

ADORACION E. CRUZ, THELMA DEBBIE E. CRUZ AND GERRY E. CRUZ, PETITIONERS, VS. COURT OF APPEALS AND SPOUSES ELISEO AND VIRGINIA MALOLOS, RESPONDENTS.

G.R. No. 126713. July 27, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Contracts constitute the law between the parties. They must be read together and interpreted in a manner that reconciles and gives life to all of them. The intent of the parties, as shown by the clear language used, prevails over post facto explanations that find no support from the words employed by the parties or from their contemporary and subsequent acts showing their understanding of such contracts. Furthermore, a subsequent agreement cannot novate or change by implication a previous one, unless old and new contracts are, on every point, incompatible with each other. Finally, collateral facts may be admitted in evidence when a rational similarity exists between the conditions giving rise to the fact offered and the circumstances surrounding the issue or fact to be proved.

The Case

Before us is a petition for review on certiorari seeking to nullify the Court of Appeals (CA) Decision[1] in CA-GR CV 33566, promulgated July 15, 1996, which reversed the Regional Trial Court (RTC) of Antipolo, Rizal; and CA Resolution[2] of October 1, 1996, which denied petitioner's Motion for Reconsideration.

Petitioner's Adoracion, Thelma Debbie, Gerry and Arnel (all surnamed Cruz) filed an action for partition against the private respondents, Spouses Eliseo and Virginia Malolos. On January 28, 1991, the trial court rendered a Decision which disposed as follows:[3]

“WHEREFORE, judgment is hereby rendered for the plaintiffs and against the defendants-spouses –

1. Ordering the partition of the seven parcels of land totalling 1,912 sq. m. among the four (4) plaintiffs and the defendants-spouses as follows:

- a. Adoracion E. Cruz (1/5) --- 382 sq. m.
- b. Thelma Debbie Cruz (1/5) --- 382 sq. m.
- c. Gerry E. Cruz (1/5) --- 382 sq. m.
- d. Arnel E. Cruz (1/5) --- 382 sq. m.
- e. Spouses Eliseo and Virginia Malolos (1/5) --- 382 sq. m.

to whom Lot No. 1-C-2-B-2-B-4-L-1-A with an area of 276 sq. m. covered by TCT No. 502603 and a portion of Lot No. 1-C-2-B-2-B-4-L-1-B covered by TCT No. 502604 to the extent of 106 sq. m. adjoining TCT No. 502603.

2. Ordering the parties herein to execute a project of partition in accordance [with] this decision indicating the partition of the seven (7) parcels of land within fifteen (15) days upon receipt of this judgment.
3. Ordering defendants-spouses to pay plaintiffs herein P5,000.00 as and for attorney's fees;
4. Cost of suit."

On appeal, Respondent Court reversed the trial court thus:[4]

"WHEREFORE, finding the appeal to be meritorious, we REVERSE the appealed decision and render judgment DISMISSING the complaint without prejudice however to the claim of plaintiff-appellees for their shares in the proceeds of the auction sale of the seven (7) parcels of land in question against Nerissa Cruz Tamayo pursuant to the Memorandum Agreement.

Cost against the plaintiff-appellees."

As earlier stated, reconsideration was denied through the appellate court's challenged Resolution:[5]

"WHEREFORE, for lack of merit, the Motion for Reconsideration in DENIED."

The Antecedent Facts

The facts of this case are undisputed. The assailed Decision relates them as follows:[6]

"Delfin I. Cruz and Adoracion Cruz were spouses and their children were Thelma, Nerissa, Arnel and Gerry Cruz. Upon the death of Delfin I. Cruz, [his] surviving spouse and children executed on August 22, 1977 a notarized Deed of Partial Partition (Exhibit 2) by virtue of which each one of them was given a share of several parcels of registered lands all situated in Taytay, Rizal.

