

ZACARIAS COMETA AND HERCO REALTY & AGRICULTURAL CORPORATION, PETITIONERS, VS. COURT OF APPEALS AND JOSE FRANCO, RESPONDENTS.

G.R. No. 141855. February 06, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Challenged in this petition for review under Rule 45 of the Rules of Court is the Decision of the Court of Appeals dated January 25, 1999[1] in CA-G.R. SP No. 48277, entitled "Zacarias Cometa, et al. v. Hon. Perfecto Laggui, et al.," and the Resolution dated January 27, 2000[2] denying petitioner's motion for reconsideration.

The pertinent factual antecedents are matters of record or are otherwise uncontroverted.

On July 2, 1976, the quondam Court of First Instance (CFI) of Rizal, Branch 15[3] at Makati rendered a Decision in Civil Case No. 17585 for Damages, entitled "Jose Franco v. Zacarias Cometa," awarding to herein private respondent Jose Franco, the sum of P57,396.85.[4]

The judgment became final on March 9, 1978. Subsequently, a writ of execution was issued. Pursuant thereto, the sheriff levied on execution three (3) commercial lots of petitioner Zacarias Cometa[5] located at Guadalupe, Makati.

On October 17, 1978, two (2) of the lots were sold to respondent Franco at public auction for the amount of P57,396.85. The sheriff's return was made on March 12, 1981.[6]

On November 17, 1981, petitioner Herco Realty & Agricultural Development Corporation (Herco) filed Civil Case No. 43846 with the same CFI Rizal, Branch 15, to annul the levy on execution and sale at public auction of the real properties.[7] The complaint alleged that the ownership of the lots had been transferred by Cometa to Herco before the execution sale. It assailed the validity of the levy and sale on the ground that the sheriff, in disregard of the proper procedural practice, immediately proceeded against Cometa's real properties without first exhausting his personal properties; that the lots were sold en masse and not by parcel; and that the said properties which are commercial lots situated in Guadalupe, Makati, and are conservatively valued at P500,000.00, were sold only for P57,396.85, the amount of the judgment.[8]

Meanwhile, on March 22, 1982, the same court, now designated as Regional Trial Court, Branch 60, issued an order in Civil Case No. 17585 directing the Register of Deeds of Rizal to cancel petitioner Cometa's certificates of title to the lots and to issue new ones in favor of respondent Franco. Cometa, who died during the pendency of the proceedings, was substituted by his heirs, who filed before this Court a petition for certiorari questioning the said order. The petition was, however, dismissed on February 28, 1983.[9]

On May 13, 1983, Franco filed with the Regional Trial Court of Makati, Branch 140, a motion for issuance of writ of possession. Cometa opposed the motion on the ground that there was pending before another Regional Trial Court an action for annulment of levy and sale of the properties in question.[10]

On August 12, 1983, the trial court issued an order granting the motion; but the same was reconsidered and set aside on November 18, 1983 on the ground that the issuance of the writ of possession was premature,[11] considering that the RTC of Makati, Branch 60, had not yet decided the case filed by Herco and Cometa for the annulment of the levy and sale of the properties.

Franco then instituted a special civil action for certiorari with this Court on June 27, 1984, but the case was referred to the Intermediate Appellate Court, which subsequently reversed the ruling of the RTC, Branch 140, on October 4, 1984, and granted the issuance of the writ of possession in Franco's favor.[12]

Cometa and Herco elevated their cause to this Court, where the same was docketed as G.R. No. L-69294 and entitled, "Zacarias Cometa and Herco Realty and Agricultural Development Corporation v. IAC and Jose Franco." In a Decision dated June 30, 1987,[13] this Court reversed the appellate court and withheld the granting of the writ of possession pending the promulgation of the resolution of the RTC, Branch 60, on the issue of whether or not the levy and sale of Cometa's properties are valid. In the said judgment, this Court said:

In the case at bar, the validity of the levy and sale of the properties is directly put in issue in another case by the petitioners. This Court finds it an issue which requires pre-emptive resolution. For if the respondent acquired no interest in the property by virtue of the levy and sale, then, he is not entitled to its possession.

