

JAIME TAN, JR., AS JUDICIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF JAIME C. TAN, PETITIONER, VS. HON. COURT OF APPEALS (NINTH SPECIAL DIV.) AND JOSE A. MAGDANGAL AND ESTRELLA ...

G.R. No. 136368. January 16, 2002

Ponente: PUNO, J.

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PUNO, J.:

This is a petition for review of the Decision of the Court of Appeals dated July 15, 1998[1] and its Resolution dated November 9, 1998[2] denying petitioner's motion for reconsideration in CA-G.R. SP-41738.

The facts are as stated in the impugned Decision, viz:

“Involved in this case is a parcel of land, designated as Lot No. 645-C, with an area of 34,829 square meters, more or less, situated in Bunawan, Davao City. The lot was once covered by TCT No. T-72067 of the Registry of Deeds of Davao City in the name of the late Jaime C. Tan (Tan, for short) married to Praxedes V. Tan.

From the petition, the motion to dismiss petition, their respective annexes and other pleadings, we gather the following factual antecedents:

On January 22, 1981, Tan, for a consideration of P59,200.00, executed a deed of absolute sale over the property in question in favor of spouses Jose Magdangal and Estrella Magdangal. Simultaneous with the execution of this deed, the same contracting parties entered into another agreement whereunder Tan was given one (1) year within which to redeem or repurchase the property.

Albeit given several opportunities and/or extensions to exercise the option, Tan failed to redeem the property until his death on January 4, 1988.

On May 2, 1988, Tan's heirs filed before the Regional Trial Court at Davao City a suit against the Magdangals for reformation of instrument. Docketed as CIVIL CASE NO. 19049-88, the complaint alleged that, while Tan and the Magdangals denominated their agreement as deed of absolute sale, their real intention was to conclude an equitable mortgage.

Barely hours after the complaint was stamped ‘received,’ the Magdangals were able to have Tan's title over the lot in question canceled and to secure in their names TCT No. T-134470. This development prompted the heirs of Tan, who were to be later substituted by Jaime V. Tan, Jr. (Tan, Jr.) as plaintiff, to file a supplemental complaint.

The intervening legal tussles are not essential to this narration. What is material is that on June 4, 1991, Branch 11 of the Regional Trial Court of Davao City rendered judgment finding for Tan, Jr., as plaintiff therein. The dispositive portion of the decision reads:.

‘WHEREFORE, judgment is rendered:

- The Deed of Absolute Sale (Exhibits B, B-1) is, in accordance with the true intention of the parties, hereby

declared and reformed an equitable mortgage;

- The plaintiff is ordered to pay the defendants within 120 days after the finality of this decision P59,200 plus interest at the rate of 12% per annum from May 2, 1988, the date the complaint was filed, until paid;

- In order to avoid multiplicity of suits and to fully give effect to the true intention of the parties, upon the payment of the aforesaid amount, TCT No. T-134470 in the name of defendants Jose Magdangal and Estrella Magdangal (Exh. 13) and shall be deemed canceled and null and void and TCT No. T-72067 in the name of Jaime C. Tan and Praxedes Valles Tan (Exh. A) be reinstated.

No pronouncement as to costs.

SO ORDERED. (Annex 'B', Petition; Emphasis added).'

From the above, the Magdangals appealed to this Court in CA-G.R. CV No. 33657.

In a decision promulgated on September 28, 1995, this Court, thru its then Special Third Division, affirmed in toto the appealed decision of the lower court. Copy of this affirmatory judgment was each received by the Magdangals and Tan, Jr. on October 5, 1995.

On March 13, 1996, the Clerk of this Court entered in the Book of Entries of Judgment the Decision in CA-G.R. CV No. 33657 and issued the corresponding Entry of Judgment which, on its face, stated that the said Decision 'has on October 21, 1995 become final and executory' (Annex 'L', Petition; Emphasis added).