The following day, August 23, 1977, the same mother and children executed a Memorandum Agreement (Exhibit H) which provided:

"That the parties hereto are common co-owners pro-indiviso in equal shares of the following registered real properties, all situated at Taytay, Rizal, Philippines, x x x.

x x x

That sometime on August 22, 1977, a Deed of Partial Partition was executed among us before Atty. Virgilio J. Tamayo, Notary Public on and for the Province of Rizal, per Doc. No. 1776; Page No. 14; of his Notarial Register No. XLIX, Series of 1977;

x x x

That as a result of said partial partition, the properties affected were actually partitioned and the respective shares of each party, adjudicated to him/her;

That despite the execution of this Deed of Partial Partition and the eventual disposal or sale of their respective shares, the contracting parties herein covenanted and agreed among themselves and by these presents do hereby bind themselves to one another that they shall share alike and received equal shares from the proceeds of the sale of any lot or lots allotted to and adjudicated in their individual names by virtue of this deed of partial partition.'

That this Agreement shall continue to be valid and enforceable among the contracting parties herein up to and until the last lot covered by the Deed of [P]artial [P]artition above adverted to shall have been disposed of or sold and the proceeds thereof equally divided and their respective shares received by each of them."

This Memorandum Agreement was registered and annotated in the titles of the lands covered by the Deed of Partial Partition.

Subsequently, the same parties caused the consolidation and subdivisions of the lands they respectively inherited from the late Delfin I. Cruz per Deed of Partial Partition. After that, they registered the Deed of Partial Partition and subdivision plans and titles were issued in their names. In the case of Nerissa Cruz Tamayo, the following titles were issued to her in her name: TCT No. 502603 (Exhibit A), TCT No. 502604, (Exhibit B), TCT No. 502605 (Exhibit C), TCT No. 502606 (Exhibit D), TCT No. 502608 (Exhibit E), TCT No. 502609 (Exhibit F), TCT No. 502610 (Exhibit G), hereinafter called the lands in question. Naturally, the annotation pertaining to the Memorandum Agreement was carried in each of said seven (7) titles and annotated in each of them.

Meanwhile, the spouses Eliseo and Virginia Malolos filed Civil Case No. 31231 against the spouses Nerissa Cruz-Tamayo and Nelson Tamayo for a sum of money. The Court of First Instance of Rizal, Branch XVI (Quezon City) rendered a decision of June 1, 1981 in favor of Eliseo and Virginia condemning the spouses Nerissa and Nelson Tamayo to pay them P126,529.00 with 12% interest per annum from the filing of the complaint plus P5,000.00 attorney's fee. After the finality of that decision, a writ of execution (Exhibit J) was issued on November 20, 1981.

Enforcing said writ, the sheriff of the court levied upon the lands in question. On June 29, 1983, these properties were sold in an execution sale to the highest bidders, the spouses Eliseo and Virginia Malolos. Accordingly, the sheriff executed a Certificate of Sale (Exhibit K) over –

‘... all the rights, claims, interests, titles, shares, and participations of defendant spouses Nerissa Tamayo and Nelson Tamayo..’

Nerissa Cruz Tamayo failed to exercise her right of redemption within the statutory period and so the final deed of sale was executed by the sheriff conveying the lands in question to spouses Eliseo and Virginia Malolos. The Malolos couple asked Nerissa Cruz Tamayo to give them the owner's duplicate copy of the seven (7) titles of the lands in question but she refused. The couple moved the court to compel her to surrender said titles to the Register of Deeds of Rizal for cancellation. This was granted on September 7, 1984. But Nerissa was adamant. She did not comply with the Order of the court and so the Malolos couple asked the court to declare said titles as null and void.

At this point, Adoracion Cruz, Thelma Cruz, Gerry Cruz and Arnel Cruz entered the picture by filing in said lower court a motion for leave to intervene and oppose [the] Malolos' motion. The Cruzes alleged that they were co-owners of Nerissa Cruz Tamayo over the lands in question.

On January 18, 1985, said court issued an Order modifying the Order of September 7, 1984 by directing the surrender of the owner's duplicate copies of the titles of the lands in question to the Register of Deeds not for cancellation but for the annotation of the rights, interest acquired by the Malolos over said lands.

On February 17, 1987, Adoracion, Thelma, Gerry and Arnel Cruz filed Civil Case No. 961-A for Partition of Real Estate against spouses Eliseo and Virginia Malolos over the lands in question.

As already stated in the first paragraph of this Decision, the court a quo rendered a decision in favor of the plaintiffs from which the defendants appealed to this court, x x x x .”

