

FLORENCIO T. MALLARI (AS RECEIVER IN CIVIL CASE NO. 58734, COURT OF FIRST INSTANCE OF MANILA), GO TIN AND JULIAN LEE, PETITIONERS, VS. COURT OF APPEALS, JOHN C. LEE, JESUS C. LE...

G.R. No. L-26467. July 15, 1981

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

At the outset, it should be stated that among the petitioners was originally included "Judge Agustin P. Montesa in his capacity as Judge of Branch XIX, Court of First Instance of Manila". Since he need not be impleaded as a petitioner, even as a formal party, his name has been dropped.[1]

This case originated from the civil action instituted by Go Tin and Julian Lee, mother and son, on August 28, 1964, against Lee Tek Hong and the latter's sons, docketed as Civil Case No. 58734 in the Court of First Instance of Manila, Branch XIX, presided by the Hon. Agustin P. Montesa, for Reconveyance and Accounting with Receivership. They sought to recover their share, as widow and child, in the estate of the deceased Lee Tay, who had died in Manila in 1935, leaving property conservatively valued at P100,000.00, consisting of an interest in a partnership of Lee Tay and Lee Chay. The partnership had been liquidated and Lee Tay's share was taken over, managed and administered, allegedly in trust for the benefit of the widow and children of the deceased, by Lee Tek Hong, second eldest son of Lee Tay, the eldest being sickly. Lee Tek Hong then invested the assets of the estate in the corporation known as Lee Tay and Lee Chay, Inc. (the Corporation, for brevity).

The Complaint expressly alleged "that in breach of his trust and in grave abuse of the confidence reposed on him by the plaintiffs (widow and son), defendant Lee Tek Hong clandestinely maneuvered and manipulated the affairs of Lee Tay and Lee Chay, Inc., by forming a partnership known as Alaska Lumber Co. making it appear in the records of the partnership that he and his deceased wife (Mina S. Capistrano) alone were parties in said partnership x x x ;" that Alaska Lumber Co. and the other firms organized by Lee Tek Hong were mere "fronts" to enable him to siphon the assets of Lee Tay and Lee Chay, Inc. to his exclusive personal benefit to the exclusion and prejudice of plaintiffs mother and son and other heirs of the deceased Lee Tay; that "all the assets of Lee Tay and Lee Chay, the Alaska Lumber Co., the Uno Lumber Co., the New Venus Lumber, the Era Incorporated operating the Paris Motel, and Parkway Trading should be impressed with a constructive trust as being part of the conjugal estate of the deceased Lee Tay and plaintiff Go Tin, since 11/20 thereof rightfully and legally belongs to plaintiff Go Tin and a proportionate 1/20 share thereof belongs to plaintiff Julian Lee."

The Complaint then prayed, considering plaintiffs' actual and existing legal and beneficial interest, for the appointment of a receiver of the assets, properties and funds of all the firms serving as "fronts" for the fraudulent acts and manipulations of defendant Lee Tek Hong and his children, namely, defendants Jesus C. Lee, Joseph. C. Lee and John C. Lee, as the most convenient and feasible means of preserving and protecting these properties and funds.

The case is still pending trial in the Court below, now unfortunately delayed because of the controversy over the

appointment of a Receiver during the pendency of the action.

Defendants-respondents, Lee Tek Hong and sons (the LEES, for short), deny widow and son's interest in the properties and funds involved alleging that Go Tin is not the legitimate wife of Lee Tay and, therefore, is not entitled to share in the latter's estate; and that the properties left by Lee Tay are all under the control and administration of the Corporation with its own duly constituted officers charged with safeguarding and protecting the assets thereof. It is emphasized further that of the nine children of Lee Tay, only plaintiff Julian Lee filed the Complaint against their elder brother, Lee Tek Hong.

When Lee Tek Hong's wife, Mina S. Capistrano, died in 1963, their son, John C. Lee, was appointed administrator of her estate consisting of about 80% of the assets and properties of Alaska Lumber Co., in Special Proceeding No. 54999 of the Court of First Instance of Manila, Branch IV.

As prayed for in the Complaint, and after due hearing, the trial Court, on November 13, 1964, issued an order (hereinafter referred to as the Receivership Order)[2] authorizing the appointment of Atty. Florencio T. Mallari as Receiver, upon the filing of a bond of P50,000.00,

"to take custody of the assets, properties and funds claimed by the parties in this case, as well as the management of the business involved herein (1) Lee Tay and Lee Chay, Inc. x x x ; (2) Alaska Lumber Co. (3) Uno Lumber Co. (4) New Venus Lumber (5) Era Incorporated operating the Paris Motel, and (6) Parkway Trading x x x ."

