

## **EIGHTH DIVISION**

**[ CA-G.R. SP No. 137358, March 30, 2015 ]**

**ROBERT FERRIOLS, BERNARD POLICARPIO, AND TEODORO N. VELASCO, PETITIONERS, VS. HON. FRANCISCO G. MENDIOLA, PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 115 OF PASAY CITY, AND THE SHERIFF OF RTC, BRANCH 115 OF PASAY CITY; AND PAZMEL REALTY & DEVELOPMENT CORP., REPRESENTED BY RAMON DEL ROSARIO, RESPONDENTS.**

### **D E C I S I O N**

**LANTION, J.A.C., J.:**

Before this Court is a Petition for Certiorari<sup>[1]</sup> under Rule 65 of the Rules of Court assailing the Orders dated 05 August 2014<sup>[2]</sup> and 02 September 2014<sup>[3]</sup> both issued by the Regional Trial Court (RTC), Branch 115 of Pasay City in Case No. M-PSY-13-15889-CV-R00-00, the respective decretal portions of which read:

05 August 2014 Order:

"WHEREFORE, for failure to file the necessary supersedeas bond, the Motion for Execution Pending Appeal is GRANTED.

Let a writ of execution issue.

SO ORDERED."

02 September 2014 Order

"A motion for execution pending appeal having been filed by the plaintiff-appellee for failure of the defendants-appellants to post the required supersedeas bond to stay execution, the defendants-appellants' motion for reconsideration is DENIED."

SO ORDERED."

### **THE FACTS**

On 17 March 2014, the Metropolitan Trial Court (MTC), Branch 45 of Pasay City rendered a Decision in a Civil Case for Ejectment filed by Private Respondent Pazmel Realty & Development Corporation against Petitioners Robert Ferriols, Bernard Policarpio, and Teodoro N. Velasco. The dispositive portion of the aforesaid Decision reads:

"WHEREFORE, premises considered, the court finds for the plaintiff and against the defendants and the latter, including all persons claiming rights under them, are directed to vacate the premises and to pay the

attorney's fees in the amount of P20,000.00.

SO ORDERED.”

The Private Respondent subsequently filed “Notice of Appeal” with the MTC on 11 April 2014. The case was raffled to RTC, Branch 115 of Pasay City and was docketed as Case No. M-PSY-13-15889-CV-R00-00.

On 06 May 2014, the Private Respondent filed a “Motion for the Issuance of Writ of Execution Pending Appeal”<sup>[4]</sup> with RTC, Branch 115 and argued that Petitioners' appeal was not perfected for non-payment of supersedeas bond.

Petitioners, for their part, filed a “Motion to Fix the Reasonable Value of the Property with Compliance & Manifestation.”<sup>[5]</sup> Petitioners averred that the 17 March 2014 Decision did not award any payment of rentals nor mentioned any reasonable value for the use of the property subject of litigation. Petitioners further expressed their readiness to deposit the amount of P19,000.00 which would cover the “use and occupation” of the property in question.

On 05 August 2014, RTC, Branch 115, issued its first assailed Order which granted the Private Respondent's “Motion for the Issuance of Writ of Execution Pending Appeal.”

Petitioners seasonably filed a Motion for a Reconsideration but the same was denied by the trial court *a quo* in its second assailed Order dated 02 September 2014.

On 29 September 2014, Petitioners filed with this Court the instant Petition for Certiorari.

### **ASSIGNMENT OF ERROR**

Petitioners cites this lone error for allowance of the instant Petition:

“WHETHER OR NOT THERE WAS GRAVE ABUSE OF DISCRETION AND LACK OF JURISDICTION ON THE PART OF PUBLIC RESPONDENT IN GRANTING THE ISSUANCE OF WRIT OF EXECUTION PENDING APPEAL IN FAVOR OF THE PRIVATE RESPONDENT.”

### **THIS COURT'S RULING**

Petitioners bewail the 05 August 2014 and 02 September 2014 Orders issued by the Regional Trial Court (RTC), Branch 115 of Pasay City which, in a nutshell, granted Private Respondents' “Motion for the Issuance of Writ of Execution Pending Appeal” for Petitioners' failure to post a supersedeas bond. Petitioners contend that there was no basis for the posting of supersedeas bond because the dispositive portion of the 17 March 2014 Decision of MTC, Branch 45 of Pasay City, which, for ready reference is hereunder quoted, is silent as regards damages and/or rentals which Petitioners should pay to Private Respondent, thus:

“WHEREFORE, premises considered, the court finds for the plaintiff and against the defendants and the latter, including all persons claiming rights under them, are directed to vacate the premises and to pay the attorney's fees in the amount of P20,000.00.