Ruling of the Court of Appeals

For Respondent Court, the central issue was: “Did the Memorandum of Agreement [MOA] (Exhibit H)[7] revoke, cancel or supersede the Deed of Partial Partition [DPP] (Exhibit 2)?”[8] If so, then petitioners and Spouses Tamayo were co-owners of the land in issue, and partition should ensue upon motion of the former; if not, then the latter are its absolute owners and to partition should be made.

Respondent Court resolved the above question in the negative for the following reasons:

First, the DPP was not materially and substantially incompatible with the MOA. The DPP conferred absolute ownership of the parcels of land in issue on Nerissa Cruz Tamayo, while the MOA merely created an obligation on her part to share with the petitioners the proceeds of the sale of said properties.

Second, the fact that private respondent registered the DPP was inconsistent with the allegation that they intended to abandon it. Indeed, had they meant to abandon it, they would have simply gathered the copies of said document and then torn or burned them.

Third, petitioners were estopped from claiming co-ownership over the disputed properties because, as absolute owners, they either mortgaged or sold the other properties adjudicated to them by virtue of the DPP.

Hence, this petition.[9]

Assignment of Errors

In their Memorandum,[10] petitioners submit the following assignment of errors:

“A. Respondent Court erred in ruling that the Memorandum of Agreement (Exhibit ‘H’) does not prevail over the Deed of Partial Partition (Exhibit 2).

B. Respondent Court erred in ruling that petitioners can only claim their right to the proceeds of [the] auction sale.

C. Respondent Court erred in ruling that petitioners are in estoppel by deed.

D. Respondent Court erred in ruling that the registration of the deed of partial partition precluded the petitioners from abrogating it.

E. Respondent Court erred when it completely ignored the finality of the order of the Regional Trial Court of Quezon City, Branch LXXXVI as embodied in the decision of the Regional Trial Court of Antipolo, Rizal, Branch 71.”

In fine, the resolution of this petition hinges on the following issues: (1) whether DPP was cancelled or novated by the MOA; (2) whether the MOA established, between petitioners and the judgment debtor, a co-ownership of the lots in question; (3) whether petitioners are barred by estoppel from claiming co-ownership of the seven parcels of land; and (4) whether *res judicata* has set in.

The Court’s Ruling

The petition is bereft of merit. It fails to demonstrate any reversible error on the part of the Court of Appeals.

First Issue: No Novation or Cancellation

In their Memorandum, petitioners insist that the MOA categorically and unmistakably named and covenanted them as co-owners of the parcels in issue and novated their earlier agreement, the Deed of Partial Partition.

Petitioners claim that the MOA clearly manifested their intention to create a co-ownership. This is particularly evident in Exhibit 1-B, which provides:

“That despite the execution of this Deed of Partial Partition and eventual disposal or sale of their respective shares, the contracting parties herein covenanted and agreed among themselves and by these presents do hereby bind themselves to one another that they shall share and receive equal shares from the proceeds of the sale of any lot or lots allotted to and adjudicated in their individual names by virtue of this deed of partial partition.”

The Court disagrees. The foregoing provision in the MOA does not novate, much less cancel, the earlier DPP. Novation, one of the modes of extinguishing an obligation, requires the concurrence of the following: (1) there is

a previous valid obligation; (2) the parties concerned agree to a new contract; (3) the old contract is extinguished; and (4) there is a valid new contract.[11] Novation may be express or implied. Article 1292 of the Code provides: “In order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms [express novation],[12] or that the old and new obligations be on every point incompatible with each other [implied novation].”

Tested against the foregoing standards, petitioners’ stance is shattered to pieces. The stipulation that the petitioners and Spouses Tamayo were co-owners was merely the introductory part of the MOA, and it reads:[13]

“That the parties are common co-owners pro-indiviso in equal shares of the following registered real properties, all situated at Taytay, Rizal, Philippines. xxx”

x x x x x x x x

That sometime in August 22, 1977, a Deed of Partial Partition was executed among us before Atty. Virgilio J. Tamayo, Notary Public in and for the Province of Rizal, per Doc. No. 1796; Page No. 14; of his Notarial Register No. XLIX, Series of 1977;”

Following the above-quoted stipulation is a statement that the subject parcels of land had in fact been partitioned, but that the former co-owner intended to share with petitioners the proceeds of any sale of said land,[14] viz:

