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to redeem the property sold on foreclosure within a period of one (1) year from and after the date of the sale (Section 6). Within the same one-year period of redemption, the purchaser may petition the court to give him possession of the property purchased by him, furnishing bond in an amount equivalent to the use of the property for a period of twelve (12) months (Section 7). Needless to say, such one-year period has long expired, the sale having been made on August 30, 1961. Petitioner, therefore, has no more right, under the specific provision of law invoked by him, to the writ of possession prayed for.

WHEREFORE, in view of the foregoing, the instant appeal is hereby dismissed for being moot and academic.

Fernando (Chairman), Barredo, Aquino, and *Concepcion Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. L-40879. July 25, 1975]

IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF MAXIMO PAMPLONA, AURELIO PAMPLONA, *petitioner, vs.* **THE MUNICIPAL JUDGE and the CHIEF OF POLICE and/or MUNICIPAL WARDEN both of Calamba, Laguna,** *respondents.*

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *HABEAS CORPUS*; WITH THE APPLICATION FOR *HABEAS CORPUS* HAVING SERVED ITS PURPOSE AS THE WRIT OF LIBERTY, NO FURTHER ACTION THEREON NEED BE TAKEN BY THIS COURT; CASE AT BAR.— The amendatory order is worded

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thus: "It appearing that the accused in the above-entitled case has filed his Notice of Appeal within the reglementary period and it appearing further that the filing of the Notice of Appeal is the operative act which perfects the appeal, the order of this Court dated May 28, 1975 is hereby amended to read and be understood as ordering the arrest of the accused for his failure to post the necessary bond on appeal and his detention is ordered until such time as he posts the necessary appeal bond. The portion of the Order disallowing the appeal is hereby reconsidered and all subsequent orders deeming the decision as final and executory are likewise revoked." WHEREFORE, with the application for *habeas corpus* having served its purpose as the writ of liberty, no further action thereon need be taken by this Court, and the case is considered terminated.

RESOLUTION

FERNANDO, *J.*:

What is assailed in this application for *habeas corpus* filed on June 30, 1975 by Aurelio Pamplona on behalf of his father, Maximo Pamplona, confined in the Municipal Jail of Calamba, Laguna, is an order of Judge Enrico Lanzanas of Calamba, Laguna, declaring a judgment of conviction for grave coercion duly appealed as having attained finality. It is impressed. according to the petition, with an illegal, unconstitutional, arbitrary and oppressive aspect. The facts show that on May 31, 1973 a complaint for grave coercion was filed against Maximo Pamplona in the Municipal Court of Calamba, Laguna. Thereafter, hearings were conducted in the Municipal Court of Calamba, Laguna, after which a decision was rendered and promulgated on May 5, 1975 convicting the accused Maximo Pamplona and sentencing him to suffer three months of *arresto mayor* and to pay the cost.[1] When the judgment of the Municipal Court of Calamba, Laguna, penned by Judge Enrico Lanzanas, was promulgated on May 5, 1975, the accused through counsel manifested in open court that he is appealing said decision to the Court of

[1] Petition, par. 7.

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First Instance of Laguna and at the same time asked that he be allowed provisional liberty on the basis of the bail already filed with the Municipal Court to which said Judge acceded.[2] In addition to the verbal notice of appeal made in open court on May 5, 1975, he filed his notice of appeal and sent the same by registered mail to the Municipal Court of Calamba, Laguna.[3] It came as a surprise therefore when towards the end of May, 1975, Maximo Pamplona was arrested by the Calamba Police upon an arrest order issued by Municipal Judge Enrico Lanzanas on May 28, 1975, wherein it was stated that while he did file a notice of appeal, he had failed to post an appeal bond. Then came this dispositive portion: "It appearing that the period of fifteen (15) days from the promulgation of judgment has expired without the accused perfecting his appeal, his arrest and detention to serve his final judgment is ordered."[4]

This Court, on July 2, 1975, issued a writ of *habeas corpus* returnable to it on Monday, July 7, 1975. In the return submitted by respondent Municipal Judge Enrico Lanzanas and respondent Chief of Police Vivencio S. Manaig, the dismissal of the petition for lack of merit was sought. There must have been further reflection on the part of respondent Judge, however, for on the date of the hearing on July 7, 1975, he did admit in all candor that the judgment rendered by him could not legally be considered as final. The appeal had to take its due course. The release of Maximo Pamplona from custody would therefore be warranted. He gave his word that such would be the case. That would be one way by which the order appealed could be purged of its arbitrary taint, which, if left uncorrected, would have amounted to a deprivation of liberty without due process.

Under date of July 18, 1975, respondent Judge filed a manifestation which reads as follows: "On July 8, 1975 at 1:30 o'clock in the afternoon, a cash bond pending appeal (bond)

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[2] *Ibid*, par. 8.

[3] *Ibid*, par. 9.

[4] *Ibid*, par. 10.

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was filed by Magdaleno Barit, as bondsman, under Official Receipt No. 4484100-T, for the provisional liberty of the accused, Maximo Pamplona, pending appeal; On even date, this Court immediately issued an Order commanding the Municipal Jailer of Calamba, Laguna to release from custody the person of the accused, Maximo Pamplona, . . .; On the same date, this Court issued an Order approving the appeal of the accused from the decision of this Court dated March 18, 1975, promulgated on May 5, 1975, and directed the Clerk of Court to transmit the records of the case to the Court of Appeals, for proper disposition on appeal, . . ."[5] The amendatory order[6] is worded thus: "It appearing that the accused in the above-entitled case has filed his Notice of Appeal within the reglementary period and it appearing further that the filing of the Notice of Appeal is the operative act which perfects the appeal, the Order of this Court dated May 28, 1975 is hereby amended to read and be understood as ordering the arrest of the accused for his failure to post the necessary bond on appeal and his detention is ordered until such time as he posts the necessary appeal bond. The portion of the Order disallowing the appeal is hereby reconsidered and all subsequent orders deeming the decision as final and executory are likewise revoked."[7]

WHEREFORE, with the application for *habeas corpus* having served its purpose as the writ of liberty, no further action thereon need be taken by this Court, and the ease is considered terminated. No costs.

Barredo, Antonio, Aquino, and *Concepcion, Jr., JJ.*, concur.

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[5] Manifestation of Respondent Judge dated July 8, 1975.

[6] Annex B to Manifestation.

[7] *Ibid.*