

ABC DAVAO AUTO SUPPLY, INC., PETITIONER, VS. COURT OF APPEALS, ABUNDIO T. MERCED, DOING BUSINESS UNDER THE NAME AND STYLE OF SOUTHERN ENGINEERING WORKS, RESPONDENTS.*G.R. No. 113296. January 16, 1998*

Ponente: FRANCISCO, J.

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On October 6, 1980, a complaint for a sum of money, attorney's fees and damages[1] was filed by petitioner before the Court of First Instance (now Regional Trial Court) of Davao City which was raffled to Branch XVI. The pre-trial was conducted by Judge Pacita Canizares-Nye and later by Judges Alejandro Siazon and Cristeto Dinopol.5[2] During the trial on November 20, 1984, Judge Renato Fuentes heard the evidence for petitioner and private respondent, but the latter's cross examination on August 28, 1985 and the presentation of the parties' rebuttal and sur-rebuttal evidences were heard by Judge Roque Agton, having assumed office on August 1, 1985. When the judiciary was reorganized under the Aquino administration, Judge Agton was transferred to another branch of the Regional Trial Court,[3] (RTC) but within the same Judicial Region. Meanwhile, Judge Romeo Marasigan, who assumed office on February 3, 1987,[4] was assigned to Branch XVI.

Sometime on May 1987, Judge Marasigan acted on private respondent's motion for extension of time to file memorandum. On June 9, 1987 a decision penned by Judge Agton was rendered in favor of petitioner. Private respondent moved to reconsider said decision, but the same was denied in an order dated March 1, 1988, issued by Judge Marasigan. Private respondent appealed to the Court of Appeals (CA) which nullified Judge Agton's decision on the ground that at the time he rendered the judgment, he was neither the judge de jure nor the judge de facto of the RTC Branch XVI, and correspondingly remanded the case to the lower court.[5] Hence, this petition on the sole issue of whether or not the decision of Judge Agton is valid.

It is a rule that a case is deemed submitted for decision upon the filing of the last pleading, brief or memorandum required by the rules, or by the court. Records disclose that this case was submitted for decision sometime on March 1987 after the parties' submission of their memoranda as required by the court, at which time Judge Marasigan was already presiding in Branch XVI. Thus, the case was submitted for decision to Judge Marasigan and not to Judge Agton who by then was already transferred to another branch. Judge Agton's decision, therefore, appears to be tainted with impropriety. Nevertheless, the subsequent motion for reconsideration of Judge Agton's decision was acted upon by Judge Marasigan himself and his denial of the said motion indicates that he subscribed with the adopted in toto Judge Agton's decision. Any incipient defect was cured. Besides, the presumption that both magistrates (Agton and Marasigan) have regularly performed their official functions,[6] have not at all been rebutted by contrary evidence.

Moreover, for a judgment to be binding, it must be duly signed and promulgated during the incumbency of the judge whose signature appears thereon.[7] This is in line with the Court's En Banc resolution of February 10, 1983 implementing B.P. 129[8] which "merely requires that the judge who pens the decision is still an incumbent

judge, i.e., in this case, a judge of the same court, albeit now assigned to a different branch, at the time the decision is promulgated.”[9] Branches of the trial court are not distinct and separate tribunals from each other.[10] Hence, contrary to private respondent’s allegation, Judge Agton could not have possibly lost jurisdiction over the case, because jurisdiction does not attach to the judge but to the court.[11] The continuity of a court and the efficacy of its proceedings are not affected by the death, resignation, or cessation from the service of the judge presiding over it. To remand a validly decided case to the incumbent Presiding Judge Branch XVI, as what the CA suggest, would only prolong of the Court to accord a just, speedy and inexpensive disposition for every action[12]

WHEREFORE, the decision of the Court of Appeals appealed from is hereby SET ASIDE and the decision of Judge Agton is REINSTATED.

SO ORDERED

Narvasa, C.J., (Chairman), Romero, and Panganiban, JJ., concur.

[1] DASUDECO (Davao Sugar Central Company) contracted respondent Merced to repair its trailers. The latter then bought on credit some vehicular parts from the petitioner ABC, provided that payments are made within 30 days after each purchase with 12% interest on the amount due and a 25% attorney’s fee in case of default. Out of the purchases, private respondent admittedly had an outstanding balance of P99,217.15. Upon demand, private respondent refused payment of the balance on the ground that the said accounts had not yet matured. (Rollo, p. 16).

[2] The pre-trial ended on January 20, 1983 when Judge Nye was still presiding. The pre-trial order dated August 16, 1984 was issued by Judge Dinopol.

[3] Judge Agton was assigned to RTC Branch 6 in Mati, Davao Oriental, which is within the same Judicial Region as Davao City.

[4] Records furnished by the Office of the Court Administrator (OCA) reveal that:

“A. Judge Roque A. Agton was appointed presiding Judge of the Regional Trial Court, Branch 16, Davao City on July 19, 1985, took his oath of office on July 25, 1985 and assumed his duties on August 1, 1985. During the judicial reorganization on November 3, 1986, he was one of those reappointed. He took his oath on February 1, 1987 and assumed his duties on February 4, 1987. He was currently designated Executive Judge and Presiding Judge of the Regional trial Court, Branch 7, Baganga, Davao Oriental, pursuant to Administrative Order #26 dated March 3, 1988, x x x. He retired (compulsory retirement) last December 25, 1995.

B. Judge Romeo D. Marasigan was appointed during the judicial reorganization on November 3, 1986 as judge of the Regional Trial Court, Branch 16, Davao City, and assumed office on February 3, 1987. He holds the same position up to the present. Prior to this, he was Municipal Judge of Matanao, Davao (July 3, 1967).”

[5] CA decision penned by Justice F. Martin with Justices A. Gutierrez and R. Mabutas, Jr., concurring; Rollo, pp. 15-23.

[6] Rule 131, Section 3 (m) Rules of Court.

[7] *People v. Labao* 220 SCRA 100 (1993); *Lao v. To-Chip*, 158 SCRA 243 (1988) citing among others *Jimenez v. republic*, 22 SCRA 622 (1968); *Siazon v. Judge of CFI Cotabato*, 26 SCRA 664 (1969); *Solis v. CA*, 38 SCRA 53 (1971); *People v. So*, 101 Phil. 1257 (unrep. 1957) citing *Luna v. Ridriguez*, 37 Phil. 186 Phil 186;

Garchitorena v. Crescini, 37 Phil 675; People v. CA, 99 Phil. 786.

[8] “1. Cases already submitted for decision shall be decided by the Judge to whom they were submitted, except cases submitted for decision to judges who were promoted to higher courts or to those who are no longer in the service.

[9] People v. CFI of Quezon, Branch X, 227 SCRA 457, 461 (1993).

[10] People v. CFI of Quezon, *supra*.; People v. Gorospe, 129 SCRA 233 citing Lumpay v. Moscoso, 105 Phil. 968.

[11] People v. CFI of Quezon, *supra* at 461.

[12] Rule 1, Section 6, Rules of Court.

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