The LEES then filed a Petition for Certiorari and Prohibition with the Court of Appeals, docketed as CA-G.R. No. 35009-R (First Certiorari Petition), seeking to annul and set aside the said Receivership Order; to command the Receiver to desist from carrying out the Order complained of, and respondent from enforcing in any way the said Order. After proper proceeding, the Court of Appeals, on March 19, 1965, rendered a Decision[3] denying the Petition and affirming the Receivership Order.

In the meantime, on December 4, 1964, while the First Certiorari Petition was pending before the Court of Appeals, the trial Court issued another Order[4] directing the Sheriff of Manila or any of his deputies to take over the custody of the assets, properties and funds as well as the management of the business of (1) Lee Tay and Lee Chay, Inc., (2) Alaska Lumber Co., (3) Uno Lumber Co., (4) New Venus Lumber, (5) Era Incorporated which operates Paris Motel, and (6) Parkway Trading, and to turn them over to the Receiver.

On December 14, 1964, the trial Court denied the LEES' offer for a counterbond in order to discharge the Receiver.

Also, on June 30, 1965, this time after the Decision in CA-G.R. No. 35009-R had been rendered, the trial Court denied the Urgent Motion of John C. Lee, in his capacity as administrator of the intestate estate of Mina S. Capistrano, (Sp. Proceeding No. 54999, Court of First Instance of Manila, Branch IV)[5] to order the Receiver to surrender to him all the properties of Alaska Lumber Co. contending that they were in custodia legis in the intestate case.

Instead of moving for reconsideration, the LEES filed on July 26, 1965, a second Petition for Certiorari and Prohibition with Preliminary Injunction with the Court of Appeals, docketed as CA-G.R. No. 36093-R (Second Certiorari Petition), seeking to nullify the aforementioned Orders including the Receivership Order, which had already been passed upon in the First Certiorari Petition. A temporary Restraining Order was issued on August 3, 1965 in favor of the LEES.

In the meantime, upon examination under oath of Lee Tek Hong by the trial Court, it was discovered that Alaska Lumber Co. was indebted to the Corporation in the amount of P402,000.00 consisting of monthly rentals, first of

P1,000.00, which was later raised to P4,000.00 for the use of its 2-1/2 hectares of land in Juan Luna Street, Manila, together with its sawmill, machineries and equipment. In view thereof, the trial Court in its Order of August 2, 1965 authorized the Receiver to pay the Corporation the amount of P402,000.00 out of Alaska Lumber Co.'s deposit in the Philippine Bank of Commerce and China Banking Corporation and from the proceeds of the sale of its properties.

On November 29, 1965, a Decision by a Special Division of Five^[6] was rendered in the Second Certiorari Petition (CA-G.R. No. 36093-R) denying Certiorari once more on the ground that the validity of the Receivership Order was assailed and fully litigated in the First Certiorari Petition (CA-G.R. No. 35009-R), and since no appeal therefrom was duly perfected, it has become final and no longer open to further liti-gation pursuant to the "law of the case" doctrine. "Right or wrong, it is binding on both the trial Court and the appellate Court, and is not subject to re-examination by either." "Apart from these," the Court continued, "the principle of res judicata has also spread its mantle over the present litigation, the parties, the subject-matter and the cause of action in the previous case and in this one, being exactly the same x x x." Said Decision also lifted the Restraining Order of August 3, 1965.

However, upon a Motion for Reconsideration, an Amendatory Decision, dated April 11, 1966, was rendered by a three to two vote, setting aside the original Decision. The dispositive portion of the Amendatory Decision reads:

"In the light of the foregoing considerations, the judgment of this Court of November 29, 1965 is set aside and a new one entered under which the Alaska Lumber Co. and/or the estate of Mina S. Capistrano is hereby allowed to file a counterbond of P50,000.00 to dissolve the receivership over the assets, funds, properties and management of the said company. The order of August 2, 1966 ordering the receiver to pay to Lee Tay and Lee Chay, Inc. the sum of P402,000.00 and to sell and dispose of the assets of the Alaska Lumber Company as may be necessary to settle the said obligation is revoked and the withdrawn deposits be returned to the Alaska Lumber Company within 15 days from the time this decision becomes final. In order to terminate all the issues involved in Civil Case 58724, it is suggested that Lee Tay and Lee Chay, Inc. and Alaska Lumber Company be impleaded as party-defendants therein. No pronouncement is made as to costs."^[7]

A Motion for Reconsideration of the Amendatory Decision was denied,^[8] hence, the instant Petition for Review by Certiorari filed by mother and son.

