



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**ERLINDA K. ILUSORIO,**  
Petitioner,

**G.R. No. 179571**

Present:

BRION, J.,  
Acting Chairperson,  
PERALTA,\*  
BERSAMIN,\*\*  
PEREZ, and  
PERLAS-BERNABE, JJ.

- versus -

**BAGUIO COUNTRY CLUB  
CORPORATION** and  
**ANTHONY R. DE LEON,**  
Respondents.

Promulgated:

JUL 02 2014

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**RESOLUTION**

**PEREZ, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> filed pursuant to Rule 45 of the Revised Rules of Court, assailing the 12 July 2007 Decision<sup>2</sup> rendered by the Eighth Division of the Court of Appeals in CA-G.R. SP No. 94944. In its assailed decision, the appellate court affirmed the 4 January 2006 Order<sup>3</sup> of the Regional Trial Court (RTC) of Makati City, Branch 66, directing the dismissal of Civil Case No. 00-656 for being moot and academic.

\* Per Raffle dated 2 July 2014.

\*\* Per Raffle dated 19 February 2014.

<sup>1</sup> *Rollo*, pp. 11-26.

<sup>2</sup> Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Rosalinda Asuncion-Vicente and Enrico A. Lanzas, concurring. *Id.* at 28-36.

<sup>3</sup> Presided by Pairing Judge Rommel O. Baybay. *Records*, p. 414.

### *The Facts*

Spouses Potenciano and Erlinda Ilusorio (Spouses Ilusorio) are the owners of a parcel of land and a cottage situated inside the recreational complex of respondent Baguio Country Club Corporation (BCCC).<sup>4</sup> It was agreed that since the subject property was accessible only through the property of BCCC, basic facilities such as access to the main road, electricity and water supply would be provided by the latter. Sometime in 1999, BCCC, thru its Manager, respondent Anthony R. De Leon (De Leon), without prior notice to the Spouses Ilusorio, allegedly cut-off electric and water supply at the cottage, rendering it unusable to the Spouses Ilusorios' guests. This prompted Erlinda Ilusorio (Erlinda) to initiate a complaint for injunction, *mandamus* and damages against BCCC and De Leon before the RTC of Makati City. In her Complaint<sup>5</sup> docketed as Civil Case No. 00-656, Erlinda impleaded her husband, Potenciano, as co-plaintiff and prayed that she be declared as his guardian *ad litem* since the latter is incapacitated to represent himself. The complaint prayed that respondents be directed to provide access from the cottage to the main road, and, to supply water and electric services to the subject property. The payment of actual, moral and exemplary damages and attorney's fees in the aggregate amount of ₱5,500,000.00 was likewise sought by Erlinda.

In their Answer *Ex Abundanti Cautela*,<sup>6</sup> respondents averred that Erlinda has no legal capacity to sue because she has no legal rights over the subject property. The cottage was registered in the name of Potenciano and no legal and factual ground exists for Erlinda to be appointed as his legal guardian. They further claimed that the water and electric services at the cottage were cut-off and the personal properties found therein were removed and delivered to Potenciano's residence in Parañaque City upon his direct instruction since the cottage pose a fire hazard to the recreational center. For lack of cause of action, therefore, respondents moved for the dismissal of the complaint.

In an Order<sup>7</sup> dated 31 October 2000, the RTC denied Erlinda's Motion to appoint her as guardian *ad litem* of Potenciano and refused to grant the Motion to Dismiss filed by the respondents. Both parties moved for the reconsideration of the Order. Both motions were denied by the court *a quo* in an Order<sup>8</sup> dated 23 March 2001.

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<sup>4</sup> Id. at 8.

<sup>5</sup> Id. at 1-7.

<sup>6</sup> Id. at 232-248.

<sup>7</sup> Id. at 173-185.

<sup>8</sup> Id. at 230-231.

Erlinda assailed the denial of her appointment as guardian *ad litem* by filing a Petition for *Certiorari* before the Court of Appeals. In view of the death of Potenciano on 28 June 2001, the appellate court, in a Decision<sup>9</sup> dated 25 October 2001, dismissed the petition filed by Erlinda for being moot and academic.

