

THIRD DIVISION

[G.R. No. 143976, April 03, 2003]

**SPOUSES OSCAR AND HAYDEE BADILLO, PETITIONERS, VS.
HON. ARTURO G. TAYAG AS PRESIDING JUDGE OF THE
REGIONAL TRIAL COURT, BRANCH 79, MALOLOS, BULACAN; AND
THE NATIONAL HOUSING AUTHORITY, RESPONDENTS.**

[G.R. NO. 145846]

**SPOUSES OSCAR AND HAYDEE BADILLO, PETITIONERS, VS.
HON. BASILIO A. GABO JR. AS PRESIDING JUDGE OF THE
REGIONAL TRIAL COURT, BRANCH 11, MALOLOS, BULACAN; AND
THE NATIONAL HOUSING AUTHORITY, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

The National Housing Authority (NHA), a government-owned and controlled corporation, is exempt from paying appellate docket fees when it sues or is sued in relation to its governmental function of providing mass housing. It is likewise exempt from filing a supersedeas bond that will stay the execution of a forcible entry case. In order to have some bases for fixing the reasonable amount of rent in a forcible entry case, courts must rely on the evidence presented by the parties.

The Case

Before us are two (2) consolidated Petitions for Review under Rule 45 of the Rules of Court, seeking to set aside two rulings of the Regional Trial Court (RTC) of Malolos, Bulacan. The first one is the July 19, 2000 Order^[1] issued by Branch 79 in Case No. P-410-M-2000, annulling both the May 23, 2000 Order^[2] and the May 30, 2000 Writ of Execution^[3] issued by the Municipal Trial Court (MTC) of San Jose del Monte, Bulacan. The dispositive portion of this assailed RTC Order reads as follows:

"WHEREFORE, the [O]rder of the [t]rial [c]ourt dated May 23, 2000 is hereby annulled.

"The [W]rit of [E]xecution issued by the clerk of court of the Municipal Trial Court of San Jose del Monte Bulacan is also annulled.

"Prohibiting the [t]rial [c]ourt from enforcing the [W]rit; and commanding the Municipal Trial Court to transmit the records of the case to the Regional Trial Court of Bulacan together with the Money Order of [t]wo hundred [p]esos Annex 'I' and '1-2' as appellate docket fee and the alleged Supersedeas Bond per [Annex] 'A', 'A-1', 'A-2' to 'A-3' of the OPPOSITION TO MOTION TO CLARIFY (with manifestation) filed by

Petitioner NHA received by this [C]ourt on July 17, 2000 although dated July 14, 2000.”^[4]

The second ruling being contested is the October 23, 2000 Decision^[5] of Branch 11 in Civil Case No. 512-M-2000, which modified the February 1, 2000 Decision^[6] of the MTC of San Jose del Monte, Bulacan. The challenged RTC Decision disposed as follows:

“WHEREFORE, the appealed decision is hereby AFFIRMED insofar as defendants are ordered to vacate plaintiffs’ property and return the possession thereof to the latter and to pay plaintiffs, jointly and severally P20,000.00 for attorney’s fees and P20,000.00 for litigation expenses and to pay the costs are concerned.”^[7]

Since the parties were the same and the issues related, the two Petitions were consolidated by this Court in its Resolution of October 17, 2001.^[8]

The Facts

Petitioners are plaintiffs in a forcible entry/ejectment case docketed as Civil Case No. 263-94 in the MTC of San Jose del Monte, Bulacan, entitled “Spouses Oscar and Haydee Badillo v. Triad Construction and Development Corporation and National Housing Authority.” In its February 1, 2000 Decision,^[9] the MTC ordered the NHA to vacate the disputed land; to return possession thereof to petitioners; to pay rental for its use and occupation at the rate of P10 per square meter per month; and to shoulder the attorney’s fees, the litigation expenses and the costs of suit.

The disputed parcel of land was part of the Bagong Silang Resettlement Project (BSRP) of the NHA. The NHA contended that the property was part of the Tala Estate and was among the 598 hectares reserved by the government for its housing resettlement site, pursuant to Presidential Proclamation No. 843 issued by then President Ferdinand E. Marcos on April 26, 1971.

In June 1994, the NHA offered for bidding the development of certain portions of the BSRP. It eventually contracted with the Triad Construction and Development Corporation (“Triad”) for the development of parts of the site. These were then developed and subdivided into smaller lots that were allocated, awarded and distributed by the NHA to qualified beneficiaries.

On the other hand, petitioners claimed that they were the owners and exclusive possessors of a portion of the land that had been awarded by the NHA to Triad. They argued that the NHA intruded on, occupied and developed their property despite their protests.

Upon receipt of the February 1, 2000 Decision of the MTC, the NHA filed a Notice of Appeal^[10] with the same court on February 24, 2000. The NHA, however, did not pay the appellate docket fees within the reglementary period. Consequently, petitioners filed with that court a Motion for the immediate issuance of a writ of execution and demolition.^[11] They contended that because of the NHA’s failure to pay the appellate docket fees within the prescribed period, the MTC Decision became final.

After a hearing on the Motion, the MTC promulgated an Order on May 23, 2000, authorizing the issuance of a writ of execution in favor of petitioners:

"For failure of the National Housing Authority to comply with the requirements laid down under Section 5 of Rule 40 as regards the payment of docket fee and for its failure to comply with Section 19 of Rule 70 in regard to the payment of the supersedeas bond, the execution of the judgment rendered in this case has become a ministerial duty of the court in view of the mandatory nature of said requirements.

