

JOSE LEGARDA, PETITIONER, VS. COURT OF APPEALS AND ITS PRESIDING JUSTICE, RESPONDENTS.

G.R. Nos. L-44233, L-44234 and L-44235. May 15, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

This is a mandamus action filed on July 29, 1976 by Jose Legarda to compel the Court of Appeals or its Presiding Justice to sign and issue certifications of affirmance by that Court of certain orders of the Court of First Instance of Manila in the testamentary proceeding for the estate of his mother, the late Filomena Roces de Legarda (Special Proceedings No. 70878).

Those orders were appealed to the Court of Appeals and were allegedly not decided within twelve months from their submission, as required in section 11, Article X of the Constitution.

The appeals, which were docketed as (1) CA-G.R. No. 43480-R, (2) CA-G.R. No. 51222-R and (3) CA-G.R. No. 53355-R, were submitted for decision on April 5, 1973, July 19, 1974 and July 5, 1974, respectively.

On August 9, 1976, the petitioner filed a manifestation stating that on August 2, 1976 he was served with a copy of the decision of the Court of Appeals in CA-G.R. No. 43480-R, Legarda vs. Gonzalez, dated July 30, 1976. He prayed that that supervening fact be taken into account in the resolution of his petition.

The heirs of Filomena Roces Vda. de Legarda filed their comments on the petition. Beatriz Legarda de Gonzalez prayed for its dismissal considering that it was not alleged therein that the Court of Appeals failed to render the decision within the twelve-month period "because the necessary vote could not be had".

Petitioner's children named Alejandro, Filomena, Antonia, Jose, Jr., Celso, Eduardo, Rosario and Benito all surnamed Legarda y Lobregat expressed their conformity with the petition.

Also in conformity with the petition were Carmen Legarda y Fernandez, Trinidad F. Legarda, Benito Legarda, Jr., Teresa Legarda, Doctor Alejandro Legarda and his children and Rosario M. Llorca.

Through its judicial officer, the Court of Appeals took the stand that the provision requiring it to decide cases within twelve months from the date of submission is "merely directory". It prayed for the dismissal of the petition.

On December 5, 1980, the petitioner filed a manifestation stating that his petition herein has become moot and academic because the Court of Appeals decided CA-G.R. No. 51222-R and CA-G.R. No. 53355-R on October 30 and November 12, 1980, respectively. As earlier noted, the third case covered by the petition, CA-G.R. No. 43480-R, was decided by the Court of Appeals in 1976.

WHEREFORE, the petition is dismissed and this case is considered closed.

SO ORDERED.

Barredo, (Chairman), Fernandez, Guerrero, and De Castro, JJ., concur.

Concepcion, Jr., and Abad Santos, JJ., on leave.

Fernandez and Guerrero, JJ., were designated to sit in the Second Division.

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