Supreme Court E-Library

question. Private respondent is ordered to deliver forthwith to the Tacloban and Ormoc Cities Registers of Deeds the owner's copies of said certificates of title and pay the required fees for the cancellation of said annotations and for the return of said certificates thereafter to petitioner and the corresponding registered owners. With costs in all instances against private respondent. So Ordered.

Makasiar, Esguerra, Muñoz-Palma, and *Martin, JJ.*, concur.

Decision set aside.

[No. L-26782. February 16, 1976]

SECOND DIVISION

JOSE B. PANGILINAN, plaintiff-appellee, *vs.* OSCAR ZAPATA, defendant. CAPITAL INSURANCE & SURETY, CO., INC., appellant.

APPEAL from an order of the Court of First Instance of Manila, Br. XIV. De Veyra, *J.*

SYNOPSIS

Capital Insurance and Surety Co. executed a supersedeas bond to stay execution of a judgment of the City Court against the defendant in an ejectment suit in which the latter was ordered to vacate the premises and to pay back rentals plus attorney's fee. In the Court of First

Supreme Court E-Library

Instance the parties entered into compromise agreement wherein the defendant acknowledged his indebtedness. Thereafter, upon failure of the defendant to comply with said agreement, and upon motion by the plaintiff, execution was ordered against the bond. The said insurance company appealed to the Supreme Court but pending such appeal, it ceased to do business.

The Supreme Court dismissed the appeal for being moot and academic.

SYLLABUS
of the Ruling of the Court

APPEALS; DISMISSAL; MOOT AND ACADEMIC ISSUE, A GROUND THEREFOR; CASE AT BAR.– Where the surety company had appealed the order of execution against the bond executed by it, and during the pendency of the appeal, the company ceased to do business, the case is dismissed for being moot and academic.

APPEARANCES OF COUNSEL

Amado N. Vicente for plaintiff-appellee.
Arestorenas, Relova & Opena for Surety-Appellant.

RESOLUTION

AQUINO, *J.:*

In an ejectment suit filed by Jose B. Pangilinan against Oscar Zapata in the City Court of Manila, Judge Amado G. Roan rendered a decision dated June 26, 1965, ordering Zapata to vacate the premises located at 1822 Rizal Avenue, Manila and to pay Pangilinan back rentals

Supreme Court E-Library

amounting to ₱1,000 as of June, 1965 and a montly rent of ₱250 beginning July, 1965 until Zapata vacated the premises, plus ₱100 as attorney's fee.

Zapata appealed the decision to the Court of First Instance of Manila (Civil Case No. 61930). To stay execution, he posted a supersedeas bond which was executed by Capital Insurance & Surety Co., Inc. (Capital Insurance for short) through its general agent, Pan American Insurance Agencies, Inc. Under that bond Capital Insurance was bound to pay Pangilinan the sum of ₱1,250.

In the Court of First Instance of Manila Pangilinan and Zapata entered into a compromise agreement which was approved by the court on February 1, 1966. In that agreement Zapata acknowledged that he was indebted to Pangilinan in the aggregate amount of ₱1,514, and it was stipulated that the sum of ₱1,374 out of that total obligation was guaranteed by the supersedeas bond.

Due to Zapata's failure to live up to the terms of the compromise agreement and inasmuch as the sheriff could not levy upon any properties in his name, Pangilinan, the judgment creditor, filed a motion for execution against the supersedeas bond. Capital Insurance opposed the motion. It contended that it was not bound by the compromise agreement because it was not a party thereto.

The lower court overruled the opposition of Capital Insurance. It held that the compromise agreement merely incorporated the surety's obligation under its supersedeas bond and, hence, its consent to the compromise was not required. The lower court ordered that a writ of execution be issued against Capital Insurance. That company appealed to this Court from that order on the ground that it is contrary to law.

The parties filed their briefs. The case was submitted

Supreme Court E-Library

for decision on June 1, 1967. In this Court's resolution of November 7, 1975 the parties were required to manifest whether the appeal had become moot and academic in view of the fact that appellant Capital Insurance had ceased to do business.

Pangilinan in his manifestation of January 29, 1976 averred that the appeal had become moot and that he interposed no objection to the dismissal of the case "without prejudice" to his right to recover from Zapata the amount of the judgment.

Counsel for Capital Insurance in a manifestation dated January 30, 1976 stated that in his opinion the case had become moot because the Government on October 10, 1969 filed in the Court of First Instance of Manila a petition for receivership and liquidation, Civil Case No. 77926, entitled "Republic of the Philippines *vs.* Capital Insurance & Surety Co., Inc."

Wherefore, the appeal is dismissed for having become moot and academic. No costs. So ordered.

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

Appeal dismissed for having become moot and academic.

[Adm. Case No. 1000. February 18, 1976]

SECOND DIVISION

IN RE ATTY. SATURNINO PARCASIO.

ADMINISTRATIVE CASE against a member of the Bar.