“That [as] a result of said partial partition, the properties affected were actually partitioned and the respective shares of each party, adjudicated to him/her;

That despite the execution of this Deed of Partial Partition and the eventual disposal or sale of their respective shares, the contracting parties herein covenanted and agreed among themselves [and] to one another that they shall do [sic] hereby bind themselves to one another that they shall share alike and receive equal shares from the proceeds of the sale of any lot or lots allotted to and adjudicated in their individual names by virtue of this deed of partial partition;

That this Agreement shall continue to be valid and enforceable among the contracting parties herein up to and until the last lot covered by the deed or partial partition above adverted to shall have been disposed of or sold and the proceeds thereof equally divided and their respective shares received by each of them.

x x x x x x x x

The MOA falls short of producing a novation, because it does not express a clear intent to dissolve the old obligation as a consideration for the emergence of the new one.[15] Likewise, petitioners fail to show that the DPP and the MOA are materially and substantially incompatible with each other. Petitioners admit that, under the MOA, they and the Tamayo spouses agreed to equally share in the proceeds of the sale of the lots.[16] Indeed, the DPP granted title to the lots in question to the co-owner to whom they were assigned, and the MOA created an obligation on the part of such co-owner to share with the others the proceeds of the sale of such parcels. There is no incompatibility between these two contracts.

Verily, the MOA cannot be construed as a repudiation of the earlier DPP. Both documents can exist together and must be so interpreted as to give life to both. Respondent Court aptly explained:[17]

“The Deed of Partition conferred upon Nerissa Cruz Tamayo absolute ownership over the lands in question. The Memorandum of Agreement merely created an obligation on the part of absolute owner Nerissa Cruz Tamayo to share [with] the appellees with [sic] the proceeds of the sale of said properties.

The obligation of the owner of a piece of land to share [with] somebody with [sic] its fruits or the proceeds of its sale does not necessarily impair his dominion over the property much less make the beneficiary his co-owner thereof.”

All in all, the basic principle underlying this ruling is simple: when the text of a contract is explicit and leaves no doubt as to its intention, the court may not read into it any intention that would contradict its plain import.[18] The hornbook rule on interpretation of contracts gives primacy to the intention of the parties, which is the law among them. Ultimately, their intention is to be deciphered not from the unilateral post facto assertions of one of the parties, but from the language used in the contract. And when the terms of the agreement, as expressed in such language, are clear, they are to be understood literally, just as they appear on the face of the contract.

Indeed, the legal effects of a contract are determined by extracting the intention of the parties from the language they used and from their contemporaneous and subsequent acts.[19] This principle gains more force when third parties are concerned. To require such persons to go beyond what is clearly written in the document is unfair and unjust. They cannot possibly delve into the contracting parties' minds and suspect that something is amiss, when the language of the instrument appears clear and unequivocal.

Second Issue: No Co-ownership in the MOA

Petitioners contend that they converted their separate and individual ownership over the lands in dispute into a co-ownership by their execution of the MOA and the annotation thereof on the separate titles.

The Court is not convinced. The very provisions of the MOA belie the existence of a co-ownership. First, it retains the partition of the properties, which petitioners supposedly placed in co-ownership; and, second, it vests in the registered owner the power to dispose of the land adjudicated to him or her under the DPP. These are antithetical to the petitioner's contention. In a co-ownership, an undivided thing or right belongs to two or more persons.[20] Put differently, several persons hold common dominion over a spiritual (or ideal) part of a thing, which is not physically divided.[21] In the present case, however, the parcels of land in the MOA have all been partitioned and titled under separate and individual names. More important, the MOA stipulated that the registered owner could sell the land without the consent of the other parties to the MOA. Jus disponendi is an attribute of ownership, and only the owner can dispose of a property.[22]

Contrary to petitioner's claim, the annotation of the MOA in the certificate of title did not engender any co-ownership. Well settled is the doctrine that registration merely confirms, but does not confer, title.[23] It does not give the holder any better title than what he actually has. As earlier observed, the MOA did not make petitioners co-owners of the disputed parcels of land. Hence, the annotation of this document in the separate certificates of title did not grant them a greater right over the same property.

