

ROMAN LAQUIAN, PETITIONER, VS. HERMOGENES REYES, JUDGE OF FIRST INSTANCE OF PAMPANGA, AND LEONCIO DABU, RESPONDENTS.

G.R. No. 46084. August 26, 1938

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

In land registration case No. 1715 of the Court of First Instance of Pampanga, brought by Roman Laquian, with the opposition of Leoncio Dabu as to lot No. 3, after the applicant presented his evidence, the oppositor Dabu renounced his right to present his and asked for the dismissal of the application. The court ordered the registration of this lot in the name of the applicant, thus overruling the opposition of Leoncio Dabu. The decision was rendered on September 24, 1937, and notified to the oppositor Leoncio Dabu on the 27th of the same month, and on this same date Dabu filed a motion for new trial on the ground that the decision, as to lot No. 3, is contrary to law. The court denied this motion for new trial on October 18, 1937, and Leoncio Dabu was notified of this resolution on the 25th of the same month. On November 1, 1937 Dabu filed another motion for the reconsideration of the resolution of the court denying the first motion for new trial. On December 3, 1937 the court favorably considered this last motion and, setting aside the decision rendered, ordered that the case be tried anew so that the parties may adduce additional evidence.

It appears from the foregoing that when the court issued its last order granting the new trial and setting aside the decision rendered therein, the latter was already final and it was without jurisdiction to set the same aside. From October 25, 1937, when Leoncio Dabu was notified of the resolution denying his motion for a new trial, until the court issued its order of December 3d of the same year, the thirty days within which the decision could be appealed have already expired, and not having been appealed, the same became final after November 25th following. This period of thirty days was not suspended by the motion of November 1, 1937, for reconsideration of the resolution denying the new trial, because being merely a reiteration of the latter, it is nothing more than a second motion for new trial based upon the same grounds, which, as held in the case of *Aquino vs. Tongco* (61 Phil., 840), does not suspend the prescribed period for appeal.

Wherefore, the court having acted without jurisdiction over the matter in issuing its resolution of December 3, 1937, the same is hereby declared void, with the costs to the applicant. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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