

ARNEDO S. LUCAS AND BENJAMIN S. LUCAS, PETITIONERS, VS. HON. COURT OF APPEALS, HON. FERNANDO A. CRUZ, AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, CALOOCAN CITY B...

G.R. No. L-48678. August 21, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

Arnedo S. Lucas and Benjamin S. Lucas, brothers, appealed from the decision of the Court of Appeals dated April 26, 1978, sustaining the order dated November 4, 1977 of Judge Fernando A. Cruz of the Court of First Instance of Rizal, Caloocan City Branch XII (CA-G.R. No. SP-07340).

In that order, Judge Cruz denied the motion of Arnedo and Benjamin to dismiss the complaint for specific performance and damages filed by their brother Jesus S. Lucas and the firm, Rufina & Company (Civil Case No. C-6506).

The motion to dismiss was based on the ground that, because the said action involves the relations among the partners of Rufina & Company, it falls within the exclusive jurisdiction of the Securities and Exchange Commission as provided for in sections 5 and 6 of Presidential Decree No. 902-A.

We gave due course to the appeal. The parties filed their briefs. We required the SEC's Legal Counsel and the Solicitor General to intervene as amici curiae.

In the meantime, Arnedo S. Lucas withdrew his appeal. The withdrawal was allowed in this Court's resolution of March 28, 1980.

On August 5, 1980, respondents-appellees Jesus S. Lucas and Rufina & Company filed a manifestation and motion to dismiss appeal which pleading bears the conformity of appellant Benjamin S. Lucas and his counsel.

It was alleged in that motion that Benjamin, like his brother Arnedo, had entered into an amicable settlement with Jesus S. Lucas and the firm Rufina & Company and that, consequently, this case had become moot and academic.

WHEREFORE, this case is dismissed. No costs.

SO ORDERED.

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

[*] Justices Guerrero and De Castro were designated to sit in the Second Division.

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