Third Issue: Estoppel by Deed

Respondent Court found that several deeds of sale and real estate mortgage, which petitioners executed when they sold or mortgaged some parcels adjudicated to them under the DPP, contained the statement that the vendor/mortgagor was the absolute owner of the parcel of residential land and that he or she represented it as free from liens and encumbrances. On the basis of these pieces of evidence, respondent Court held that petitioners were estopped from claiming that there was a co-ownership over the disputed parcels of land which were also covered by the DPP. Petitioners contend that Respondent Court, in so ruling violated the res inter alios acta rule.

Petitioners' contentions is untenable. Res inter alios acta, as a general rule, prohibits the admission of evidence that tends to show that what a person has done at one time is probative of the contention that he has done a similar act at another time.[24] Evidence of similar acts or occurrences compels the dependant to meet allegations that are not mentioned in the complaint, confuses him in his defense, raises a variety of irrelevant issues, and diverts the attention of the court from the issues immediately before it. Hence, this evidentiary rule guards against the practical inconvenience of trying collateral issues and protracting the trial and prevents surprise or other mischief

prejudicial to litigants.[25]

The rule, however, is not without exception. While inadmissible in general, collateral facts may be received as evidence under exceptional circumstances, as when there is a rational similarity or resemblance between the conditions giving rise to the fact offered and the circumstances surrounding the issue or fact to be proved.[26] Evidence of similar acts may frequently become relevant, especially in actions based on fraud and deceit, because it sheds light on the state of mind or knowledge of a person's; it provides insight into such person's motive or intent; it uncovers a scheme, design or plan; or it reveals a mistake.[27]

In this case, petitioners argue that transactions relating to the other parcels of land they entered into, in the concept of absolute owners, are inadmissible as evidence to show that the parcels in issue are not co-owned. The court is not persuaded. Evidence of such transactions falls under the exception to the rule on the *res inter alios acta*. Such evidence is admissible because it is relevant to an issue in the case and corroborative of evidence already received.[28] The relevancy of such transactions is readily apparent. The nature of ownership of said property should be the same as that of the lots on question since they are all subject to the MOA. If the parcels of land were held and disposed by petitioners in fee simple, in the concept of absolute owners, then the lots in question should similarly be treated as absolutely owned in fee simple by the Tamayo spouses. Unmistakably, the evidence in dispute manifests petitioners' common purpose and design to treat all the parcels of land covered by the DPP as absolutely owned and not subject to co-ownership.[29]

Under the principle of estoppel, petitioners are barred from claiming co-ownership of the lands in issue. In estoppel, a person, who by his deed or conduct has introduced another to act in a particular manner, is barred from adopting an inconsistent position, attitude or course of conduct that thereby causes loss or injury to another.[30] It further bars him from denying the truth of a fact which has, in the contemplation of law, become settled by the acts and proceedings of judicial or legislative officers or by the act of the party himself, either by conventional writing or by representations, express or implied or in pairs.[31]

In their transaction with others, petitioners have declared that the other lands covered by the same MOA are absolutely owned, without indicating the existence of a co-ownership over such properties. Thus, they are estopped from claiming otherwise because, by their very own acts and representations as evidenced by the deeds of mortgage and of sale, they have denied such co-ownership.[32]

FOURTH ISSUES: No Res Judicata On Co-ownership

Petitioners argue that the Order (Exhibit J)[33] dated January 18, 1985, issued by the RTC of Quezon City, Branch 86, which had long become final and executory, confirmed their co-ownership. Thus, they claim that Respondent Court's reversal of the ruling of the RTC of Antipolo, Rizal, is a violation of the rule on *res judicata*.

This contention is equally untenable. The elements of *res judicata* are: (1) the former judgment was final; (2) the court which rendered it had jurisdiction over the subject matter and the parties; (3) the judgment was on the merits; and (4) the parties, subject matters and causes of action in the first and second actions are identical.[34]

The RTC of Quezon City had no jurisdiction to decide on the merits of the present case or to entertain questions regarding the existence of co-ownership over the parcels in dispute, because the suit pending before it was only for the collection of a sum of money. Its disquisition on co-ownership was merely for the levy and the execution of the properties of the Tamayo spouses, in satisfaction of their judgment debt to the private respondents.