The following are the assigned errors:

"I. The Court of Appeals erred in reviewing by writ of certiorari alleged errors of the trial court which, if true, were, at most, mere errors of judgment and not errors of jurisdiction.

II. The Court of Appeals, in the Amendatory Decision, committed an error of law in ignoring and not applying the well-settled doctrine that the petitioners' failure to file with the Court below a motion for reconsideration of the order subject of the certiorari proceeding is a fatal and insurmountable barrier' (Collector of Internal Revenue vs. Reyes, G.R. No. L-8685, January 11, 1957; Plaza vs. Mencias, G.R. No. L-18253, October 31, 1962; Sy It vs. Tiangco, G.R. No. L-18375, February 27, 1962); and that under the said doctrine the petition for review by certiorari of the Orders of December 4, 1964, December 14, 1964, June 30, 1965 and August 2, 1965, without first presenting the proper motions for reconsideration before the trial court was fatally defective.

III. The Court of Appeals, in the same Amendatory Decision, committed a similar serious error of law in taking cognizance in CA-G.R. No. 36093-R, and, as a matter of fact, resolving in a diametrically opposite manner in said proceeding the question of receivership, which was the principal question raised and adjudicated in the previous certiorari proceeding, CA-G.R. No. 35009-R, after the decision therein had become final and executory for failure of the petitioners to appeal therefrom.

IV. The Court of Appeals, in the same Amendatory Decision, committed an error of law in failing to consider the clear nature and scope of the Order of November 13, 1964, and in not holding that the Orders of December 4, 1964 and June 30, 1965, were mere implementing orders issued to carry out the basic Order of November 13, 1964, which Order was upheld in the decision in CA-G.R. No. 35009-R, the last mentioned decision having already become final and executory; and that, as a matter of fact, the receiver, under the Order of November 13, 1964, could take custody and management of the assets of Alaska Lumber Co. independently of the Orders of December 4, 1964 and June 30, 1965; and that the appointment of the receiver could not be divorced from his duty and right to take over custody of the management of the assets of the firm placed under receivership.

V. The Court of Appeals, in the Amendatory Decision, clearly committed a serious error of law in disturbing and, as a matter of fact, reversing a final and executory finding in the decision in CA-G.R. No. 35009-R, in utter disregard of the principle of res judicata or that of bar by former judgment, when it held that 'at this stage of the said case (Civil Case No. 58734) the legal interest of plain-tiffs (herein petitioners) Go Tin and Julian Lee in the properties held by Lee Tay and Lee Chay, Inc. and/or Alaska Lumber Company is non-existent.'

VI. The Court of Appeals has similarly committed a grave error of law in taking cognizance, in CA-G.R. No. 36093, of the following other questions, which were squarely raised and definitely adjudicated in the previous proceeding, CA-G.R. No. 35009-R:

- a. Whether or not the assets of Alaska Lumber Company were in custodia legis,
- b. Whether or not Alaska Lumber Company, not being a party in Civil Case No. 58734, could be placed under receivership.

VII. The Court of Appeals, in its Amendatory Decision, erred in assuming jurisdiction over the Order of August 2, 1965, which involved the sum of P402,000.00; in not holding that the said order was final and not interlocutory and, therefore, could not be reviewed by certiorari; and in not holding that the issuance of said order was strictly in accordance with law and equity."[9]

Upon the facts and recorded evidence, we are constrained to set aside the Amendatory Decision and to reinstate the original Decision in the Second Certiorari Petition (CA-G.R. No. 36093-R).

1. Section 49(b), Rule 39 of the Rules of Court provides:

"Sec. 49. Effect of judgments. The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

x x x x x x

b) In other cases the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity;

x x x x x x "

The dispositive portion of the Decision of the Court of Appeals in the First Certiorari Petition reads:

"WHEREFORE, finding no abuse of discretion by the respondent Judge in authorizing the appointment of a receiver under his order of November 13, 1964, as affirmed in his order of November 25, 1964, the petition is hereby denied."

It is plain from the foregoing that the Appellate Court had sustained the validity of the Receivership Order issued on November 13, 1964. That issue was fully litigated and resolved in the First Certiorari Petition (CA-G.R. No.