On March 21, 1996, the Magdangals filed in the lower court a MOTION FOR CONSOLIDATION AND WRIT OF POSSESSION, therein alleging that they did not appeal from the aforesaid decision of this Court, adding '[T]hat the appealed judgment of the Court of Appeals has become final and executory 15 days from October 5, 1995 or up to October 20, 1995, which the 120 days redemption period commences. And noting that the redemption period has expired without Tan, Jr. exercising his option, the Magdangals thus prayed that the title 'in the name of Jaime C. Tan and Praxedes Tan be consolidated and confirmed in the name of the (Magdangals) x x x and pending such issuance, a writ of possession be ordered issued (Annex "C", Petition).

In opposition to this motion (Annex 'F', Petition), Tan, Jr. alleged, among other things, that until an entry of judgment has been issued by the Court of Appeals and copy thereof furnished the parties, the appealed decision of the court a quo in this case cannot be considered final and executory. Pressing the point, Tan, Jr., citing Cueto vs. Collantes, *infra.*, would then assert that the period of redemption on his part commenced to run from receipt of entry of judgment in CA-G.R. CV No. 33657.

Meanwhile, Tan, Jr. via a motion for execution dated March 27, 1996, which he filed directly with this court, prayed this court to direct the court a quo to issue the corresponding writ of execution in Civil Case No. 19049-88. In a related move, Tan, Jr. filed on April 16, 1996, a MANIFESTATION AND MOTION therein advising the court a quo of his intention to redeem the property in question and of the fact that, on such date, he has deposited with its clerk of court the repurchase price, plus interest, as required by its original decision. By way of relief, Tan, Jr. prayed that the Magdangals be ordered to claim the amount thus deposited and the Register of Deeds of Davao City, to reinstate the title of Jaime Tan and Praxedes Tan.

Jointly acting on the aforementioned MOTION FOR CONSOLIDATION AND WRIT OF POSSESSION of the Magdangals (Annex 'C', Petition), MANIFESTATION AND MOTION of Tan, Jr. (Annex 'I', Petition), the court a quo presided by the respondent judge, came out with the first challenged order of June 10, 1996 (Annex 'N', Petition), dispositively reading, as follows:

'WHEREFORE, x x x the Motion for Consolidation and a Writ of Possession is hereby DENIED for lack of

merit.

The deposit of the amount of P116,032.00 made by plaintiff with the Office of the Clerk of Court x x x on April 17, 1996 is hereby considered full payment of the redemption price and the Clerk of Court is hereby ordered to deliver said amount to herein defendants.

The Register of Deeds of Davao City x x x is hereby directed to cancel TCT No. T-134470 in the name of Jose Magdangal and Estrella Magdangal and, thereafter, to reinstate TCT No. 72067 in the name of Jaime C. Tan and Praxedes Valles Tan and to submit her compliance thereto within ten (10) days from receipt of this Order.

SO ORDERED.'

Explaining her action, the respondent judge wrote in the same order:

'Following the ruling of the Supreme Court in Cueto vs. Collantes, et al., 97 Phil. 325, the 120 days period for plaintiff to pay the amount of P59,200.00 plus interest x x x should be reckoned from the date of Entry of Judgment x x x which was March 13, 1996. The plaintiff made a deposit on April 17, 1996 well within the 120-day period mandated by the decision of this Court.'

In due time, the Magdangals moved for a reconsideration. However, in her next assailed order of July 24, 1996 (Annex 'R', Petition), the respondent judge denied the motion for being pro-forma and fatally defective.”[3]

Petitioner assails the aforequoted Decision as follows:

“I.

Petitioner's right to due process was violated when the Court of Appeals rendered a judgment on the merits of private respondents' petition without granting to petitioner the opportunity to controvert the same.

II.

Appeal not certiorari was the appropriate remedy of private respondents as there was no grave abuse of discretion as to amount to lack of or excess of jurisdiction on the part of the trial judge. Neither is delay in resolving the main case a ground for giving due course to the petition.

III.

Cueto vs. Collantes, 97 Phil. 325, was disregarded by the Court of Appeals in resolving the petition of private respondents. It is still good case law and was in effect made a part of section 2 of Rule 68 of the 1997 Rules of Civil Procedure on Foreclosure of Mortgage.

IV.

