NATIVIDAD ARIAGA VDA. DE GURREA, CARLOS GURREA, JULIETA GURREA, TERESA GURREA-RODRIGUEZ, RICARDO GURREA, JR., MA. VICTORIA GURREA-CANDEL, AND RAMONA GURREA-MONTINOLA, PETITIONER...

G.R. NO. 144320. April 26, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[1] of the Court of Appeals (CA) dated February 24, 2000 in CA-G.R. CV No. 56210, which affirmed in toto the Decision[2] dated July 5, 1996 of the Regional Trial Court (RTC) of Pasig City, Branch 268, in Civil Case No. 47543; and the CA Resolution[3] dated August 7, 2000 which denied petitioners' motion for reconsideration.

The present petition arose from a complaint for annulment of title with prayer for preliminary injunction filed with the Court of First Instance (CFI) of Rizal, docketed as Civil Case No. 47543, by Rosalina Gurrea (plaintiff) in her capacity as attorney-in-fact of the heirs of Ricardo Gurrea (Ricardo), namely: Natividad, Carlos, Juliet and Ricardo, Jr., all surnamed Gurrea, and Teresa Gurrea Colemenares.[4] The complaint was filed against Atty. Enrique Suplico (defendant), Gen. Gaudencio Tobias, in his capacity as General Manager of the National Housing Authority, and Joseph Estrada, in his capacity as Municipal Mayor of San Juan, Rizal.[5]

The CA adopted the facts of the case as summarized by the RTC, to wit:

The lot in question situated at 245 Marne Street, San Juan, Metro Manila was originally owned by one of herein plaintiffs' Attorney-in-Fact, Rosalina Gurrea, as evidence (sic) by TCT No. 49767 (Exhibit "A"). That sometime in 1958, Rosalina Gurrea transferred the ownership of said lot to Adelina Gurrea, whose ownership was evidenced by TCT No. 58253 (Exhibit "B"). That Adelina Gurrea continued to be the owner of the lot until her death. Thereafter, Special Proceedings No. 7185 was instituted to have the will she executed during her lifetime probated and to settle her estate. Under the said will, the San Juan lot was bequeathed to Pilar and Luis Gurrea, while 700,000 pesetas, - of the lot in Baguio City and a one-hectare piece of land in Pontevedra, Negros Occidental were given to Ricardo Gurrea.

Ricardo Gurrea, represented by and through his counsel Atty. Enrique Suplico (the defendant), filed an Opposition in Special Proc. No. 7185. In consideration of said representation, Ricardo Gurrea agreed to pay Atty. Suplico "a contingent fee of twenty (20%) of whatever is due me, either real or personal property" (Exhibit "5"). During the pendency of the proceedings and upon the oral instructions of Ricardo Gurrea, Atty. Suplico negotiated with the other heirs of Adelina Gurrea regarding the transfer of the piso (apartment building) in Spain to Ricardo Gurrea's daughter, Juliet Gurrea de Melendres. Ricardo Gurrea further instructed Atty. Suplico not to enter into any settlement with the heirs unless the piso is transferred to his daughter. Finally, the transfer of the piso worth P64,000.00 was executed and the heirs arrived at an amicable settlement regarding the estate of Adelina Gurrea. Hence, Ricardo Gurrea withdrew his Opposition and the heirs then drew up a project of partition

which was eventually approved by the probate court. Pursuant to the project of partition, the following properties were adjudicated to Ricardo Gurrea: (1) the whole of the Baguio lot (with assessed value of P26,350.00); (2) the whole of the San Juan lot (with assessed value of P9,630.00); and (3) a parcel of land in Pontevedra, Negros Occidental (with assessed value of P300.00). (Exhibit "R" for plaintiff and exhibit "19" for defendant).