Perhaps more glaring is the lack of identity between the two actions. The first action before the RTC of Quezon City was for the collection of money, while the second before the RTC of Antipolo, Rizal, was for partition. There being no concurrence of the elements of *res judicata* in this case, the Court finds no error in Respondent Court's

ruling. No further discussion is needed to show the glaring difference between the two controversies.

WHEREFORE, the petition is hereby DENIED and the assailed Decision is Affirmed. Cost against petitioners. SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] The Fourteenth Division composed of JJ. Hilarion L. Aquino, ponente; Jainal D. Rasul, chairman; and Hector L. Hofileña, member.

[2] Justice Romeo A. Brawner replaced Justice Rasul who was on leave.

[3] RTC Decision, p.6; Rollo, p.49; penned by Judge Patricio M. Patajo.

[4] CA Decision, p.8; Rollo, p.40.

[5] CA Resolution, p. 2; Rollo, p.43.

[6] CA Decision, pp. 2-5; Rollo, pp. 34-37.

[7] CA Rollo, pp. 133-135.

[8] RTC Records, pp. 198-205.

[9] This case was submitted for resolution upon the filing of the petitioners' Memorandum on January 19, 1998.

[10] Memorandum, p.5; Rollo, p.123.

[11] Vitug, J., Compendium of Civil Law and Jurisprudence, 1993 ed., p.528.

[12] Reyes vs. Court of Appeals, 264 SCRA 35, 43, November 4, 1996, per Torres, J.

[13] Memorandum of Agreement, (Exh B), CA Rollo, pp. 133-135.

[14] CA Rollo, p.135.

[15] Fortune Motors (Phils.) Corporation vs. Court of Appeals, 267 SCRA 653, 668, February 7, 1997.

[16] Petitioner's Memorandum, p.12; Rollo, p.130.

[17] CA Decision, p.6; Rollo, p.38.

[18] Tanguilig vs. Court of Appeals, 266 SCRA 78, 83, January 2, 1997; Inter-Asia Services Corporation (International) vs. Court of Appeals, 263 SCRA 408, 417, October 21, 1996; Abella vs. Court of Appeals, 257 SCRA 482, 486-487, June 20, 1996; Republic vs. Castelví, 58 SCRA 336, 351, August 15, 1974; Saludo, Jr. vs. Court of Appeals, 207 SCRA 498, 523-524, March 23, 1992.

[19] Saludo, Jr., vs. C.A, supra; China Banking Corporations vs. Court of Appeals, 265 SCRA 327, 338, December 5, 1996; Tanguilig vs. Court of Appeals, supra.

[20] Art. 484, Civil Code.

[21] Vitug, supra, p.296; and Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. II, 1992 ed., p.161.

[22] Art. 428, Civil Code.

[23] Republic vs. Court of Appeals, 258 SCRA 712, 722, July 12, 1996; and Solid State Multi-Product

Corporation vs. Court of Appeals, 196 SCRA 630, 642, May 6, 1991.

[24] Sec. 34 Rule 130 of the Rules of Court, provides:

“Sec. 34. Similar acts as a evidence.- Evidence that one did or did not do a certain thing at one time is not admissible to prove that he did or did not do the same or a similar thing at another time; but it may be received to prove a specific intent or knowledge, identity, plan, system, scheme, habit, custom or usage, and the like.”

[25] Francisco, The revised Rules of Court in the Philippines, Vol. VII, Part I, 1973 ed., pp. 717-731.

[26] Salonga, Philippine Law on Evidence, 3rd ed., p.547.

[27] Francisco, *supra*, pp. 707-710.

[28] 32 C.J.S. 704.

[29] Salonga, *supra*, p. 548

[30] 31 C.J.S. 288.

[31] Roblett Industrial Construction Corporation vs. Court of Appeals, 266 SCRA 71, 76, January 2, 1997, per Bellosillo, J.

[32] Coronel vs. Court of Appeals, 263 SCRA 15, 34, October 7, 1996, per Melo, J..

[33] RTC Records, pp. 19-20.

[34] Mangoma vs. Court of Appeals, 241 SCRA 21, 28, February 1, 1995; and Guevarra vs. Benito, 247 SCRA 570, 573, August 23, 1995.0

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