The St. Dominic vs. Intermediate Appellate Court, 138 SCRA 242 case is not applicable to the case at bar; on the other hand the ruling in Gutierrez Hermanos vs. de La Riva, 46 Phil. 827, applies.

V.

Equity considerations justify giving due course to this petition.”[4] (emphasis ours)

We will immediately resolve the key issue of what rule should govern the finality of judgment favorably obtained in the trial court by the petitioner.

The operative facts show that in its Decision of June 4, 1991, the trial court held that: (1) the contract between the parties is not an absolute sale but an equitable mortgage; and (2) petitioner Tan should pay to the respondents Magdangal “within 120 days after the finality of this decision P59,200.00 plus interest at the rate of 12% per annum from May 2, 1988, the date the complaint was filed, until paid.”[5]

On September 28, 1995 in CA-G.R. CV No. 33657, the Special Third Division of the Court of Appeals affirmed the decision of the trial court in toto. Both parties received the decision of the appellate court on October 5, 1995. On March 13, 1996, the clerk of court of the appellate court entered in the Book of Entries of Judgement the decision in CA-G.R. CV No. 33657 and issued the corresponding Entry of Judgment which, on its face, stated that the said decision “has on October 21, 1995 become final and executory.”[6]

The respondents Magdangal filed in the trial court a Motion for Consolidation and Writ of Possession.[7] They alleged that the 120-day period of redemption of the petitioner has expired. They reckoned that the said period began 15 days after October 5, 1995, the date when the finality of the judgment of the trial court as affirmed by the appellate court commenced to run.

On the other hand, petitioner filed on March 27, 1996 a motion for execution in the appellate court praying that it “direct the court a quo to issue the corresponding writ of execution in Civil Case No. 19049-88.”[8] On April 17, 1996, petitioner deposited with the clerk of court the repurchase price of the lot plus interest as ordered by the decision.

On June 10, 1996, the trial court allowed the petitioner to redeem the lot in question. It ruled that the 120-day redemption period should be reckoned from the date of Entry of Judgment in the appellate court or from March 13, 1996.[9] The redemption price was deposited on April 17, 1996. As aforesaid, the Court of Appeals set aside the ruling of the trial court.

From 1991-1996, the years relevant to the case at bar, the rule that governs finality of judgment is Rule 51 of the Revised Rules of Court. Its sections 10 and 11 provide:

“SEC. 10. Entry of judgments and final resolutions. – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. The record shall contain the dispositive part of the judgment or final resolution and shall be signed by the clerk, with a certificate that such judgment or final resolution has become final and executory. (2a, R36)

SEC. 11. Execution of judgment. – Except where the judgment or final order or resolution, or a portion thereof, is ordered to be immediately executory, the motion for its execution may only be filed in the proper court after its entry.

In original actions in the Court of Appeals, its writ of execution shall be accompanied by a certified true copy of the entry of judgment or final resolution and addressed to any appropriate officer for its enforcement.

In appealed cases, where the motion for execution pending appeal is filed in the Court of Appeals at a time that it is in possession of the original record or the record on appeal, the resolution granting such motion shall be transmitted to the lower court from which the case originated, together with a certified true copy of the judgment or final order to be executed, with a directive for such court of origin to issue the proper writ for its enforcement.”

This rule has been interpreted by this Court in *Cueto vs. Collantes* as follows:[10]

“The only error assigned by appellants refer to the finding of the lower court that plaintiff can still exercise his right of redemption notwithstanding the expiration of the 90-day period fixed in the original decision and, therefore, defendants should execute the deed of reconveyance required in said decision. Appellants contend that, the final judgment of the Court of Appeals having been entered on July 8, 1953, the 90-day period for the exercise of the right of redemption has long expired, it appearing that plaintiff deposited the redemption money with the clerk of court only on October 17, 1953, or, after the expiration of 101 days. Appellee brands this computation as erroneous, or one not in accordance with the procedure prescribed by the rules of court.

Appellee’s contention should be sustained. The original decision provides that appellee may exercise his right of redemption within the period of 90 days from the date the judgment has become final. It should be noted that appellee had appealed from this decision. This decision was affirmed by the court of appeals and final judgment was entered on July 8, 1953. Does this mean that the judgment became final on that date?