As payment of his attorney's fees, Ricardo Gurrea offered the San Juan lot to Atty. Suplico who was initially hesitant to accept the same as the property is occupied by squatters. However, in order not to antagonize his client, Atty. Suplico agreed to Ricardo Gurrea's proposal with the further understanding that he will receive an additional commission of 5% if he sells the Baguio property. Thereafter, the deed of Transfer of Rights and Interest was drafted. The said deed was presented to Ricardo Gurrea for his signature. That before signing the same, the contents of the deed were first explained to Ricardo Gurrea by Atty. Suplico and Atty. Manuel Pama, the notary public. On August 20, 1975, the deed was finally signed by Ricardo Gurrea at the office of Atty. Pama, in the presence of the latter, Atty. Suplico, Victor Tupas and another person, the last two acting as witnesses. Later, on October 7, 1980, Atty. Suplico registered the deed and obtained a title/TCT to the San Juan property under his name. Ricardo Gurrea died on October 22, 1980. After his death, his heirs instituted Special Pro. No. 2722 for the settlement of Ricardo Gurrea's estate. In the said proceedings, Atty. Suplico filed several claims for unpaid attorney's fees (no claim was filed relative to Special Proc. No. 7185); however, all were dismissed with finality (Exhibits "I" and "J"). Also in the same case, the estate's administrator, Carlos Gurrea, filed an Inventory of Properties left by the decedent, which did not initially include the property subject of this case. The said lot was included only subsequently in the Amended Inventory (Exhibit "G").[6]

On July 11, 1985, the RTC issued an Order dismissing the complaint on the ground that it does not state a cause of action because the plaintiff is not the real party-in-interest.[7] The complaint-in-intervention was likewise dismissed. Plaintiff filed an appeal with the CA questioning the July 11, 1985 Order of the RTC.[8] The case was docketed as CA-G.R. CV No. 14790.

Thereafter, defendant filed a Motion for Issuance of Writ of Execution Pending Appeal.[9] In its Order dated May 20, 1986, the RTC granted defendant's motion.[10] Plaintiff then filed a petition for certiorari, prohibition and mandamus with the CA seeking to annul the trial court's Order of May 20, 1986. The case was docketed as CA-G.R. SP No. 09394.

Subsequently, CA-G.R. CV No. 14790 and CA-G.R. SP No. 09394 were consolidated.

On November 21, 1989, the CA promulgated its Decision in the consolidated cases, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered, as follows:

(1) REVERSING the order appealed from in CA-G.R. CV No. 14790 and GRANTING the appellant Rosalina Gurrea a period of sixty (60) days from finality of this decision within which to implead in Civil Case No. 47543 the real parties-in-interest; after compliance herewith by the appellant, the trial court shall proceed to hear and decide the case accordingly; and

(2) GRANTING the petition for certiorari and prohibition in CA-G.R. SP No. 09394, hereby ANNULLING and SETTING ASIDE the respondent Court's order dated May 20, 1986, granting the respondent Enrique Suplico's motion for execution pending appeal (Annex C, petition), and the writ issued pursuant thereto (Annex D, petition).

Costs against the appellee and respondent Enrique Suplico in both cases.

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SO ORDERED.[11]

Accordingly, an Amended Complaint was filed in the RTC impleading the heirs of Ricardo as additional plaintiffs, to wit: Natividad Ariaga Vda. de Gurrea, Carlos Gurrea, Julieta Gurrea, Teresa Gurrea-Rodriguez, Ricardo Gurrea, Jr., Ma. Victoria Gurrea Candel and Ramona Gurrea-Montinola.[12] Thereafter, trial ensued.

In the course of the trial, Gen. Gaudencio Tobias of the NHA and then Mayor Joseph Estrada of San Juan, were dropped as defendants upon motion of plaintiffs and without the objection of defendant.

After trial, the RTC rendered judgment the dispositive portion of which reads:

WHEREFORE, taking all the foregoing into consideration, the Court finds that the preponderance of evidence is in favor of the defendant and against the plaintiffs, hence, orders the DISMISSAL of the above entitled case. No pronouncement as to damages, costs and attorney's fees.

SO ORDERED.[13]

Plaintiffs and defendant appealed the case to the CA.

Plaintiffs-appellants contended that the RTC erred: in upholding the validity of the supposed contract of attorney's fees between Ricardo and defendant-appellant which provided for the payment of attorney's fees in the form of real property because such an agreement is prohibited by Article 1491 of the Civil Code; in limiting its evaluation of the transfer of rights and interests in defendant-appelant's favor only on the basis of whether the deed evidencing said transfer of rights and interests was forged, without regard to the facts and circumstances surrounding its execution; in not finding that defendant-appellant has been fully paid for all the services he had rendered for Ricardo; in not declaring the payment of the subject lot as attorney's fees to be unconscionable based on the guidelines for determining attorney's fees.

