

EIGHTH DIVISION

[CA-G.R. SP NO. 86743, September 18, 2006]

EDUARDO L. RAYO, PETITIONER, VS. RIZAL COMMERCIAL BANKING CORPORATION AND HONORABLE BRANCH 226 OF THE REGIONAL TRIAL COURT OF QUEZON CITY, RESPONDENTS.

D E C I S I O N

CARANDANG, J.:

Before Us is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure assailing 1) the trial court's Order [rendered in open court during the March 15, 2004 hearing] denying petitioner's request to conduct litigation by himself and 2) the trial court's Order dated June 18, 2004¹ denying petitioner's motion for reconsideration.

On February 2, 2004, petitioner filed a *Petition for Declaratory Relief with Prayer for Temporary Restraining Order/Writ of Preliminary Injunction* assailing the validity/constitutionality of the provision of Section 7 of Act No. 3135. Said petition has its roots from a foreclosure sale of a parcel of land with improvements [covered by TCT No. 55452] in favor of respondent Rizal Commercial Banking Corporation. Claiming to be an assignee of the foreclosed property, petitioner filed a Complaint for Nullification of Real Estate Contract and Extra-judicial Foreclosure Sale, now pending before the Regional Trial Court of Quezon City, Branch 83.

Petitioner admitted that he is in possession of the subject property but because of his fear that an *ex-parte* petition for issuance of a writ of possession under Section 7 of Act No. 3135 would be filed by respondent, petitioner instituted a petition for Declaratory Relief, raffled before the Regional Trial Court of Quezon City, Branch 226, assailing the validity of Section 7 of Act No 3135.

In a hearing set on March 15, 2004, petitioner appeared without counsel. Despite manifestation from the petitioner that he is appearing for himself, public respondent court directed petitioner to engage the services of a counsel or should petitioner insist to represent himself, to obtain a written authority from the Supreme Court to act as counsel for and in his own behalf. Petitioner filed a written motion seeking reconsideration, however, it was denied through the court's Order dated July 18 2004. Hence, the present petition for certiorari assailing the trial court's order not allowing petitioner to conduct the litigation by himself.

Petitioner is not precluded from litigating personally his case. His right to conduct litigation personally is recognized under Section 34 of Rule 138 of the Rules of Court:

"SEC. 34 *By whom litigation conducted.*--- In the court of a justice of the peace a party may conduct his litigation in person, with the aid of an