The respondent appellate court's emphasis on the failure of the petitioner to redeem the properties within the period required by law is misplaced because redemption, in this case, is inconsistent with petitioner's claim of invalidity of levy and sale. Redemption is an implied admission of the regularity of the sale and would estop the petitioner from later impugning its validity on that ground.[14]

Moreover, equitable considerations constrain us to reverse the decision of respondent court. The fact is undisputed that the properties in question were sold at an unusually lower price than their true value. Properties worth at least P500,000.00 were sold for only P57,396.85. We do not comment on the consequences of the inadequacy because that is the very issue which confronts the court below in the pending case. It appearing, however, that the issuance of the writ of possession would and might work injustice because the petitioner might not be entitled thereto, we rule that it be withheld.

Thereafter, in Civil Case No. 43846, Branch 60 of the Makati RTC issued an order dated July 21, 1993 dismissing the case on the ground of "lack of interest in the prosecution of the complaint" for failure of the representatives of Cometa and Herco to appear.

The order of dismissal was affirmed by the Court of Appeals on July 16, 1996 and by this Court on January 20, 1997 in G.R. No. 126760. On February 26, 1997, this Court's Resolution which, in effect, upheld the validity of the assailed levy and sale, became final and executory.

On May 2, 1997, Franco again filed, this time with Branch 60 of the RTC of Makati City, a motion for issuance of writ of possession and cancellation of lis pendens. The heirs of Cometa opposed the motion claiming that they intended to redeem the properties.

On December 4, 1997, Cometa's heirs consigned with the Office of the Clerk of Court, RTC, Makati City, the sum of P38,761.05 as purchase price for the lots, plus interest of P78,762.69 and P1,175.25 as realty tax.

On June 8, 1998, Branch 60 of the Makati City RTC issued an order[15] which reads in part as follows:

6.2. With the dismissal of Civil Case No. 43846, did HERCO and the HEIRS still have the right to redeem?

x x x x x x x x

11. What may be inferred from the aforesaid decisions (except *Sumerariz v. DBP*) is that the running of the period of redemption is suspended if the validity of the sale is questioned at any time within the said period of

redemption.

12. When the validity of the sale is questioned after the period of redemption has expired, the rule that the filing of the action questioning such validity suspends the running of the period for redemption no longer applies. This is only logical - for there would no longer be any period to be suspended - it has already expired. Where the sale is declared void in such action, there would be no right of redemption to speak of thereafter, for legally speaking, there was no sale at all. A void sale would be inconsistent with a right of redemption. For in such case, the buyer has not acquired any right over the property sold to him. Hence, there is nothing that could be redeemed by the owner of the property.

13. The certificate of sale of the two (2) lots was registered and annotated in the corresponding certificates of title on January 25, 1980. The period of redemption expired twelve (12) months thereafter (Section 30, Rule 39, Rules of Court) - or on January 20, 1981. Civil Case No. 43846 was filed on November 27, 1981 - or more than ten (10) months after the period of redemption expired. Hence, when Civil Case No. 43846 was filed, there was no longer any period of redemption that could be suspended.

x x x x x x x x

23.3 Accordingly:

23.3.1. The Officer-in-Charge [is ordered] to issue the corresponding writ of possession over the lots covered by Transfer Certificates of Title Nos. 113114 and 113115 in favor of JOSE FRANCO.

Dissatisfied, Cometa's heirs and Herco filed a petition for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 48227, asserting that -

I

RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION IN DISREGARDING NO LESS THAN THE SUPREME COURT'S DECLARATION IN COMETA v. INTERMEDIATE APPELLATE COURT THAT COMETA STILL HAS A RIGHT TO REDEEM.