On the other hand, defendant-appellant asserted that the RTC erred in refusing to dismiss the complaint for lack of cause of action; and in refusing to award counterclaim in his favor.

On February 24, 2000, the CA rendered its Decision affirming, in toto, the judgment of the RTC. The CA maintained the lower court's ruling that the plaintiffs-appellants failed to present clear and convincing evidence that defendant-appellant defrauded and exerted undue influence on Ricardo in the latter's execution of the deed of Transfer of Rights and Interest and in consequently transferring his ownership of the San Juan lot in his (defendant-appellant's) favor; and that based on the evidence, the San Juan lot may be considered as reasonable attorney's fees for defendant-appellant.

However, the CA did not discuss the issue of whether the contract of attorney's fees between the late Ricardo and defendant-appellant and the consequent transfer of rights and interest in favor of the latter is invalid for being violative of Article 1491 of the Civil Code.

Plaintiffs-appellants (hereinafter petitioners), with the exception of plaintiff-appellant Rosalina Gurrea, who died on June 2, 1999, filed a Motion for Reconsideration, but the CA denied the same in a Resolution issued on August 7, 2000.

Hence, the present petition raising the following issues:

- WHETHER OR NOT, ASSUMING WITHOUT ADMITTING, THAT THE "TRANSFER OF RIGHTS AND INTERESTS" (EXHIBIT E; 1) WAS DULY EXECUTED BY RICARDO GURREA, THE SAME VIOLATES ARTICLE 1491 OF THE NEW CIVIL CODE AND, THEREFORE, NULL AND VOID.

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- WHETHER OR NOT THE SUPPOSED CONTRACT FOR ATTORNEY'S FEES IN THE FORM OF THE "MANIFESTATION" DATED JUNE 24, 1972 (EXHIBIT 5) PROVIDING FOR THE PAYMENT OF ATTORNEY'S FEES OUT OF THE PROPERTIES IN LITIGATION, IS VALID;

- WHETHER OR NOT, ASSUMING THAT THE "MANIFESTATION" AND "TRANSFER OF RIGHTS AND INTERESTS" ARE VALID, AND FURTHER ASSUMING THAT RESPONDENT-ATTORNEY HAS NOT YET BEEN PAID HIS ATTORNEY'S FEES IN SPECIAL PROCEEDINGS NO. 7185, THE PAYMENT OF SAID FEES BY WAY OF THE WHOLE PROPERTY SUBJECT MATTER OF THE INSTANT CASE IS UNCONSCIONABLE OR UNREASONABLE CONSIDERING THE GUIDELINES FOR FIXING ATTORNEY'S FEES;

- WHETHER OR NOT PETITIONERS ARE ENTITLED TO THE CANCELLATION OF RESPONDENT ATTORNEY'S TITLE OVER THE SUBJECT PROPERTY AND THE RECONVEYANCE THEREOF TO THE HEREIN PETITIONERS OR TO THE ESTATE OF THE LATE RICARDO GURREA.

- WHETHER OR NOT PETITIONERS ARE ENTITLED TO THE DAMAGES CLAIMED IN THE ACTION SUBSTANTIATED BY THEIR EVIDENCE.[14]

As to the first issue, petitioners argue on the premise that, under the law, estate proceedings shall be deemed closed and terminated when the court declares it to be so and only after delivery of the remaining estate to the heirs entitled to receive the same. Petitioners contend that no evidence was presented to show that the probate court issued an order declaring Special Proceedings No. 7185 closed and terminated. In addition, when the Transfer of Rights and Interest in favor of respondent was notarized on August 20, 1975, the title over the subject lot was still in the name of Adelina Gurrea and that said title was transferred only in the name of Ricardo on October 7, 1980. On these bases, petitioners conclude that at the time the Transfer of Rights and Interest was notarized, there is no dispute that the subject property still formed part of the estate of Adelina Gurrea and was, therefore, still the subject of litigation. Hence, the transfer of rights and interest over the subject property in favor of Atty. Suplico (respondent) is null and void.

