Supreme Court E-Library

FIRST DIVISION

[G.R. No. L-47770. August 10, 1978]

SPOUSES DIOSDADO "JOHNNY" LEWIS and ARACELI RAMCHAND LEWIS, *petitioners, vs.* **HON. COURT OF APPEALS, HON. ABDULWAHID A. BIDIN, Presiding Judge, Branch I, CFI-Zamboanga City, and ZAMBOANGA COMMERCIAL & TRADING CORPORATION,** *respondents.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; DISMISSAL; PROPER WHEN NO SUBSTANTIAL GROUNDS EXIST FOR ATTRIBUTING GRAVE AND REVERSIBLE ERRORS OF LAW. — Where the pleadings and record showw that no substantial grounds exist for attributing "grave and reversible errors of law" to respondent Court of Appeals in sustaining the writ of execution for petitioners' failure to file a supersedeas bond, and where the judgment below has become final and executory the Court of First Instance having decided on the merits of the appeal in the original case of detainer by dismissing petitioners' appeal and sustaining *in toto* the decision of the city court, the petition for review on *certiorari* will be dismissed.

R E S O L U T I O N

GUERRERO, *J.*:

Considering the Motion to Dismiss and the Supplemental Motion to Dismiss filed on May 11, 1967 and June 18, 1967, respectively, by private respondent on the ground that the herein petition has become moot and academic, and petitioners' comment thereon, it appearing that the respondent Presiding Judge, Court of First Instance of Zamboanga, Branch I, has decided on the merits the appeal in the original case of detainer by dismissing the said appeal filed by petitioners and sustaining *in toto* the decision of the City Court of Zamboanga, Branch II and further, that counsel of petitioners having received copy of the decision

Supreme Court E-Library

on March 20, 1978 and thereafter filed a late Motion for Reconsideration only on April 20, 1978, which Motion for Reconsideration was denied on June 9, 1978 "for lack of merit and the decision sought to be reconsidered having become final and executory" (copy of which denial was received by counsel on June 14, 1978); and

After reviewing the allegations, issues raised and the arguments adduced in the instant petition for review on *certiorari* of the decision and resolution of the Court of Appeals (which initially led this Court on March 17, 1978 to give due course to the petition and to issue a temporary restraining order enjoining the respondents and the Sheriff of Zamboanga City from further proceeding with the enforcement of the writ and/or *alias* writ of execution of garnishment and of demolition dated August 18, 1977 and September 9, 1977 issued in the case below, Civil Case No. 1944 of the Court of First Instance of Zamboanga City, Branch I, which the Court afterwards lifted on July 17, 1978 upon respondent's motion) and finding in the light of the pleadings and the record that no substantial grounds exist for attributing "grave and reversible errors of law" to respondent Court of Appeals in sustaining the writ of execution issued by respondent judge for petitioners' failure to file a sufficient supersedeas bond and the judgment below at any rate having now become final and executory rendering moot the issue at bar. (See *Sollorano vs. Court of Appeals*, 62 SCRA 478; Res. of August 3, 1977 in L-45053, *De Ocampo vs. Court of Appeals*);

The Court accordingly Resolved to grant respondent's Motion to Dismiss and to DISMISS the case at bar.

SO ORDERED.

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