After the procedural incidents before the appellate court were settled, respondents went back to the lower court to file a Motion to Dismiss<sup>10</sup> the complaint for being moot and academic considering that the cottage in dispute was already removed as early as 2003 to pave way for the construction of log cabins. The motion was opposed by Erlinda, asserting that even if her main action for injunction and *mandamus* could no longer prosper due to the removal of the cottage, she still has existing claims for damages, separate and distinct from the main action, occasioned by respondents' unlawful deprivation of her right to use the subject property.<sup>11</sup>

Finding merit in the argument raised by respondents, the RTC, in an Order<sup>12</sup> dated 4 January 2006, directed the dismissal of Civil Case No. 00-656. The court *a quo* likewise denied the subsequent Motion for Reconsideration filed by Erlinda.

Aggrieved, Erlinda elevated the dismissal of her complaint before the Court of Appeals. In her Petition for *Mandamus* and Injunction before the appellate court, Erlinda argued that the action for damages could stand alone even if her actions for *mandamus* and injunction had become moot and academic for the fact remained that when she was denied beneficial use of her property, her right as its owner was violated, giving rise to a cause of action for damages.

On 12 July 2007, the Court of Appeals rendered a Decision affirming the 4 January 2006 RTC Order and held that Civil Case No. 00-656 was indeed rendered moot and academic by the removal of the cottage. The appellate court held that the prayer to provide access, water and electricity to the cottage was rendered meaningless by its removal from the BCCC's premises, and the prayer for damages, which is merely ancillary to the main action for *mandamus* and injunction, was likewise rendered illusory after the main case was mooted.

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<sup>9</sup> Penned by Associate Justice Buenaventura J. Guerrero with Associate Justices Marina L. Buzon and Alicia L. Santos, concurring. *Id.* at 344-347.

<sup>10</sup> *Id.* at 377-380.

<sup>11</sup> *Id.* at 397-403.

<sup>12</sup> *Id.* at 414.

In a Resolution<sup>13</sup> dated 31 August 2007, the Court of Appeals refused to reconsider its earlier Decision.

Unrelenting, Erlinda filed the instant Petition for Review on *Certiorari* before the Court assailing the Court of Appeals' Decision and Resolution on the following grounds:

### ***The Issues***

#### **I.**

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE CAUSE OF ACTION FOR DAMAGES WAS ANCILLARY AND COULD NOT STAND ALONE AFTER THE DESTRUCTION OF THE PROPERTY SUBJECT OF THE COMPLAINT[;] [and]

#### **II.**

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE CAUSE OF ACTION FOR DAMAGES WAS ALREADY RENDERED MOOT AND ACADEMIC AND THAT [ERLINDA] WAS NO LONGER ENTITLED TO THE AWARD OF ACTUAL AND MORAL DAMAGES, AS WELL AS ATTORNEY'S FEES.<sup>14</sup>

### ***The Court's Ruling***

The Court has ruled that an issue becomes moot and academic when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value. In such cases, there is no actual substantial relief to which the plaintiff would be entitled to and which would be negated by the dismissal of the complaint.<sup>15</sup> Courts will decline jurisdiction over moot cases because there is no substantial relief to which petitioner will be entitled and which will anyway be negated by the dismissal of the petition. The Court will therefore abstain from expressing its opinion in a case where no legal relief is needed or called for.<sup>16</sup>

There is no dispute that the action for *mandamus* and injunction filed by Erlinda has been mooted by the removal of the cottage from the premises

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<sup>13</sup> *Rollo*, p. 38.

<sup>14</sup> *Id.* at 20.

<sup>15</sup> *Garayblas v. Atienza, Jr.*, 525 Phil. 291, 305-306 (2006).