II

RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION IN DENYING COMETA'S REDEMPTION IN THAT EVEN ABSENT THE SUPREME COURT'S PRONOUNCEMENT IN COMETA v. INTERMEDIATE APPELLATE COURT, COMETA WOULD STILL HAVE THE RIGHT TO REDEEM UNDER SETTLED JURISPRUDENCE.

III

RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION IN DENYING COMETA'S REDEMPTION IN THAT AT THE VERY LEAST THE LAW RESOLVES ALL DOUBTS IN FAVOR OF THE RIGHT TO REDEEM.

The appellate court's 10[th] Division thereafter promulgated a Decision dated January 25, 1999,[16] affirming the order of respondent presiding Judge of Branch 60, Makati City RTC, and denying due course to the petition.

A motion for reconsideration of the said decision was likewise denied by a Special Division of Five Justices.

Hence, this petition for review on the following grounds:

THE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT HERETOFORE DECIDED BY THIS HONORABLE COURT OR HAS DECIDED IT NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT IN THAT:

- COMETA v. INTERMEDIATE APPELLATE COURT HAS ALREADY DETERMINED THAT COMETA STILL HAS A RIGHT TO REDEEM

- EVEN ABSENT THE PRONOUNCEMENT IN COMETA v. INTERMEDIATE APPELLATE COURT, COMETA WOULD STILL HAVE THE RIGHT TO REDEEM UNDER SETTLED JURISPRUDENCE
- AT THE VERY LEAST, THE LAW RESOLVES ALL DOUBTS IN FAVOR OF THE RIGHT TO REDEEM.

Considering the pleadings filed by the parties, this Court resolved to dispense with the filing of memoranda, give due course to the petition and decide the same.

The questions raised by petitioners can be reduced to the primordial issue of whether or not petitioners can still redeem the properties subject of this litigation.

In ruling in the negative, the appellate court opined, among others, that -

Section 30, Rule 39 of the Revised Rules of Court is very explicit: "(t)he judgment debtor or redemptioner may redeem the property from the purchaser at any time within twelve (12) months after the sale, xxx." (italics ours) In the case at bar, the sale took place on October 17, 1978. The Certificate of Sale was registered and annotated on the TCT Nos. S-79894 and 79895 on January 25, 1980. The Officer's Final Deed of Sale was executed in favor of Franco on March 2, 1981. Petitioners questioned the validity of the sale only on November 27, 1981 or more than three (3) years after the said sale. We agree with respondent judge that "(w)hen the validity of the sale is questioned after the period of redemption has expired, the rule that the finding of the action questioning such validity suspends the running of the redemption period, no longer applies. This is only logical - for there would no longer be any period to be suspended - it has already expired." We likewise agree that to still allow redemption "counted from February 26, 1997, when the Resolution in G.R. L-126760 became final and executory xxx would give rise to mischievous legal consequences. For this would be a device to revive a lost right of redemption. Under this theory, a party who lost the right of redemption could just file an action to set aside the sale on the ground that it was a nullity confident that if the action does not prosper, he would still be entitled to redeem thereafter. This could not be validly done." xxx The failure of petitioners to redeem the properties after the expiration of the redemption period vests title over the property to private respondent.[17] The Supreme Court has uniformly ruled that redemption from execution sales under ordinary judgments pursuant to Section 30, Rule 39 of the Rules of Court should be made within twelve (12) months[18] from the registration of the same xxx."[19] In Juan Mateo vs. The Court of Appeals and Severino Alberto, 99 Phil. 1042 (unreported), the High Court categorically said that "(t)he right of redemption in execution sales being statutory, it must, to make it effective, be exercised in the mode prescribed by the statute." We therefore find petitioners' invocation of the liberal ruling of the Supreme Court on the exercise of the right to redemption to have neither factual nor legal basis. The Court has no alternative but to apply Section 35 of Rule 39 of the Rules of Court to the letter.[20]

We disagree.

