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perpetua and to pay solidarily to the heirs of Rodrigo Argenio an indemnity of ₱12,000 plus the sum of sixty pesos which was taken during the robbery. They are liable for three-fourths of the costs. So Ordered.

Castro, C.J., Fernando, Teehankee, Barredo, Makasiar, Esguerra, Muñoz Palma, Concepcion Jr. and *Martin, JJ.*, concur.

Antonio, J., did not take part.

Judgment affirmed with modification.

[No. L-28380. February 27, 1976]

SECOND DIVISION

ENRIQUE A. DEFANTE, plaintiff-appellant, *vs.* HON. ANTONIO E. RODRIGUEZ, ATTY. RODOLFO E. MATEO, FRANCISCO TEJONES, LORETO TORRES and WILFREDO MONTES, defendants-appellees.

APPEAL from a decision of the Court of First Instance of Rizal, Pasay City Br. VII. De la Rosa, *J.*

SYNOPSIS

Defante was sued for alleged forcible entry into a lot owned by the municipality. A writ of preliminary mandatory injunction was issued and he was ejected from the lot and his improvements demolished. Later Defante filed in the CFI an action for damages against the

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municipal judge. but the complaint was dismissed on grounds of lack of cause of action and lack of jurisdiction. Defante appealed to the Supreme Court. After the appeal had been submitted for decision, Defante's counsel informed the Court that Defante is dead, and that his heirs are no longer interested in prosecuting the appeal.

Case dismissed for being moot.

SYLLABUS
of the Ruling of the Court

APPEAL; DISMISSAL; MOOT AND ACADEMIC; DEATH OF APPELLANT AND DISINTEREST OF HEIRS. Where appellant in a case for damages has died and his heirs are not interested in prosecuting the appeal, the case is dismissed for being moot.

APPEARANCES OF COUNSEL

Concepcion, Balajadia, Victorino & Associates for the plaintiff-appellant.

Eduardo R. Adsuara for defendants-appellees.

RESOLUTION

AQUINO, *J.:*

On October 20, 1964 Enrique A. Defante was sued by the Municipality of Las Piñas for alleged forcible entry into a lot owned by that municipal corporation (Civil Case No. 226). In that case Municipal Judge Antonio E. Rodriguez issued a writ of preliminary mandatory injunction enjoining Defante from further occupying the eastern portion of the lot.

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Acting on Judge Rodriguez's order of December 20, 1966, the writ was enforced against Defante on the following day, December 21, by Atty. Rodolfo E. Mateo, Francisco Tejones, Loreto Torres and Wilfredo Montes. Defante was ejected from the lot and his improvements were allegedly demolished.

On January 21, 1967 Defante filed in the Court of First Instance of Rizal, Pasay City Branch VII, an action for damages against Judge Rodriguez and the above-named persons who had ejected him (Civil Case No. 847-R).

Defendants Mateo, Tejones, Torres and Montes filed a motion to dismiss the complaint on the grounds of lack of cause of action and lack of jurisdiction. Judge Rodriguez adopted the said motion.

Judge Francisco de la Rosa in his order of March 2, 1967 dismissed the complaint on the ground that it was intimately connected with the ejectment suit pending in the municipal court of Las Piñas.

Defante appealed the order of dismissal to this Court on the ground that it is contrary to law.

The parties filed their briefs. The appeal was submitted for decision on September 27, 1968.

Pursuant to the resolution of January 14, 1976, Defante's counsel in a manifestation dated February 16, 1976 informed this Court that Defante is dead and that, in view of the developments in a registration case regarding the land involved in the ejectment case, Defante's heirs "are no longer interested" in prosecuting the appeal.

On the other hand, the defendants-appellees in their manifestation also dated February 16 stated that the appeal had become moot in view of Defante's appeal in the ejectment suit and because of his death.

Wherefore, the appeal is dismissed. No costs. So ordered.

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Fernando, Chairman, Barredo, Antonio and *Concepcion Jr.*, concur.

Appeal dismissed.

[No. L-28975. February 27, 1976]

SECOND DIVISION

VENANCIA B. MAGAY, assisted by her husband, VICTORIANO R. MAGAY, plaintiff-appellee, *vs.* EUGENIO L. ESTIANDAN, defendant-appellant.

PETITION FOR REVIEW of a decision of the Court of First Instance of Palawan. Tividad, *J.*:

SYNOPSIS

Plaintiff bought from her mother-in-law a piece of land on which the defendant had constructed two houses. After acquiring the property, plaintiff wrote defendant asking the latter to vacate the premises. Due to defendant's refusal to vacate, plaintiff sued defendant. Defendant questioned the validity of the vendor's title, alleging that the same was acquired under anomalous circumstances.

The lower court, finding the plaintiff as the registered owner, ordered defendant to vacate the property.

On appeal, the Supreme Court affirmed the judgment based on the principle that Torrens title cannot be collaterally attacked.