"Let therefore, a writ of execution be issued immediately against the defendants."^[12]

Thereafter, the Writ of Execution^[13] was actually issued by the MTC on May 30, 2000. Pursuant thereto, the sheriff^[14] served a Notice of Garnishment of NHA's funds in the Landbank of the Philippines. The bank, however, refused to release the garnished amount.

On June 9, 2000, the NHA filed a Motion to set aside the Writ of Execution and the Notice of Garnishment.^[15] The Motion was, however, denied by the MTC in its June 23, 2000 Order.^[16]

The NHA paid the appellate docket fees only on June 29, 2000 -- four months late. It simultaneously filed a Petition for Certiorari, Prohibition, Mandamus and Injunction^[17] before the RTC of Malolos, Bulacan, assailing the MTC's May 23, 2000 Order and May 30, 2000 Writ of Execution.

Acting on the NHA Petition, RTC Executive Judge Danio A. Manalastas issued a 72-hour Temporary Restraining Order.^[18] Thereafter, the case was assigned to RTC Branch 79, which issued the first assailed July 19, 2000 Order annulling the Writ. After declaring that the NHA had been able to perfect its appeal on time, the RTC ordered the MTC to transmit the records of the case for appropriate appellate proceedings.

Upon transmittal of the records from the MTC, the case was raffled to RTC Branch 11, which issued the second assailed October 23, 2000 Decision. This Decision was appealed by the NHA to the Court of Appeals (CA). The appeal, docketed as CA-GR No. 61981, is still pending resolution.

Rulings of the RTC

The NHA was able to perfect its appeal on time despite its nonpayment of appellate docket fees, according to the ruling of RTC Branch 79. The NHA as a government-owned corporation was presumed to be always solvent and thus exempt from filing a supersedeas bond, which would stay the immediate execution of a forcible entry case. With the perfection of the appeal, the MTC lost jurisdiction to issue and enforce the Writ of Execution.

Partly affirming the MTC, RTC Branch 11 held that petitioners were entitled to the right of possession of the property and to the award of damages, but that the grant

of rental was baseless.

Hence, this recourse.^[19]

Issues

Petitioners raise the following issues for our consideration:

I

"Whether or not the Order of Respondent Judge Gabo deleting the payment of rentals for the use and occupation of the lot in question is in accordance with law and existing jurisprudence on the matter"^[20]

II

"Whether or not NHA perfected its appeal to the RTC Bulacan despite failure to pay the docket/appeal fee within the 15 day period provided for in Section 5, Rule 40 of the 1997 Rules of Civil Procedure

III

"Whether or not the NHA being a government corporation is exempt from the posting of the supersedeas bond to stay execution as provided for in Section 19, Rule 70 of the 1997 Rules of Civil Procedure

IV

"Whether or not RTC Bulacan was correct in annulling the Order dated May 23, 2000; the Writ of Execution and the Notice of Garnishment issued by MTC, Bulacan"^[21]

These issues can be more clearly restated thus:

- (1) Is the failure of the NHA to pay the appellate docket fee within the fifteen-day reglementary period a ground to dismiss its appeal?
- (2) Is the NHA exempt from filing the supersedeas bond in order to stay the execution of the MTC judgment?
- (3) Was it proper for RTC Branch 11 to delete the rentals awarded by the MTC?

Ruling of the Court

The Petitions are unmeritorious.

First Issue:

Payment of Appellate Docket Fees

Created by virtue of PD No. 757,^[22] the NHA is a government-owned and controlled corporation with an original charter. As a general rule, however, such corporations --

with or without independent charters -- are required to pay legal fees under Section 21 of Rule 141 of the 1997 Rules of Civil Procedure:

"SEC. 21. *Government Exempt.* - The Republic of the Philippines, its agencies and instrumentalities, are exempt from paying the legal fees provided in this rule. Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees."^[23]

On the other hand, the NHA contends that it is exempt from paying all kinds of fees and charges, because it performs governmental functions. It cites *Public Estates Authority v. Yujuico*,^[24] which holds that the Public Estates Authority (PEA), a government-owned and controlled corporation, is exempt from paying docket fees whenever it files a suit in relation to its governmental functions.

We agree. *People's Homesite and Housing Corporation v. Court of Industrial Relations*^[25] declares that the provision of mass housing is a governmental function:

"Coming now to the case at bar, We note that since 1941 when the National Housing Commission (predecessor of PHHC, which is now known as the National Housing Authority [NHA] was created, the Philippine government has pursued a mass housing and resettlement program to meet the needs of Filipinos for decent housing. The agency tasked with implementing such governmental program was the PHHC. These can be gleaned from the provisions of Commonwealth Act 648, the charter of said agency.

"We rule that the PHHC is a governmental institution performing governmental functions.

"This is not the first time We are ruling on the proper characterization of housing as an activity of the government. In the 1985 case of *National Housing Corporation v. Juco and the NLRC* (No. L-64313, January 17, 1985, 134 SCRA 172), We ruled that housing is a governmental function."

While it has not always been easy to distinguish governmental from proprietary functions, the Court's declaration in the Decision quoted above is not without basis. Indeed, the characterization of governmental functions has veered away from the traditional constituent-ministrant classification that has become unrealistic, if not obsolete.^[26] Justice Isagani A. Cruz avers: "[I]t is now obligatory upon the State itself to promote social justice,^[27] to provide adequate social services to promote a rising standard of living,^[28] to afford protection to labor to formulate and implement urban and agrarian reform programs, and to adopt other measures intended to ensure the dignity, welfare and security of its citizens. x x x. These functions, while traditionally regarded as merely ministrant and optional, have been made compulsory by the Constitution."^[29]

In addition, the NHA is mandated by PD No. 757 to develop and implement a comprehensive, integrated housing program^[30] for the greatest number of people.