petitioner ought to have known better. Judicial power does not extend to the issuance of advisory opinions.

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He ought to have been aware that with so many pending cases wherein there is an actual and antagonistic assertion of rights between the parties, it would not serve public interest at all if on a matter now clearly moot and academic the time and attention of this Court would still have to be devoted. Realistically, no valid objective would thereby be achieved. Petitioner's stand does not commend itself for acceptance. His opposition to the motion to dismiss is not deserving of serious consideration.

RESOLUTION

FERNANDO, *J.*:

In this *certiorari* and prohibition proceeding, what is sought to be nullified is a writ of preliminary mandatory injunction issued by respondent Judge Augusto M. Amores, ordering now petitioner Cesar Serrano to deliver to respondent Oscar Lopez, plaintiff in a civil suit then pending in the court below, the possession of five apartments located at Olongapo City, the amount of the bond being fixed in the sum of ₱30,000.00 previously filed for the issuance of an earlier restraining order and thereafter considered as the bond for such injunction. There was an answer to the petition, and thereafter, the respective parties filed their memoranda in lieu of oral argument, with petitioner having likewise a reply memorandum. The case was thus submitted for decision. It was at that stage when, on October 4, 1974, a motion to dismiss the petition was filed by respondents. It reads thus: "[Come now] the Respondents, through undersigned counsel, and unto this Honorable Tribunal, most respectfully [pray] that the instant Petition be [dismissed] because the issues raised are now moot and academic, the respondent court having dismissed the complaint and set aside the Order dated October 25, 1971 issuing the writ of preliminary mandatory injunction, subject matter of the instant proceeding, as per its Order dated August 5, 1974, copy of which is attached as Annex 'A'."[1] The attached order is worded as follows: "Upon joint motion of the parties through their respective counsel, the complaint

[1] Motion to Dismiss Petition dated October 3, 1974.

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as well as the counterclaim contained in the answer are hereby dismissed, without prejudice to whatever action the parties may take in Civil Case No. 3079, entitled *Cesar Serrano versus Rizalina de la Cruz,* in the Court of First Instance of Pampanga, Branch II. Consequently, the order dated October 25, 1971 issuing a writ of preliminary mandatory injunction is set aside and the writ issued thereunder lifted."[2] Asked to comment, the petitioner was averse to the plea to terminate the proceeding on the ground of its being moot and academic. While he could not deny that there was in fact such a dismissal of the civil case pending before respondent Judge, he would impress upon this Court that the legal issues raised could be threshed out with the resulting benefit, according to him, of guidance for the parties as well as the enrichment of jurisprudence.

Petitioner ought to have known better. Judicial power does not extend to the issuance of advisory opinions. He ought to have been aware that with so many pending cases wherein there is an actual and antagonistic assertion of rights between the parties, it would not serve public interest at all if on a matter now clearly moot and academic the time and attention of this Court would still have to be devoted. Realistically, no valid objective would thereby be achieved. Petitioner's stand does not commend itself for acceptance. His opposition to the motion to dismiss is not deserving of serious consideration.

WHEREFORE, the petition for *certiorari* and prohibition is dismissed for being moot and academic.

Barredo, Antonio, Fernandez, and *Aquino, JJ.,* concur.

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[2] Order of Respondent Judge, August 5, 1974.