35009-R). And yet, in the Second Certiorari Petition (CA-G.R. No. 36093-R), one of the ultimate goals of the action was again "to nullify the order of the respondent Judge of November 13, 1964."

Assailing the Receivership Order on jurisdictional grounds can no longer be successfully done. The principle of bar by prior judgment, one of the aspects of the doctrine of res judicata or estoppel by judgment as known to Anglo-American jurisprudence, comes into play and precludes the re-litigation in another Certiorari proceeding of the specific question actually litigated and resolved in the First Certiorari Petition, which is, the validity of the Receivership Order which included "taking custody" of the properties and funds and "managing" the businesses involved. The Second Certiorari Petition must be held to be barred by the prior judgment in the First Certiorari Petition, there being identity of parties, subject matter and cause of action between the First Certiorari Petition where the original Decision was rendered, and the Second Certiorari Petition which sought to assail again the Receivership Order. Further, the judgment in the First Certiorari Petition is a final one rendered by a Court of competent jurisdiction upon the merits, there having been no appeal perfected.

And even under the "law of the case" doctrine, as aptly held in the original Decision in the Second Certiorari Petition (CA-G.R. No. 36093-R), the Receivership Order is no longer open to further litigation. It constitutes the controlling legal rule between the parties and can not be modified or amended.[10]

"By 'law of the case' is meant that whatever is once irrevocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case so long as the facts on which such decision was predicated continue to be the facts of the case before the court." [11]

"And once the decision becomes final, it is binding on all inferior courts and hence, beyond their power and authority to alter or modify." [12]

Thus, it was erroneous for the Amendatory Decision to hold that the trial Court "abused its discretion in authorizing the receiver to take possession and custody of all the funds, assets and properties of the Alaska Lumber Co., as well as its management, particularly before the final adjudication of the rights of the parties".

To contend that the Receivership Order merely "authorized" the appointment of the Receiver as shown in the dispositive portion of the Decision in the First Certiorari Petition, and did not include "custody" nor "management" is to conveniently close one's eyes to the basic text of the Receivership Order, to wit,

"x x x to take custody of the assets, properties and funds claimed by the parties in this case, as well as the management of the businesses involved herein, such as (1) Lee Tay and Lee Chay, Inc. x x x ; (2) Alaska Lumber Co., x x x ; (3) Uno Lumber Co., x x x ; (4) New Venus Lumber, x x x ; (5) Era Incorporated and Paris Motel, x x x ; and (6) Parkway Trading, x x x ,"

and to dismember the Receivership Order beyond recognition and effectiveness. For even the general powers of a receiver include:

"x x x to take and keep possession of the property in controversy; to receive rents; to collect debts, due to himself as receiver or to the fund, property, estate, person or corporation of which he is receiver; x x x to pay outstanding debts; to divide the money and other property that shall remain wrong the persons legally entitled to receive the same; and generally to do such acts respecting the property as the court may authorize. x x x ."[13]

It is contended, however, that a strict interpretation of the res judicata doctrine cannot and should not apply to the present proceeding. First, because the parties are not all the same considering the entry into the picture of the intestate estate of Mina S. Capistrano upon the approval by the lower court of Administrator John C. Lee's motion to intervene as defendant. Second, because the only issue in the First Certiorari Petition was the validity of the

appointment of the Receiver, while the present case involves the validity of several acts of the Receiver occurring after the First Certiorari Petition. And third, because the Decision in the First Certiorari Petition was not intended to be the final word as to subsequent acts of the Receiver because of the Appellate Court's statement that "if at the hearing, it will be shown that such appointment was uncalled for, the error may be corrected by promptly asking the court to revoke the same." [14]

We cannot subscribe to the foregoing views. It is fundamental that the application of the rule of *res judicata* may not be evaded by simply including additional parties in a subsequent litigation. [15] There is still identity of parties although in the second action there is one party who was not joined in the former action, if it appears that such party is not a necessary party either in the first or in the second action. [16] The intestate estate of Mina S. Capistrano is not such a necessary party.

While the non-finality of the appointment of the Receiver may be conceded in the sense that it may be revoked during the pendency of the action, yet it cannot be gainsaid that the Decision of the Appellate Court in the First Certiorari Petition upholding the validity of the appointment was, in legal contemplation, final, no appeal having been perfected therefrom.