Anent the second issue, petitioners contend that the Manifestation dated June 24, 1972 executed by Ricardo providing for the payment in favor of respondent of a contingent fee of twenty percent (20%) of whatever is due to Ricardo, either real or personal property is invalid because based on jurisprudence, attorney's fees, based on a contingent fee contract, may be paid only out of a certain percentage of the value of the real property in litigation; and that the real property itself may not be given as payment of attorney's fees.

As to the third issue, petitioners assert that even assuming that the above-mentioned Manifestation and Transfer of Rights and Interest are valid and that respondent had not yet been paid his attorney's fees, the subject property is an unreasonable and unconscionable payment for the actual services that respondent had rendered for Ricardo, taking into consideration the guidelines for fixing attorney's fees.

Petitioners did not elaborate on the fourth issue while, in the fifth issue, they submitted to the discretion of the Court their entitlement to damages and attorney's fees, as claimed before the trial court.

On his part, respondent contends that the issue as to whether Special Proceedings No. 7185 was already closed and terminated at the time of execution of the deed of Transfer of Rights and Interest, involves the determination of factual matters and appreciation of pieces of evidence which cannot be raised in a petition for review on certiorari before this Court. Even assuming that petitioners may properly raise a factual issue in the present petition, respondent submits that there is sufficient evidentiary basis for the trial court's conclusion that the Transfer of Rights and Interest was executed and entered into after the termination of Special Proceedings No.

7185. Respondent also contends that based on jurisprudence, the Court has upheld the validity of contingency fee contracts providing for the payment of attorney's fees out of a portion or part of the property subject of litigation; that the subject property is just, reasonable and equitable payment for the services he rendered for the late Ricardo, consisting of the signing of the Project of Partition, filing of an Opposition during the estate proceedings, and negotiating with the other heirs which resulted in Ricardo's recovery of three parcels of land.

The Court finds the petition meritorious.

It is a fundamental rule that the Supreme Court's jurisdiction in a petition for review on certiorari as a mode of appeal under Rule 45 of the Rules of Court, as amended, such as the one at bar, is limited to reviewing only errors of law, not of fact.[15] The rationale of this rule is founded on the fact that the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court.[16]

However, there are recognized exceptions to this rule, to wit:

(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, could justify a different conclusion.[17]

The Court finds the present case falling under the second exception for reasons discussed hereunder.

At the outset, it should be stressed that the question as to whether the deed of Transfer of Rights and Interest was forged was resolved by the CA when it affirmed the ruling of the RTC that herein petitioners failed to present clear, convincing and satisfactory evidence that respondent defrauded Ricardo. The CA also ruled that there is no evidence on record to show that the signature of the late Ricardo on the questioned deed is simulated or false. This matter is not assailed in the present petition.

However, despite having been specifically assigned as an error by petitioners in their appellant's brief filed with the CA, the appellate court failed to rule on the question of whether the subject Transfer of Rights and Interest was executed even before the estate proceedings were closed and terminated.

Anent the first issue, it is necessary to resolve whether the subject property was still the object of litigation at the time the deed of Transfer of Rights and Interest in favor of respondent was executed; and if so, whether the same should be considered null and void for being violative of the provisions of Article 1491 of the Civil Code.

Article 1491(5) of the Civil Code provides:

1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

. . .

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution

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before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

. . . (emphasis supplied)

In its Decision, the RTC made the following disquisition:

[A]ccording to the evidence for the defendant, a Motion for Termination of Proceeding and Discharge of the Executor and Bond dated June 20, 1975 was filed in the case, alleging in paragraphs 3 and 5 thereof, that the executor Angel E. Ordoñez has already turned over to the respective heirs and devisees all their respective shares in accordance with the Project of Partition duly approved by the Court. Thereafter, more than one month from the filing thereof, the Transfer of Rights and Interest was executed on August 20, 1975. Hence, at the time of the execution of the questioned document, it may be concluded that Special Proceedings No. 7185 had been terminated. The property in San Juan is no longer the subject of a litigation and may be alienated by the client to his lawyer as payment of attorney's fees rendered. (emphasis supplied)

It is clear from the above-quoted ruling of the trial court that its sole basis in concluding that Special Proceedings No. 7185 had been terminated and that the subject property is no longer the object of litigation at the time the deed of Transfer of Rights and Interest was executed on August 20, 1975 is the allegation of the executor, Angel E. Ordoñez, in his Motion[18] for Termination of Proceeding and Discharge of the Executor and Bond dated June 20, 1975, that he had already turned over to the respective heirs and devisees all their respective shares in accordance with the project of partition duly approved by the probate court.

