

**BACNOTAN CEMENT INDUSTRIES, INC., AND RAFAEL GALVEZ,
PETITIONERS-APPELLANTS, VS. THE HONORABLE COURT OF
APPEALS, HON. FELICIANO BELMONTE AND HON. JOSE P. FLORES,
IN THEIR CAPACI...**

G.R. No. L-21159. July 25, 1979

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

This suit for certiorari to review a decision of the Court of Appeals filed by petitioner Bacnotan Cement Industries, Inc. as lessee of the co-petitioner, Rafael Galvez, had its origin in the issuance of a preliminary and mandatory injunction issued by the then respondent Judge Jose P. Flores "enjoining Rafael Galvez or his assign, the Bacnotan Cement Factories or its representatives, from removing and/or demolishing the fence or any part thereof on the property mentioned in the petition, owned and put up by the United States Government and to restore whatever part of the fence removed by them in order to place the said fence in its original condition, and to desist from performing any act or acts that shall cause damage or prejudice upon the property mentioned in the petition during the pendency of these proceedings." [1] Thereafter, a motion to dissolve such writ of preliminary preventive and mandatory injunction was filed by such petitioners but denied by the successor of Judge Flores, respondent Judge Feliciano Belmonte, at present likewise retired. In view thereof, petitioners elevated the matter to respondent Court of Appeals, which in the decision sought to be reviewed, dismissed their petition for certiorari. Hence the present proceeding before this Court.

The briefs were duly filed, and counsel for petitioner Bacnotan Cement Industries, Inc. was given two extensions to file a reply brief. There being a failure to submit the same, this Court on February 28, 1979 issued the following resolution: "Considering the length of time that had elapsed from the filing of this petition for the review of a decision of the Court of Appeals which assailed its correctness on the ground that the issuance of a preliminary injunction by the then respondent Judges Feliciano Belmonte and Jose P. Flores was in excess of jurisdiction and with grave abuse of discretion, the parties are required to inform the Court within thirty (30) days from receipt of further developments to enable it to ascertain whether the matter involved has become moot and academic." [2] On March 23, 1979, counsel for Bacnotan Cement Industries, Inc. submitted the following Manifestation: "[Comes now] the undersigned counsel and before this Honorable Tribunal respectfully manifests that they have forwarded to the Petitioner-Corporation the copy of the Resolution dated February 28, 1979, immediately upon receipt thereof, since they are no longer the legal counsel of said corporation." [3] Respondents, represented by the Solicitor General after obtaining four extensions, submitted on June 22, 1979 the following Manifestation and Motion, which insofar pertinent, reads as follows: "2. The petition for certiorari in the Court of Appeals assailed the issuance of a writ of preliminary injunction in Land Registration Case No. N-361, Court of First Instance of La Union, on the ground that the same was issued in excess of jurisdiction and with grave abuse of discretion. 3. The aforesaid preliminary injunction was issued after the Republic of the Philippines filed in Land Registration Case No. N-361 a motion dated July 30, 1962 for the cancellation of Original Certificate of Title No. 0-361 in the

name of Rafael Galvez. That motion stemmed from a finding that the parcel of land covered by Original Certificate of Title No. 0-361 in the name of Rafael Galvez and leased by him to herein petitioner is within the limits of Camp Wallace Military Reservation and was registered as early as 1906 in favor of the United States Government. The preliminary injunction commanded petitioner Bacnotan Cement to restore a fence which it had earlier removed from the aforementioned parcel of land. 4. During the pendency of the aforesaid petition for certiorari in the Court of Appeals, the Court of First Instance of La Union, in an order dated February 1, 1963, ruled that the proceedings in Land Registration Case No. N-361, as well as Original Certificate of Title No. 0-381 in the name of Rafael Galvez issued by virtue of the decree of registration dated August 8, 1958 issued in said case, were null and void. In the same order, the Register of Deeds of La Union was ordered to cancel Original Certificate of Title No. 0-381 and/or such other certificates of title as might have been issued subsequent thereto having reference to the same parcel of land. * * * 5. Rafael Galvez and intervenor Bacnotan Cement appealed the order dated January 25, 1965 to the Court of Appeals, which affirmed in its decision dated August 14, 1973 the appealed order, finding the same to be in accordance with law and the evidence presented. 6. On April 4, 1974, Assistant Provincial Fiscal Romeo O. Nebriaga filed a motion for execution of judgment with the court a quo. Finding the motion to be meritorious, the court granted the Fiscal's motion in an order dated April 22, 1974. The court took into consideration the fact that the order dated January 25, 1965 had become final and executory. Thus, pursuant to the April 22, 1974 order of the Court of First Instance of La Union, together with the orders dated February 1, 1963 and January 25, 1965, including the decision of the Court of Appeals dated August 14, 1973, a writ of execution was issued, ordering the Provincial Sheriff of La Union, or his deputy, to execute the dispositive portions of the orders and decision quoted in the writ of execution. 7. It clearly appears therefore that the resolution of the petition in the case at bar, which merely involves the incident on the preliminary injunction issued in Land Registration Case No. N-361, would serve no useful purpose since in its decision on the merits, the trial court has declared O.C. T. No. 0-381 null and void and that decision is now final and executory. [Wherefore], it is most respectfully prayed that the instant petition be dismissed for having become moot and academic." [4]

From the above, it is manifest that this suit is moot and academic.

WHEREFORE, the petition for certiorari to review a decision of respondent Court of Appeals is dismissed for being moot and academic. No costs.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

Santos and Abad Santos, JJ., on official leave.

[1] Decision, 4.

[2] Resolution dated February 28, 1979.

[3] Manifestation dated March 23, 1979.

[4] Manifestation and Motion, 2-5.

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