The argument that the only issue in the First Certiorari Petition was the validity of the appointment of the Receiver, while in the second, it is the validity of the several acts of the Receiver after the First Certiorari Petition, is tenuous. It ignores the full scope of the Receivership Order, which included not only the custody of the assets, properties and funds claimed, but also the management of the businesses involved. The Order of December 4, 1964 authorizing the Sheriff to take over custody of properties and turn them over to the Receiver, and that of June 30, 1965 denying the Motion for the surrender of the properties of Alaska Lumber Co. to the intestate estate of Mina S. Capistrano, are part and parcel of the custody and management specifically entrusted to the Receiver. They did not alter the effects of the basic Receivership Order. They were allied Orders issued in implementation and furtherance thereof. The Order of December 14, 1964 denying the counterbond for the discharge of the Receiver, upholds the custody granted the Receiver, and was within the discretion of the trial Court to grant or deny.

In so far as the Order of August 2, 1965 is concerned, which required the payment of rentals by Alaska Lumber Co. in the sum of P402,000.00 in favor of the Corporation, suffice it to say that this Order was issued only after examination under oath of Lee Tek Hong as to the rentals due from the Alaska Lumber Co. to the Corporation. The trial Court, therefore, cannot be faulted with grave abuse of discretion in issuing said Order.

But even if the cause of action in the Second Certiorari Petition were different, the issue determined in the First Certiorari Petition, to reiterate, the validity of the Receivership Order, must, as between the same parties, be taken as conclusively established so long as the judgment in the First Certiorari Petition remains unmodified. This is the rule on conclusiveness of judgment, another aspect of the *res judicata* doctrine, as enunciated in section 49(c), Rule 39 of the Rules of Court:

"Sec. 49. Effect of judgments - The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto." [17]

2. The Amendatory Decision likewise holds that the "legal interest" of mother and son in the properties held either by the Corporation or by Alaska Lumber Co., an indispensable requisite or receivership (Sec. 1(b), Rule 59), is non-existent. Again, this is a matter that was passed upon and litigated in CA-G.R. No. 35009-R. In fact the

appellate Court in that case squarely held:

"It appears that the respondent Judge conducted a hearing of the respondents' motion of November 3, 1964, reiterating the prayer of the complaint for appointment of a receiver. Although during the hearing no evidence was presented in support of the allegations of the complaint showing the existence of the plaintiffs' interest in the properties and funds of the corporations, partnerships and business enterprises abovementioned, and the defendants had vigorously insisted that the plaintiffs have no legal interest in the estate of Lee Tay, as shown by the fact that in Annex A, which is the deed of partition of the estate of Lee Tay, plaintiff Go Tin is not included among those who have a share in the estate, the respondent Judge was satisfied, and in this we agree with him, that the plaintiffs have an interest in the properties of the corporations, partnerships and business enterprises which are alleged as 'fronts' for the diversion of the assets of the estate of the deceased, Lee Tay. In other words, to the respondent Judge there was a prima facie showing of the existence of the plaintiffs' interest in said entities on the basis of the allegations of the complaint, and he did not consider it necessary for the plaintiffs to present evidence in support thereof. In this stand of the respondent Judge, we see no abuse of discretion.

x x x x x

"The respondents' allegation that Lee Tek Hong diverted the share of the deceased Lee Tay in the partnership, Lee Tay and Lee Chay, to the corporation, Lee Tay and Lee Chay, Inc., where it is made to appear that the principal stockholders are Lee Tek Hong, his wife, M.S. Capistrano, defendant Lee Chi Chiao and other persons designated by Lee Tek Hong, sufficiently shows the danger of dissipation, loss or misappropriation thereof. Their further allegation that the share of Go Tin in the conjugal partnership or community property, as the case may be, and her hereditary portion, which constitute 11/20 thereof, were not to be included as property of Lee Tay and Lee Chay, Inc., but to be administered by Lee Tek Hong together with the 1/20 share of her son, Julian Lee, and notwithstanding this arrangement their shares were so included, sufficiently indicates the existence of an actual and existing legal interest in the properties under the control of Lee Tek Hong. If through subterfuge and clandestine manipulations their shares are actually utilized for the exclusive personal benefit of the defendants, such a state of affairs portrays the danger of their being lost or materially injured. The claim that plaintiffs are the owners of a total share of 12/20 in the properties and funds of said corporation, partnerships and business enterprises which are actually managed, operated and controlled by Lee Tek Hong, not for the benefit of all heirs but for him, his Children and other relatives is not flimsy or unfounded. Consequently, their shares may be extended the protection that the law on receivership affords. The relief sought that the defendants be ordered to reconvey to them the said 12/20 share in the properties and funds of the above-mentioned corporations, partnerships and business enterprise, and to account for the fruits and income thereof from the year 1937 up to the present when defendant Lee Tek Hong has been the sole administrators, manager and possessor thereof, reinforces the need for safeguarding their shares, interest and participation in the estate of Lee Tay in order that a judgment to that effect may not be rendered ineffectual and illusory."