Paraphrasing what we trenchantly pointed out in *Hermoso v. CA*, [21] we test a law by its result. A law should not be interpreted so as to cause an injustice. There are laws which are generally valid but may seem arbitrary when applied in a particular sense because of its peculiar circumstances. We are not bound to apply them in servile subservience to their language. More explicitly -

. . . we interpret and apply the law not independently of but in consonance with justice. Law and justice are inseparable, and we must keep them so. To be sure, there are some laws that, while generally valid, may seem arbitrary when applied in a particular case because of its peculiar circumstances. In such a situation, we are not bound, because only of our nature and functions, to apply them just the same, in slavish obedience to their language. What we do instead is find a balance between the word and the will, that justice may be done even as the law is obeyed.

As judges, we are not automatons. We do not and must not unfeelingly apply the law as it is worded, yielding

like robots to the literal command without regard to its cause and consequence. "Courts are apt to err by sticking too closely to the words of the law," so we were warned, by Justice Holmes again, "where these words import a policy that goes beyond them." [22] While we admittedly may not legislate, we nevertheless have the power to interpret the law in such a way as to reflect the will of the legislature. While we may not read into the law a purpose that is not there, we nevertheless have the right to read out of it the reason for its enactment. In doing so, we defer not to "the letter that killeth" but to the "the spirit that vivifieth," to give effect to the lawmaker's will.

The spirit rather than the letter of the statute determines its construction, hence, a statute must be read according to its spirit or intent. For what is within the spirit is within the statute although it is not within the letter thereof, and that which is within the letter but not within the spirit is not within the statute. Stated differently, a thing which is within the intent of the lawmaker is as much within the statute as if within the letter; and a thing which is within the letter of the statute is not within the statute unless within the intent of the lawmakers. [23]

Stated differently, the legal perspective within which the right to redeem can still be availed of or not must be viewed in the light of the dictum that the policy of the law is to aid rather than defeat the right of redemption. [24] In short, the statute, being remedial, is to be construed liberally to effectuate the remedy and carry out its evident spirit and purpose. [25] Thus, the Court allowed parties in several cases to perfect their right of redemption even beyond the period prescribed therefor. [26] We can do no less vis-à-vis the prevailing facts of this case for the following reasons:

First, we are confronted with the grossly and patently iniquitous spectacle of petitioners being made to pay a money judgment amounting to P57,396.85 with their two (2) parcels of prime land conservatively valued at that time at P500,000.00, on account of the lapse of the period given for exercising their right - despite their apparent willingness and ability to pay the money judgment. Although this was the very fact in issue in the second case, the gross disparity of the money judgment to the value of the levied real properties was not lost on the Court when, in *Cometa v. IAC*, [27] it said that -

Moreover, equitable considerations constrain us to reverse the decision of the respondent court (Intermediate Appellate Court). The fact is undisputed that the properties in question were sold at an unusually lower price than their true value. Properties worth at least P500,000.00 were sold for only P57,396.85. We do not comment on the consequences of the inadequacy because that is the very issue which confronts the court below in the pending case. It appearing, however, that the issuance of the writ of possession would and might work injustice because the petitioner might not be entitled thereto, we rule that it be withheld.

There is no question that petitioners were remiss in attending with dispatch to the protection of their interests as regards the subject lots, and for that reason the case in the lower court was dismissed on a technicality and no definitive pronouncement on the inadequacy of the price paid for the levied properties was ever made. In this regard, it bears stressing that procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights as in this case. Like all rules, they are required to be followed except only when for the most persuasive of reasons they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. [28]

Such compelling justifications for taking exception to the general rule are strewn all over the factual landscape of this case. Pertinently, in *Dayag v. Canizares*, [29] we said that -