Let us make a little digression for purposes of clarification. Once a decision is rendered by the Court of Appeals a party may appeal therefrom by certiorari by filing with the Supreme Court a petition within 10 days from the date of entry of such decision (Section 1, Rule 46). The entry of judgment is made after it has become final, i.e., upon the expiration of 15 days after notice thereof to the parties (Section 8, Rule 53, as modified by a resolution of the Supreme Court dated October 1, 1945). But, as Chief Justice Moran has said, ‘such finality *** is subject to the aggrieved party’s right of filing a petition for certiorari under this section,’ which means that ‘the Court of Appeals shall remand the case to the lower court for the execution of its judgment, only after the expiration of ten (10) days from the date of such judgment, if no petition for certiorari is filed within that period.’ (1 Moran, Comments on the Rules of Court, 1952 ed., p. 950) It would therefore appear that the date of entry of judgment of the Court of Appeals is suspended when a petition for review is filed to await the final entry of the resolution or decision of the Supreme Court.

Since in the present case appellee has filed a petition for review within the reglementary period, which was dismissed by resolution of July 6, 1953, and for lack of a motion for reconsideration the entry of final judgment was made on August 7, 1953, it follows that the 90-day period within which appellee may exercise his right of redemption should be counted from said date, August 7, 1953. And appellee having exercised such right on October 17, 1953 by depositing the redemption money with the clerk of court, it is likewise clear that the motion be filed for the exercise of such right is well taken and is within the purview of the decision of the lower court.”[11]

On April 18, 1994, this Court issued Circular No. 24-94, viz:

“TO:

COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT:

RESOLUTION OF THE COURT EN BANC APPROVING AND PROMULGATING THE REVISED PROVISION ON EXECUTION OF JUDGMENTS, SPECIFICALLY IN APPEALED CASES, AND AMENDING SECTION 1, RULE 39 OF THE RULES OF COURT

It appears that in a number of instances, the execution of judgments in appealed cases cannot be promptly enforced because of undue administrative delay in the remand of the records to the court of origin, aggravated at times by misplacement or misdelivery of said records. The Supreme Court Committee on the Revision of the

Rules of Court has drafted proposals including a provision which can remedy the procedural impasse created by said contingencies.

Accordingly, pending approval by the Court of the revised rules on Civil Procedure, and to provide a solution to the aforesaid problems, the Court Resolved to approve and promulgate the following section thereof on execution of judgments, amending Section 1, Rule 39 of the Rules of Court:

Section 1. Execution upon judgments or final orders. – Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, such execution may forthwith be applied for in the lower court from which the action originated, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or the final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

This resolution shall be published in two (2) newspapers of general circulation and shall take effect on June 1, 1994.

April 18, 1994.

(Sgd.) ANDRES R. NARVASA
Chief Justice”

The Circular took effect on June 1, 1994.

The 1997 Revised Rules of Civil Procedure, however, amended the rule on finality of judgment by providing in section 1, Rule 39 as follows:

“Section 1. Execution upon judgments or final orders. – Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. (1a)

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.”

The rationale of the new rule is explained by retired Justice F.D. Regalado as follows:[12]

“1. The term ‘final order’ is used in two senses depending on whether it is used on the issue of appealability or on the issue of binding effect. For purposes of appeal, an order is “final” if it disposes of the action, as distinguished from an interlocutory order which leaves something to be done in the trial court with respect to the merits of the case (*De la Cruz, et al. vs. Paras, et al.*, L-41053, Feb. 27, 1976). For purposes of binding effect or whether it can be subject of execution, an order is ‘final’ or executory after the lapse of the reglementary period to appeal and no appeal has been perfected (see *Perez, et al. vs. Zulueta*, L-10374, Sept. 30, 1959; cf. *Denso [Phil.], Inc. vs. IAC, et al.*, G.R. No. 75000, Feb. 27, 1987; *Montilla vs. CA, et al.*, L-47968, May 9, 1988).