For the Amendatory Decision, therefore, to rule anew on the presence or absence of legal interest would be to amend a final and executory pronouncement in CA-G.R. No. 35009-R, and to violate the doctrine of estoppel by judgment.[18]

3. The Amendatory Decision further states: "considering that the Alaska Lumber Co. and/or Lee Chay and Lee Tay, Inc., are not even parties in Civil Case 58734, it is outright illegal to remove said assets from their custody and possession and transfer them to the hands of a receiver specially one not appointed as such in a direct action involving their dissolution and liquidation." Again, the matter of inclusion of parties was resolved in the Decision in the First Certiorari Petition (CA-G.R. No. 53009-R), thus:

"The petitioners contend that as the said corporations, partnerships and business enterprises are not parties in Civil Case No. 58734, respondent Judge abused his discretion and acted in disregard of due process of law by

placing them under receivership. This contention overlooks the claim that said corporations, partnerships and business enterprises serve merely as 'fronts' or devices for the illegal diversion and enjoyment of the assets of the deceased Lee Tay which should be properly distributed among his surviving spouse and heirs." [19]

In other words, the appointment of the Receiver must be viewed from the preservative standpoint. He has been appointed not to take sides nor to mismanage the properties. At the end of the receivership, he will be required to report and make an accounting of his management. The Receiver is an officer of the Court, a delegate who acts for and in behalf of nobody else but the Court. [20]

In fine, we hold that the Court of Appeals erred in promulgating the Amendatory Decision.

WHEREFORE, the Amendatory Decision dated April 11, 1966, as well as the Resolution of August 17, 1966, is hereby reversed and set aside, and the original Decision in CA-G.R. No. 36093-R, promulgated on November 29, 1965, hereby revived.

Costs against private respondents.

SO ORDERED.

Makasiar, Fernandez, and Guerrero, JJ., concur.

Teehankee, J., (Chairman), in the result.

[1] Sec. 11, Rule 3, Rules of Court.

[2] Order, dated November 13, 1964, Rollo pp. 142-143.

[3] Decision, Rollo pp. 144-159, penned by Esguerra, J. and concurred in by Enriquez, J., and Sanchez, PJ.

[4] Order, dated December 4, 1964, Rollo p. 160.

[5] Order, dated June 30, 1965, Rollo pp. 161-163.

[6] Decision, Rollo pp. 60-73. This original Decision was penned by Rodriguez, J., with Narvasa and Yatco, JJ., concurring; Villamor, J., concurring and dissenting and Concepcion, Jr., J., dissenting.

[7] Amendatory Decision, Rollo pp. 97-119, penned by Lucero, J., concurred in by Villamor and Concepcion, Jr., JJ. with Rodriguez and Yatco, JJ., dissenting.

[8] Resolution, Rollo pp. 127-133.

[9] Brief for the Petitioners, pp. 32-35.

[10] Lanuza vs. Gonzales, 17 Phil. 413 (1910); Palad vs. Governor of Quezon Province, 46 SCRA 354 (1972).

[11] PHHC vs. Mencias, 20 SCRA 1031 (1967).

[12] Kabigting vs. Acting Director of Prisons, 6 SCRA 281 (1962).

[13] Sec. 7, Rule 59, Rules of Court.

[14] Decision, p. 15, CA-G.R. No. 53009-R.

[15] Carpena vs. Manalo, 111 Phil. 685 (1961); Republic vs. Planas, 18 SCRA 132 (1966); Anticamara vs. Ong, 82 SCRA 337 (1978).

[16] Juan vs. Go Cotay, 26 Phil. 328 (1913).

[17] Rule 39, Rules of Court.

[18] PCI Bank vs. Pflieger, 65 SCRA 13 (1975); Dela Cruz vs. Hon. Paras, 69 SCRA 556 (1976).

[19] Decision, CA-G.R. No. 53009-R, p. 14; p. 157, Rollo.

[20] Teal Motor Co. vs. CFI of Manila, 51 Phil. 549 (1928); Pacific Merchandising Corp. vs. Consolacion Insurance & Surety Co., Inc., 73 SCRA 564 (1976).

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