The Court finds the trial court's inference to be without sufficient basis. How can the trial court conclude that Special Proceedings No. 7185 had been terminated and the subject property no longer the object of litigation when no evidence was presented to show that when the Transfer of Rights and Interest was executed, the probate court had already issued an order declaring the estate proceedings closed and terminated? A thing is said to be in litigation not only if there is some contest or litigation over it in court, but also from the moment that it becomes subject to the judicial action of the judge.[19] In the present case, there is no proof to show that at the time the deed of Transfer of Rights and Interest was executed, the probate court had issued an order granting the Motion for Termination of Proceeding and Discharge of the Executor and Bond. Since the judge has yet to act on the above-mentioned motion, it follows that the subject property which is the subject matter of the deed of Transfer of Rights and Interest, is still the object of litigation, that is Special Proceedings No. 7185.

Furthermore, we agree with the petitioners' undisputed contention that when the deed of Transfer of Rights and Interest was executed, the title over the subject lot was still in the name of Adelina Gurrea and that it was only on October 7, 1980 that the title was transferred in the name of Ricardo. The rule is that as long as the order for the distribution of the estate has not been complied with, the probate proceedings cannot be deemed closed and terminated.[20] The probate court loses jurisdiction of an estate under administration only after the payment of all the debts and the remaining estate delivered to the heirs entitled to receive the same.[21] In the present case, while the subject lot was assigned as Ricardo's share in the project of partition executed by the heirs of Adelina Gurrea, the title over the subject lot was still in the name of the latter and was not yet conveyed to Ricardo when the Transfer of Rights and Interest was executed. As correctly cited by petitioners, the Court held in Lucero v. Bañaga[22] that:

[t]he term "delivery" or tradition has two aspects: (1) the de jure delivery or the execution of deeds of conveyance and (2) the delivery of the material possession (Florendo vs. Foz, 20 Phil. 388, 393). The usual practice is that, if the land to be delivered is in the name of the decedent, the administrator executes a deed, conveying the land to

the distributee. That deed, together with the project of partition, the order approving it, the letters of administration and the certification as to the payment of the estate, inheritance and realty taxes, is registered in the corresponding Registry of Deeds. Title would then be issued to the distributee. Thereafter, the administrator or executor places him in material possession of the land if the same is in the custody of the former.[23]

It follows that, since at the time of execution of the deed of Transfer of Rights and Interest, the subject property still formed part of the estate of Adelina, and there being no evidence to show that material possession of the property was given to Ricardo, the probate proceedings concerning Adelina's estate cannot be deemed to have been closed and terminated and the subject property still the object of litigation.

Having been established that the subject property was still the object of litigation at the time the subject deed of Transfer of Rights and Interest was executed, the assignment of rights and interest over the subject property in favor of respondent is null and void for being violative of the provisions of Article 1491 of the Civil Code which expressly prohibits lawyers from acquiring property or rights which may be the object of any litigation in which they may take part by virtue of their profession.

Article 1409 of the same Code provides, among others, that contracts which are expressly prohibited or declared void by law are considered inexistent and void from the beginning.

Anent the second issue, the Court has already held that the said property is still the object of litigation at the time the subject Manifestation and Transfer of Rights and Interest were executed and, thus, may not be acquired by respondent pursuant to the provisions of Article 1491 of the Civil Code.

Considering that the subject Transfer of Rights and Interest is null and void, the Court no longer finds it necessary to resolve the third issue.

As to the fourth issue, it follows that respondent's title over the subject property should be cancelled and the property reconveyed to the estate of Ricardo, the same to be distributed to the latter's heirs. This is without prejudice, however, to respondent's right to claim his attorney's fees from the estate of Ricardo, it being undisputed that he rendered legal services for the latter.

Anent the last issue, the Court is not persuaded by petitioners' prayer for the grant of attorney's fees in an amount as the Court may determine. The general rule is that attorney's fees cannot be recovered as part of damages because no premium should be placed on the right to litigate.[24] Article 2208 of the Civil Code provides that in the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

(1) When exemplary damages are awarded;

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

(3) In criminal cases of malicious prosecution against the plaintiff;

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

The Court finds that the present case does not fall under any of the enumerated exceptions. It is settled that even if a claimant is compelled to litigate with third persons or to incur expenses to protect its rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.[25] In the present case, even granting that petitioners were compelled to litigate and incur expenses to protect their interests, attorney's fees may not be awarded in their favor because there is no sufficient showing that respondent acted in gross and evident bad faith in refusing to satisfy their claim, in view of his erroneous belief and judgment that he has lawfully acquired the subject property.

As to petitioners' entitlement to other forms of damages, while the complaint filed by herein petitioners with the trial court contains a general prayer for the grant of other reliefs, the rule is that evidence should be taken of the damages claimed and the court should determine who are the persons entitled to such indemnity.[26] The power of the courts to grant damages and attorney's fees demands factual, legal and equitable justification; its basis cannot be left to speculation or conjecture.[27] In the present case, no allegation, much less, evidence was presented by petitioners to prove that they are entitled to damages.

WHEREFORE, the assailed Decision and Resolution of the Court of Appeals in CA-G.R. No. CV No. 56210 together with the Decision dated July 5, 1996 of the Regional Trial Court of Pasig City, Branch 268 in Civil Case No. 47543 are REVERSED and SET ASIDE. A new judgment is rendered canceling Transfer Certificate of Title No. 24474 in the name of respondent Enrique P. Suplico and reinstating Transfer Certificate of Title No. 24473 in the name of Ricardo Gurrea.

No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago, and Callejo, Sr., JJ., concur.
Panganiban, C.J., No part. former partner of a party's counsel.
Chico-Nazario, J., on official leave

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[1] Penned by Associate Justice Corona Ibay-Somera (now retired) and concurred in by Associate Justices Portia Aliño-Hormachuelos and Elvi John Asuncion.

[2] Penned by Judge Amelia Cotangco-Manalastas.

[3] Penned by Associate Justice Portia Aliño-Hormachuelos and concurred in by Associate Justices Buenaventura J. Guerrero (now retired) and Elvi John S. Asuncion.

[4] Original Records, Vol. I, p. 1.

[5] Id.

[6] CA Rollo, pp. 164-167.

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[7] Id. at 301.

[8] Id. at 311.

[9] Id. at 318.

[10] Id. at 322.

[11] Id. at 348.

[12] Id. at 351.

[13] OR, Vol. III, p. 1117.

[14] Rollo, pp. 25-26.

[15] Siccuan v. People, G.R. No. 133709, April 28, 2005, 457 SCRA 458, 463.

[16] Manila Electric Company v. Benamira, G.R. No. 145271, July 14, 2005, 463 SCRA 331, 347.

[17] Rivera v. Roman, G.R. No. 142402, September 20, 2005, 470 SCRA 276, 287.

[18] The pleading is properly denominated as a Petition for Termination of Proceeding and Discharge of the Executor and Bond, Defendant's Formal Offer of Exhibits, Exhibit "5-D", p. 74.

[19] Valencia v. Cabanting, A.C. Nos. 1302, 1391 and 1543, April 26, 1991, 196 SCRA 302, 307.

[20] Portugal v. Portugal-Beltran, G.R. No. 155555, August 16, 2005, 467 SCRA 184, 197.

[21] Guilas v. Judge of the Court of First Instance of Pampanga, et al., 150 Phil. 138, 144-145.

[22] 158 Phil. 408 (1974).

[23] Id. at p. 414.

[24] Spouses Francisco v. Court of Appeals, 449 Phil. 632, 652 (2003).

[25] Smith Kline Beckman Corporation v. Court of Appeals, 456 Phil. 213, 226 (2003).

[26] Chua v. Court of Appeals, G.R. No. 150793, Nov. 19, 2004, 443 SCRA 259, 273.

[27] Ranola v. Court of Appeals, 379 Phil. 1, 13 (2000).

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