...where a rigid application of the rule will result in a manifest failure or miscarriage of justice, technicalities may be disregarded in order to resolve the case. Litigations should, as much as possible, be decided on the merits and not on technicalities. [30] xxx Given the foregoing, it seems improper to nullify Young's motion on

a mere technicality. Petitioner's averments should be given scant consideration to give way to the more substantial matter of equitably determining the rights and obligations of the parties. It need not be emphasized that rules of procedure must be interpreted in a manner that will help secure and not defeat justice.[31] (emphasis and italics supplied)

In short, since rules of procedure are mere tools designed to facilitate the attainment of justice, their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided.[32] Technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties.[33] It was thus towards this sacrosanct goal that this Court in the recent case of *Paz Reyes Aguam v. CA, et al.*[34] held:

. . .The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice[35] "A litigation is not a game of technicalities." [36] "Law suits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." [37] Litigations must be decided on their merits and not on technicality.[38] Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities.[39]. . . the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice.[40] It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not miscarriage of justice. (emphasis and italics ours)

Second, while there is no dispute that mere inadequacy of the price per se will not set aside a judicial sale of real property, nevertheless, where the inadequacy of the price is purely shocking to the conscience,[41] such that the mind revolts at it and such that a reasonable man would neither directly or indirectly be likely to consent to it,[42] the same will be set aside.[43] Thus, in one case,[44] the judicial sale of land worth P60,000.00 for P867.00 was considered shocking to the conscience. So also, the sale of properties at around 10% of their values, as when a radio worth P1,000.00 was sold for P100.00 and a matrimonial bed costing P500.00 was sold for P50.00, the price was held to be grossly inadequate.[45] How much more the judicial sale of two (2) prime commercial lots located in Guadalupe, Makati, conservatively valued at P500,000.00 in 1987, to satisfy a money judgment of P57,396.85?

Third, the questionable manner in which the said lots were levied upon and sold at public auction has, likewise, caught the attention of the Court. The manner of execution of money judgments is governed by Section 15, Rule 39 of the Rules of Court, which was then in force, thus:

SEC. 15. Execution of money judgments. - The officer must enforce an execution of a money judgment by levying on all the property, real and personal property of every name and nature whatsoever, and which may be disposed of for value, of the judgment debtor not exempt from execution, or on a sufficient amount of such property, if there be sufficient, and selling the same, and paying to the judgment creditor or his attorney, so much of the proceeds as will satisfy the judgment. Any excess in the proceeds over the judgment and the accruing costs must be delivered to the judgment debtor, unless otherwise directed by the judgment or order of the court. When there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs, within the view of the officer, he must levy only on such part of the property as is amply sufficient to satisfy the judgment and costs. xxx (emphasis and italics supplied)

In relation to the foregoing, Section 21, also of Rule 39, provides that -

SEC. 21. How property sold on execution; Who may direct manner and order of sale. - All sales of property under execution must be made at public auction, to the highest bidder, between the hours of nine in the

morning and five in the afternoon. After sufficient property has been sold to satisfy the execution, no more shall be sold. When the sale is of real property, consisting of several known lots, they must be sold separately; or, when a portion of such real property is claimed by a third person, he may require it to be sold separately. When the sale is of personal property capable of manual delivery, it must be sold within view of those attending the sale and in such parcels as are likely to bring the highest price. The judgment debtor, if present at the sale, may direct the order in which property, real or personal, shall be sold, when such property shall consist of several known lots or parcels which can be sold to advantage separately. Neither the officer holding the execution nor his deputy can become a purchaser, nor be interested directly or indirectly in any purchase at such sale. (emphasis and italics supplied)

In the case at bar, the subject lots were sold en masse, not separately as above provided. The unusually low price for which they were sold to the vendee, not to mention his vehement unwillingness to allow redemption therein, only serves to heighten the dubiousness of the transfer.

Fourth, with regard to the applicability of prescription and laches, there can be no question that they operate as a bar in equity. However, it must be pointed out that the question of prescription or laches can not work to defeat justice or to perpetrate fraud and injustice.[46] As explicitly stated by this Court in *Santiago v. Court of Appeals*:^[47]

As for laches, its essence is the failure or neglect, for an unreasonable and unexplained length of time to do that which, by the exercise of due diligence, could or should have been done earlier; it is the negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[48] But there is, to be sure, no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances. The question of laches is addressed to the sound discretion of the court and since laches is an equitable doctrine, its application is controlled by equitable considerations. It cannot be worked to defeat justice or to perpetrate fraud and injustice.[49] In the case under consideration, it would not only be impractical but well-nigh unjust and patently iniquitous to apply laches against private respondent and vest ownership over a valuable piece of real property in favor of petitioners . . . It is the better rule that courts under the principle of equity, will not be guided or bound strictly by the statute of limitations or the doctrine of laches when to do so, manifest wrong or injustice would result.[50] (Emphasis provided)

Lastly, petitioners have demonstrated, albeit tardily, an earnest and sincere desire to redeem the subject properties when Cometa's heirs, on December 4, 1997, consigned with the Office of the Clerk of Court, RTC Makati, the sum of P38,761.05 as purchase price for the lots, plus interest of P78,762.69 and P1,175.25 as realty tax. The rule on redemption is liberally construed in favor of the original owner of the property and the policy of the law is to aid rather than defeat him in the exercise of his right of redemption.[51] Thus, we allowed parties in several cases to perfect their right of redemption even beyond the period prescribed therefor.[52]

WHEREFORE, in view of all the foregoing, the challenged Decision of the Court of Appeals dated January 25, 1999, which affirmed the trial court's denial of petitioners' right of redemption, as well as the subsequent Resolution dated January 27, 2000, in CA-G.R. SP No. 48227 entitled "*Zacarias Cometa, et al. v. Hon. Pedro Laggui, et al.*," are REVERSED and SET ASIDE; and another one hereby rendered ordering respondent Jose Franco to accept the tender of redemption made by petitioners and to deliver the proper certificate of redemption to the latter.

SO ORDERED.

Puno, Kapunan, and Pardo, JJ., concur.
Davide, Jr., C.J. in the result.

[1] Rollo, pp. 35-38.

[2] Ibid., pp. 39-40.

[3] Which later became Branch 60 of the Regional Trial Court of Makati as per Section 14, B.P. Blg. 129.

[4] See *Cometa v. IAC*, 151 SCRA 563, 565 [1987].

[5] Ibid.

[6] Id.

[7] Id.

[8] Id., pp. 565-566.

[9] Id., p. 566.

[10] Id.

[11] Id.

[12] Id.

[13] See 151 SCRA 563 [1987].

[14] Citing *Castillo v. Nagtalon*, 4 SCRA 48 [1962].

[15] Rollo, pp. 76-84.

[16] Ibid., pp. 34-38.

[17] Citing *Palma v. CA*, 232 SCRA 714 [1994].

[18] Rule 39, Section 28 of the 1997 Rules of Civil Procedure now provides that the period for redemption shall be "at any time within one (1) year from the date of registration of the certificate of sale," so that the period is now to be understood as composed of 365 days.

[19] Citing *Quimson v. PNB*, 36 SCRA 26 [1970].

[20] Citing *CMS Stock Brokerage v. CA*, 275 SCRA 790 [1997].

[21] 300 SCRA 516 [1998].

[22] Dissenting in *Olmstead v. U.S.*, 277 U.S. 438.

[23] *Alonzo v. IAC*, 150 SCRA 259 [1987], citing *Agpalo R.E.*, *Statutory Construction*, pp. 64-65 [1986], citing *U.S. v. Go Chico*, 14 Phil. 128 [1909]; *Roa v. Collector of Customs*, 23 Phil. 315 [1912]; *Manila Race Horse Trainer's Association v. De la Fuente*, 88 Phil. 60 [1951]; *Go Chi v. Go Cho*, 96 Phil. 622 [1955]; *Villanueva v. City of Iloilo*, 26 SCRA 578 [1969]; *Hidalgo v. Hidalgo*, 33 SCRA 105 [1970]; *People v. Purisima*, 86 SCRA 542 [1978].

[24] *Bodiongan v. CA*, 248 SCRA 496 [1995], citing *Tibajia v. CA*, 193 SCRA 581 [1991]; *De Los Reyes v. IAC*, 176 SCRA 394 [1989]; *Sulit v. CA*, 268 SCRA 441 [1997]; *Lee Chuy Realty Corporation v. CA*, 250 SCRA 596 [1995].

[25] II Moran, Rules of Court, p. 403, 1996 ed., citing Enage v. Vda. de Hijos de Escano, 38 Phil. 657 [1918], citing Schuck v. Gerlach, 101 Ill. 338.

[26] Ysmael v. CA, 318 SCRA 215, 226 [1999], citing Castillo v. Nagtalon, 114 Phil. 7 [1962]; De Los Reyes v. IAC, supra; and Bodiongan v. CA, supra.

[27] 151 SCRA 563 [1987].

[28] Limpot v. CA, 170 SCRA 367 [1989].

[29] 287 SCRA 181 [1998].

[30] People v. Leviste, 255 SCRA 238 [1996].

[31] El Toro Security Agency v. NLRC, 256 SCRA 363 [1996].

[32] RCPI v. NLRC, 210 SCRA 222 [1992].

[33] Casa Filipina Realty Corporation v. Office of the President, 241 SCRA 165 [1995], citing Rapid Manpower Consultants, Inc. v. NLRC, 190 SCRA 747 [1990].

[34] G.R. No. 137672, 31 May 2000.

[35] Alonso v. Villamor, 16 Phil. 315 [1910]; Aguinaldo v. Aguinaldo, 36 SCRA 137 [1970]; Canlas v. CA, 164 SCRA 160 [1988].

[36] Alonso v. Villamor, supra; Canlas v. CA, supra.

[37] Alonso v. Villamor, supra; Canlas v. CA, supra; American Express International, Inc. v. IAC, 167 SCRA 209 [1988].

[38] Tan Boon Bee & Co., Inc. v. Judge Jarencio, 163 SCRA 205 [1988], citing de las Alas v. CA, 83 SCRA 200 [1978]; Nerves v. CSC, 276 SCRA 610 [1997].

[39] Tan Boon Bee & Co., Inc. v. Judge Jarencio, supra, citing Heirs of Ceferino Morales v. CA, 67 SCRA 304 [1975]; A-One Feeds, Inc. v. CA, 100 SCRA 590 [1980].

[40] American Home Insurance Co. v. CA, 109 SCRA 180 [1981] concurring opinion, citing Gregorio v. CA, supra; Catindig v. CA, supra; Nerves v. CSC, supra.

[41] Cachola v. CA, 208 SCRA 496 [1992], citing Vda. de Cruz v. Cariaga, 174 SCRA 330 [1989] and Prudential Bank v. Martinez, 189 SCRA 612 [1990].

[42] Vda. de Alvarez v. CA, 231 SCRA 309 [1994].

[43] Director of Lands v. Abarca, 60 Phil. 70 [1934].

[44] Director of Lands v. Abarca, supra.

[45] Provincial Sheriff of Rizal v. CA, L-23114, 12 December 1975.

[46] Jimenez v. Fernandez, 184 SCRA 190 [1990].

[47] 278 SCRA 98,112-113 [1997].

[48] Felix v. Buenaseda, 240 SCRA 139 [1995], citing Cristobal v. Melchor, 78 SCRA 175 [1977].

[49] Jimenez v. Fernandez, supra.

[50] Raneses v. IAC, 187 SCRA 397 [1990], citing Cristobal v. Melchor, supra.

[51] Ysmael, Jr. v. CA, supra; see also Lee Chuy Realty Corp. v. CA, 250 SCRA 596 [1995].

[52] Ibid.

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