2. On the aspect of appealability, these revised Rules use the adjective ‘final’ with respect to orders and

resolutions, since to terminate a case the trial courts issue orders while the appellate courts and most of the quasi-judicial agencies issue resolutions. Judgments are not so qualified since the use of the so-called interlocutory judgments is not favored in this jurisdiction, while the categorization of an order or a resolution for purposes of denoting that it is appealable is to distinguish them from interlocutory orders or resolutions. However, by force of extended usage the phrase ‘final and executory judgment’ is sometimes used and tolerated, although the use of ‘executory’ alone would suffice. These observations also apply to the several and separate judgments contemplated in Rule 36, or partial judgments which totally dispose of a particular claim or severable part of the case, subject to the power of the court to suspend or defer action on an appeal from or further proceedings in such special judgment, or as provided by Rule 35 on the matter of partial summary judgments which are not considered as appealable (see Sec. 4, Rule 35 and the explanation therein).

The second paragraph of this section is an innovation in response to complaints over the delay caused by the former procedure in obtaining a writ of execution of a judgment, which has already been affirmed on appeal, with notice to the parties. As things then stood, after the entry of judgment in the appellate court, the prevailing party had to wait for the records of the case to be remanded to the court of origin when and where he could then move for the issuance of a writ of execution. The intervening time could sometimes be substantial, especially if the court a quo is in a remote province, and could also be availed of by the losing party to delay or thwart actual execution.

On these considerations, the Supreme Court issued Circular No. 24-94, dated April 18, 1994, approving and promulgating in advance this amended Section 1 of Rule 39 and declaring the same effective as of June 1, 1994.

Under the present procedure, the prevailing party can secure certified true copies of the judgment or final order of the appellate court and the entry thereof, and submit the same to the court of origin with and to justify his motion for a writ of execution, without waiting for its receipt of the records from the appellate court. That motion must be with notice to the adverse party, with a hearing when the circumstances so require, to enable him to file any objection thereto or bring to the attention of said court matters which may have transpired during the pendency of the appeal and which may have a bearing on the execution sought to enforce the judgment.

The third paragraph of this section, likewise a new provision, is due to the experience of the appellate courts wherein the trial court, for reasons of its own or other unjustifiable circumstances, unduly delays or unreasonably refuses to act on the motion for execution or issue the writ therefor. On motion in the same case while the records are still with the appellate court, or even after the same have been remanded to the lower court, the appellate court can direct the issuance of the writ of execution since such act is merely in the enforcement of its judgment and which it has the power to require.”

It is evident that if we apply the old rule on finality of judgment, petitioner redeemed the subject property within the 120-day period of redemption reckoned from the appellate court’s entry of judgment. The appellate court, however, did not apply the old rule but the 1997 Revised Rules of Civil Procedure. In fine, it applied the new rule retroactively and we hold that given the facts of the case at bar this is an error.

There is no dispute that rules of procedure can be given retroactive effect. This general rule, however, has well-delineated exceptions. We quote author Agpalo:[13]

“9.17. Procedural laws.

Procedural laws are adjective laws which prescribe rules and forms of procedure of enforcing rights or obtaining redress for their invasion; they refer to rules of procedure by which courts applying laws of all kinds can properly administer justice. They include rules of pleadings, practice and evidence. As applied to criminal law, they provide or regulate the steps by which one who commits a crime is to be punished.

The general rule that statutes are prospective and not retroactive does not ordinarily apply to procedural laws. It has been held that “a retroactive law, in a legal sense, is one which takes away or impairs vested rights acquired under laws, or creates a new obligation and imposes a new duty, or attaches a new disability, in respect of transactions or considerations already past. Hence, remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statutes.” The general rule against giving statutes retroactive operation whose effect is to impair the obligations of contract or to disturb vested rights does not prevent the application of statutes to proceedings pending at the time of their enactment where they neither create new nor take away vested rights. A new statute which deals with procedure only is presumptively applicable to all actions – those which have accrued or are pending.

Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent. The fact that procedural statutes may somehow affect the litigants’ rights may not preclude their retroactive application to pending actions. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected. Nor is the retroactive application of procedural statutes constitutionally objectionable. The reason is that as a general rule no vested right may attach to, nor arise from, procedural laws. It has been held that “a person has no vested right in any particular remedy, and a litigant cannot insist on the application to the trial of his case, whether civil or criminal, of any other than the existing rules of procedure.”

Thus, the provision of Batas Bilang 129 in Section 39 thereof prescribing that “no record on appeal shall be required to take an appeal” is procedural in nature and should therefore be applied retroactively to pending actions. Hence, the question as to whether an appeal from an adverse judgment should be dismissed for failure of appellant to file a record on appeal within thirty days as required under the old rules, which question is pending resolution at the time Batas Bilang 129 took effect, became academic upon the effectivity of said law because the law no longer requires the filing of a record on appeal and its retroactive application removed the legal obstacle to giving due course to the appeal. A statute which transfers the jurisdiction to try certain cases from a court to a quasi-judicial tribunal is a remedial statute that is applicable to claims that accrued before its enactment but formulated and filed after it took effect, for it does not create new nor take away vested rights. The court that has jurisdiction over a claim at the time it accrued cannot validly try the claim where at the time the claim is formulated and filed the jurisdiction to try it has been transferred by law to a quasi-judicial tribunal, for even actions pending in one court may be validly taken away and transferred to another and no litigant can acquire a vested right to be heard by one particular court.

9.18. Exceptions to the rule.

The rule that procedural laws are applicable to pending actions or proceedings admits certain exceptions. The rule does not apply where the statute itself expressly or by necessary implication provides that pending actions are excepted from its operation, or where to apply it to pending proceedings would impair vested rights. Under appropriate circumstances, courts may deny the retroactive application of procedural laws in the event that to do so would not be feasible or would work injustice. Nor may procedural laws be applied retroactively to pending actions if to do so would involve intricate problems of due process or impair the independence of the courts.”

We hold that section 1, Rule 39 of the 1997 Revised Rules of Procedure should not be given retroactive effect in this case as it would result in great injustice to the petitioner. Undoubtedly, petitioner has the right to redeem the subject lot and this right is a substantive right. Petitioner followed the procedural rule then existing as well as the decisions of this Court governing the reckoning date of the period of redemption when he redeemed the subject lot. Unfortunately for petitioner, the rule was changed by the 1997 Revised Rules of Procedure which if applied

retroactively would result in his losing the right to redeem the subject lot. It is difficult to reconcile the retroactive application of this procedural rule with the rule of fairness. Petitioner cannot be penalized with the loss of the subject lot when he faithfully followed the laws and the rule on the period of redemption when he made the redemption. The subject lot may only be 34,829 square meters but as petitioner claims, “it is the only property left behind by their father, a private law practitioner who was felled by an assassin’s bullet.”[14]

Petitioner fought to recover this lot from 1988. To lose it because of a change of procedure on the date of reckoning of the period of redemption is inequitous. The manner of exercising the right cannot be changed and the change applied retroactively if to do so will defeat the right of redemption of the petitioner which is already vested.

IN VIEW WHEREOF, the decision of the Court of Appeals dated July 15, 1998 and its Resolution dated November 9, 1998 in CA-G.R. SP-41738 are annulled and set aside. The Orders dated June 10, 1996 and July 24, 1996 of the RTC of Davao City, 11[th] Judicial Region, Branch 11, in Civil Case No. 19049-88 are reinstated. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo and Ynares-Santiago, JJ., concur.

[1] Rollo, p. 48.

[2] Id., p. 58.

[3] Decision, CA-G.R. SP No. 41738, pp. 1-5; Rollo, pp. 48-52.

[4] Id., p. 3; id., p. 16.

[5] Rollo, p. 18.

[6] Id., pp. 18-19.

[7] Ibid.

[8] Ibid.

[9] Rollo, p. 59.

[10] 97 Phil. 325 (1955).

[11] Id., pp. 328-329.

[12] Remedial Law Compendium, Vol. I, 7[th] ed., p. 398-400.

[13] Statutory Construction, 1986 ed., pp. 269-272.

[14] See p. 28, Petition; Rollo, p. 41.

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