<sup>16</sup> *Korea Exchange Bank v. Judge Gonzales*, 520 Phil. 690, 701 (2006).

of BCCC. The staleness of the claims becomes more manifest considering the reliefs sought by Erlinda, *i.e.*, to provide access and to supply water and electricity to the property in dispute, are hinged on the existence of the cottage. Collaterally, the eventual removal of the cottage rendered the resolution of issues relating to the prayers for *mandamus* and injunction of no practical or legal effect. A perusal of the complaint, however, reveals that Erlinda did not only pray that BCCC be enjoined from denying her access to the cottage and be directed to provide water and electricity thereon, but she also sought to be indemnified in actual, moral and exemplary damages because her proprietary right was violated by the respondents when they denied her of beneficial use of the property.<sup>17</sup> In such a case, the court should not have dismissed the complaint and should have proceeded to trial in order to determine the propriety of the remaining claims. Instructive on this point is the Court's ruling in *Garayblas v. Atienza Jr.*:

The Court has ruled that an issue becomes moot and academic when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value. In such cases, there is no actual substantial relief to which the plaintiff would be entitled to and which would be negated by the dismissal of the complaint. **However, a case should not be dismissed simply because one of the issues raised therein had become moot and academic by the onset of a supervening**

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<sup>17</sup> The Complaint pertinently states:

x x x x

**SECOND CAUSE OF ACTION FOR ACTUAL DAMAGES**

15. As a consequence of the acts of the defendants in destroying the [ILUSORIO] COTTAGE and carting away the furnitures and fixtures therein, plaintiffs have suffered actual damages, consisting in the value of the properties destroyed or carted away which is in the amount of P1,000,000.00, more or less.

**THIRD CAUSE OF ACTION FOR MORAL DAMAGES**

16. As a consequence of the acts of the defendants in cutting off the electric and water facilities at the ILUSORIO COTTAGE, forcibly evicting plaintiffs' caretakers and physically barring the plaintiffs from going to and using their own property, plaintiffs have suffered moral damages, consisting in mental anguish, sleepless nights, embarrassment, anxiety and the like, which, considering the community standing of the plaintiffs, is reasonably estimated in the amount of P3,000,000.00.

**FOURTH CAUSE OF ACTION FOR EXEMPLARY DAMAGES**

17. As a consequence of the acts of the defendants in cutting off the electric and water supply of the ILUSORIO COTTAGE, preventing the plaintiffs from going to and using the same, destroying the cottage and carting away the furnitures and fixtures therein, and by way of example for the public good and to deter similar acts in the future, defendants are liable to the plaintiffs for exemplary damages in the amount of P1,000,000.00.

**FIFTH CAUSE OF ACTION FOR ATTORNEY'S FEES AND EXPENSES OF LITIGATION**


18. As a consequence of the acts of the defendants in cutting off the electric and water supply of the ILUSORIO COTTAGE, preventing the plaintiffs from going to and using the same, destroying the cottage and carting away the furnitures and fixtures therein, plaintiffs have been constrained to hire the services of counsel for an agreed fee of P500,000.00 and to incur expenses of litigation, the amount of which will be proved during the trial. Records, pp. 4-5.

event, whether intended or incidental, if there are other causes which need to be resolved after trial. When a case is dismissed without the other substantive issues in the case having been resolved would be tantamount to a denial of the right of the plaintiff to due process.<sup>18</sup> (Emphasis supplied).

It is clear enough that the issue of whether Erlinda is entitled to actual, moral and exemplary damages and attorney's fees because of BCCC's acts in denying her access and discontinuing water and electric supply to the property has not been mooted by the removal of the cottage. The acts complained of have, if true and are of good bases, already caused damage to Erlinda when the suit was commenced below. The issue of damages being sought by Erlinda against respondents should be taken up during the trial on the merits where and when the allegations of the parties may properly be addressed. A remand of this case for that purpose is necessary.

**IN LIGHT OF ALL THE FOREGOING**, the petition is **GRANTED**. The Order of the RTC dated 4 January 2006, is **SET ASIDE**. The records of the instant case are hereby **REMANDED** to the trial court for further proceedings. No costs.

**SO ORDERED.**

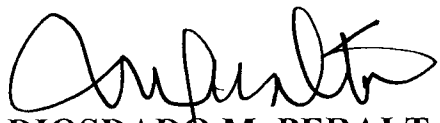
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

WE CONCUR:

  
**ARTURO D. BRION**  
Associate Justice  
Acting Chairperson

<sup>18</sup>


Supra note 15 at 305-306.



**DIOSDADO M. PERALTA**  
Associate Justice




**LUCAS P. BERSAMIN**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

### ATTESTATION


I attest that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ARTURO D. BRION**  
Associate Justice  
Acting Chairperson, Second Division

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice