

[SYLLABUS]

[G.R. No. 117667, March 18, 1996]

INLAND TRAILWAYS, INC., PETITIONER, VS. COURT OF APPEALS, HON. ROBERTO L. MAKALINTAL, REYNALDO T. NEPOMUCENO AND SOLAR RESOURCES, INC., RESPONDENTS.

D E C I S I O N

HERMOSISIMA, JR., J.:

On February 10, 1994, private respondent Solar Resources, Inc. filed a complaint^[1] for ejectment against petitioner for failure to pay rent.

On May 26, 1994, the Metropolitan Trial Court of Parañaque, Branch 77, rendered judgment ejecting the petitioner from the leased premises and ordering it to pay the rental arrearages. Petitioner having received a copy of the MTC decision on June 3, 1994, filed a Notice of Appeal on June 7, 1994.

Thereafter, private respondent filed a Motion for Immediate Execution of the decision with the MTC based on Section 8, Rule 70 of the Revised Rules of Court.

Due to petitioner's failure to post the required supersedeas bond to stay execution of the ejectment decision, the MTC issued a Writ of Execution on June 30, 1994 to enforce the said decision. The following day, July 1, 1994, the Sheriff levied on the properties of the petitioner pursuant to the Writ of Execution.

On July 6, 1994, petitioner filed with the Regional Trial Court of Parañaque, Branch 259, a Petition for *Certiorari*,^[2] challenging the writ of execution by the Metropolitan Trial Court for being issued without jurisdiction. While the RTC issued a temporary restraining order enjoining the enforcement of the said writ of execution, it rendered judgment dismissing the Petition for *Certiorari* filed by the petitioner.

On August 26, 1994, petitioner filed with the Court of Appeals a Petition for Review^[3] assailing the decision of the RTC, but on October 27, 1994, the appellate court rendered judgment dismissing the petition.

On November 10, 1994, petitioner brought before us the instant Petition for Review under Rule 45 to set aside the decision of respondent Court of Appeals. Thereupon, we issued a temporary restraining order enjoining the enforcement of the writ of execution issued by the MTC.

In essence, the petitioner vehemently maintains that the MTC acted without jurisdiction when it issued the subject Writ of Execution on June 30, 1994, upon the claim that the Motion for Immediate Execution, which was dated **June 23, 1994**,^[4] was filed by the private respondent one day late, that is, on **June 24, 1994**. Petitioner contends that when the private respondent received a copy of the MTC

decision on June 8, 1994, he had only until **June 23, 1994** to file a motion for execution, it being the last day of the fifteen-day period to perfect the appeal and, likewise the last day for the MTC to have jurisdiction over the ejectment case. Hence, the contention is that, when the motion for execution was filed on June 24, 1994, the MTC clearly had lost jurisdiction over the case, and the motion for immediate execution under Section 8, Rule 70 of the Rules of Court, should have been brought before the Regional Trial Court.

Private respondent contends otherwise. According to the private respondent, the motion for execution was filed with the MTC on **June 22, 1994** and not June 24, 1994 as erroneously submitted by the petitioner. Hence, the motion was brought well within the private respondent's fifteen-day period to appeal.

We sustain the private respondent in the circumstances.

Apparently, the sole issue presented before us is:

What is the true date of filing of the motion for execution with the MTC? Is it June 22, 1994 as averred by the private respondent or June 24, 1994 as alleged by the petitioner?

This is indubitably a pure issue of fact. It is settled that pure questions of fact may not be the proper subject of an appeal by certiorari under Rule 45 of the Rules of Court. This mode of appeal is generally limited only to questions of law which must be distinctly set forth in the petition,^[5] subject only to a few well-defined exceptions not present in the case at bench.

Verily, both the Regional Trial Court and the Court of Appeals, before whom the same question was earlier raised by the petitioner, were unanimous in finding that the Motion for Execution was actually filed with the MTC on **June 22, 1994** and not June 24, 1994 as falsely alleged by the petitioner. Respondent Court of Appeals held:

"x x x The Motion for Execution was actually filed on June 22, 1994 x x x. As a matter of fact, a copy of said motion was received by counsel for the petitioner on June 21, 1994. Also, Solar received a copy of the Decision only on June 8, 1994 and not June 3, 1994, as pretended by the petitioner. Computation wise, cut off time therefore of the period to appeal was June 23. Necessarily, the Court [MTC] still has jurisdiction when aforesaid motion was filed."

We see no circumstance to disturb this factual finding of the appellate court. We have consistently and emphatically declared that review of the findings of fact of the Court of Appeals is not a function that this Court normally undertakes inasmuch as such findings, as a rule, are binding and conclusive.^[6]

Furthermore, the failure of the petitioner to file with the MTC a supersedeas bond to stay execution. pursuant to Section 8 of Rule 70 rendered the issuance of a Writ of Execution by the MTC not only proper but also unavoidable. Section 8 of Rule 70 on Forcible Entry and Detainer reads: