# MARY DE V. FRAUENDORFF, PETITIONER, VS. JUDGE JOSE R. CASTRO, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, QUEZON CITY BRANCH IX, ZODIAC PHARMACEUTICAL CO., INC. & S...

*G.R. No. 51218. July 31, 1981*

Ponente: BARREDO, J.

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**BARREDO, J.:**

Motion for reconsideration of the resolution of May 4, 1981 dismissing the main petition herein.

**I**

The first point raised in petitioner's motion for reconsideration is that Our resolution of May 4, 1981 is violative of Sec. 2(3) of Article 10 of the new Constitution of the Philippines. It is contended that by Our stating in the questioned resolution that "the title of Samtop to the property in question and its right of possession thereof are hereby deemed finally settled", We passed upon the merits of the case, which petitioner contends might yet be raised by her in an appeal. Such a portrayal of Our resolution is inaccurate. We did not pass on the merits of the controversy per se. What We did was merely to sustain the contention of private respondent Samtop that petitioner's motion for reconsideration (Annex E of the petition) of the order of respondent judge of June 8, 1979 (Annex C of the petition was pro-forma, hence, in effect, the judgment therein contained reversing that of Judge Ulpiano Sarmiento of March 31, 1979 (Annex A of the petition) had already become final and executory and consequently it goes even without saying that the recognition in said order of Samtop's rights of ownership and possession of the premises in question are "deemed" finally settled. In other words, We skipped the consideration of the merits and confined Ourselves to the finality of the judgment, which under settled law must stand even at the risk that it might be erroneous.

**II**

The motion for reconsideration also points out that:

> "b) This Honorable Court decided to end the controversy on the merits by a minute resolution in the instant proceedings upon the ground that the alleged claim of private respondents that the order of June 8, 1979 is already final and executory' is in its 'considered view well taken, it appearing that the motion for reconsideration thereof of petitioner should be deemed pro-forma x x x'.
>
> "But it must be noted that the alleged claim of private respondents that the order of June 8, 1979 is already final and executory is significantly not even an issue in the incident at bar, hence, with due respect, petitioner feels that this Honorable Court in ending the controversy in the main case seriously departed from its own pronouncement in Bautista, supra.
>
> "Petitioner, therefore, humbly submits that this Honorable Court's resolution dated May 4, 1981 dismissing the

> petition for certiorari and deciding at the same time the main case should have been rendered en banc as mandated by the Constitution, and not merely by the Second Division. Accordingly, petitioner submits likewise that this motion for reconsideration should be decided en banc.
>
> "In making the foregoing insistent but humble submission, petitioner is not unaware of the pronouncements of this Honorable Court in Lina vs. Purisima, 82 SCRA 349, and Velasco vs. Court of Appeals, 95 SCRA 616, regarding the inherent power of this Honorable Court to -

'xxx do substantial justice in every case before it are inherent, plenary and imperative, hence extensive to all instances where it appears that final resolution of the controversy before it is feasible without denying any of the parties involved full opportunity to be heard. Stated differently if in any case elevated to this Court for the correction of any supposed procedural error of any lower court, it should be found that indeed there has been a mistake, and it further appears that all the facts needed for a complete determination of the whole controversy are already before the Court undisputed or uncontroverted by the parties, the Supreme Court may at its option, whenever it feels the best interests of justice would be thereby subserved, dispense with the usual procedure of remanding the case to the court of origin for its own judgment, and instead, the Supreme Court may already resolve the pertinent determinative issues and render the final judgment on the merits. The obvious reason for such an extension in the exercise of the Court's pervasive power is that any other procedure would amount to an unnecessary rigmarole which can only augment the expenses, efforts and anxieties of the parties and uselessly delay the administration of justice, no other result for all concerned being anyway perceptible.'

nay, even its power to suspend its own rules to exempt a case if warranted under the peculiar circumstances of the case.

> "But the doctrinal precedent in Lina and Velasco, supra, is inapplicable to the instant case, because, petitioner respectfully submits, the parties therein jointly manifested or consented to submit the main case for decision by this Honorable Court on the merits, although the case pending before this Honorable Court was merely an incident in the main case.
>
> "Moreover, petitioner feels that said pronounce-ments in Lina and Velasco, supra, cannot apply to the instant case, because not only is the issue of whether or not the order of June 8, 1979 of respondent Judge, which reversed the decision penned by then presiding Judge Ulpiano Sarmiento prior to the latter's retirement, had become final and executory, not in issue in the instant incidental case but also because the parties never jointly or separately contemplated nor intended to submit that issue before this Honorable Court. Nowhere did respondents at any time plead for such course of action in the instant case except in their Memorandum to which petitioner vigorously objected in her reply memorandum. Nor did the petitioner. The records will bear petitioner on this.
>
> "Indeed, respondents could never raise that as an issue in this incidental proceedings because respondent Zodiac which filed the motion to declare judgment final and executory before the lower court had withdrawn the same as a procedural maneuver in order to pave the way for the respondent court to resolve the petitioner's motion for reconsideration and motion to inhibit which respondents had insistently pressed for submission and resolution simultaneously against petitioner's plea that the motion to inhibit be resolved first before the motion for reconsideration.
>
> "Because of the foregoing humble submission that the foregoing resolution of this Honorable Court suffers from constitutional infirmity, insofar as it reverses or modifies in effect the doctrine in Bautista, supra, petitioner further submits that the said resolution should have been issued en banc. A fortiori, this motion for reconsideration challenging said resolution should be resolved en banc in accordance with Section 2(3), Art. 10 of the Constitution." (Pp. 3-6, Motion, pp. 360-363, Record)

Counsel's attention is sternly admonished that the above-quoted portion of their motion baselessly attributes


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inaccuracies of fact to this Court, to the point that they suggest that the resolution they are impugning was prepared carelessly and without due attention to the matters on record.

It is not true for counsel to even attempt to accuse the Court of passing over an issue not raised in the pleadings. It must be recalled, in this connection, that by Our resolution of October 5, 1979, the Court resolved to consider the comment of respondents of September 17, 1979 as their ANSWERS (hence, they are pleadings even in the strict legal sense). On page 5 of said ANSWER, the private respondents specifically raised the point that petitioner's motion for reconsideration was pro-forma thus:

> "(15) That on July 6, 1979, Petitioner, instead of appealing to the proper Appellate Court from the disputed Order of June 8, 1979, filed a Motion for Reconsideration, which motion by the way is pro-forma, (a) having failed to point out specific portions of the Order of June 8, 1979 as supposedly contrary to the facts and the law, and (b) being merely a reiteration of what Petitioner had asserted in her opposition (Annex '3' hereof), to the Motions for Reconsideration filed by Private Respondents (Annexes '1' and '2' hereof)." (Page 5 of Comment.)

As admitted by counsel, the same point is reiterated in private respondents' memorandum of October 23, 1979 in the following words:

> "(37) Differently stated, when the ground of a Motion for Reconsideration attacks how the Decision was rendered but does not attack the merits of the Decision, or fails to point out the law and the jurisprudence which were supposedly violated or not applied by the Judicial Officer, we submit that the said Motion is pro-forma and will not toll the running of the period within which an appeal must be perfected." (Page 15, Par. 37, Memorandum for Private Respondents.)

While it is true that at the hearing held on August 8, 1979 in the trial court, respondent Zodiac, for reasons of its own, withdrew its motion wherein it attacked petitioner's motion as pro-forma, it must be noted that Samtop had its own opposition (Annex H of the petition herein) where the same issue was raised; and Samtop who was represented by another counsel does not appear to have joined Zodiac's withdrawal.

## III

Counsel argues that:

> "It is significant to note that this Honorable Court decided to give due course to the petition after it had considered the comments of the respondents. It is hard to fathom that after the first step had been surmounted, this Honorable Court would after having given due course to the petition dismiss the petition summarily based on the same comments.
>
> "Memoranda having been submitted by the parties, petitioner feels that the case should have been subjected to further study and then decided in an extended decision.
>
> "Petitioner humbly believes that this has not been true in this case. Obviously, the minute resolution contains inaccurate statements giving the impression that this Honorable Court failed to notice that the petition had already been given due course. More, it failed to consider that all the respondents had been impleaded in the case upon its own order earlier issued by it ordering the petitioner to amend the page one (1) of the petition, so as to implead the private respondents which order had been complied with. Thus, petitioner respectfully submits that it was not correct for this Honorable Court to state as follows:

'Attending to the letter of one Angela T. Samson asking for the early resolution of this case, and acting on the petition herein, the comments thereon of respondent judge himself, as well as the Zodiac Pharmaceutical Co. Inc. and Samtop Investment & Development Corporation, the last two having filed their respective comments even

without having been impleaded as parties, which they ought to have been made, from the outset, hence the Court may consider their comments herein as in the nature of voluntary appearances, thereby enabling the Court to acquire jurisdiction over their persons, as well as the reply filed by petitioner, the Court Resolved to DISMISS the petition, for lack of merit, x x x'

> because on October 22, 1979, this Honorable Court passed the following resolution:

'Considering the pleadings filed in this case, the Court Resolved to NOTE: x x x (c) the Compliance dated October 15, 1979 of counsel for petitioner with the resolution of October 5, 1979 which, among other things, required amendment of page one of petition by impleading as respondents Zodiac Pharmaceutical Co. Inc. and Samtop Investment and Development Corp., the defendants in Civil Case Q-20678.'

> "Neither was it accurate for this Honorable Court to state that the petition lacked merit -

'x x x it being obvious that the purported basis of the motion for inhibition against respondent judge, which indirectly, at least, affects his integrity, has not and cannot seemingly be supported by any shred of substantial evidence, what with the adamant refusal of Atty. Federico Agcaoili to be examined in court under oath regarding his imputation to Atty. Consulta of certain statements indirectly, if not directly, alleging money consideration as being needed by petitioner in order to view their motion for reconsideration x x x' (underscoring ours)

> because undisputed is the fact that during the hearing of the motion to inhibit on June 14, 1979, Atty. Ramon Academia (not Atty. Consulta) counsel of respondent Zodiac who told petitioner's counsel that: 'If you do not have P200,000.00 do not expect to win in our Motion for Reconsideration,' expressed his conformity to the motion to inhibit, saying: 'If your Honor please, I came to Court with a prepared Manifestation more in the nature of a conformity to the motion filed by the plaintiff to inhibit. x x x' (T.S.N. June 14, 1979, p. 2, Annex 2 of Respondent Judge's Comment). The foregoing admission made by a lawyer in a prepared Manifestation more than suffices to convince the respondent Judge to inhibit himself, for no lawyer in his right mind after deliberating over the matter (because he had a prepared manifestation) would conform to the motion to inhibit imputing the said statements to him, if the same were not true." (Pp. 7-10, Motion for Reconsideration En Banc, pp. 364-367, Record.)

Again, counsel must be reminded that it is not a simple matter to accuse this Court of practically not knowing what it is doing. To say, for instance, that "(O)bviously, the minute resolution contains inaccurate statements giving the impression that this Court failed to notice that the petition had already been given due course" is less than fair to the efforts exerted by the Court to review all the pertinent portions of the record. Counsel ought to know that even if a petition has already been given due course, it is neither without power or authority, nor even improper for it to dispose of the case in a minute resolution, in instances wherein its discretion dictates a reasoned out and full-blown opinion is unnecessary.

Again, for counsel to say that "it is not correct for this Honorable Court to state as follows:

'Attending to the letter of one Angela T. Samson asking for the early resolution of this case, and acting on the petition herein, the comments thereon of respondent judge himself, as well as the Zodiac Pharmaceutical Co. Inc. and Samtop Investment & Development Corporation, the last two having filed their respective comments even without having been impleaded as parties, which they ought to have been made, from the outset, hence the Court may consider their comments herein as in the nature of voluntary appearances, thereby enabling the Court to acquire jurisdiction over their persons, as well as the reply filed by petitioner, the Court Resolved to DISMISS the petition, for lack of merit, x x x" (Pp. 8-9, Motion, pp. 365-366, Record)

The record shows that the sole original respondent in this case was Judge Jose R. Castro. After We issued the resolution of August 20, 1979 requiring comment, on August 28, 1979, private respondents Zodiac and Samtop


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filed a joint motion for extension to file their comment, even when they were not yet named respondents which petitioner opposed on September 4, 1979 precisely because the sole respondent was the judge. Nonetheless, in fact, said respondents filed their comment on September 24, 1979 (although dated September 17, 1979), and it was only on October 5, 1979 that We required them to be impleaded, hence there is no inaccuracy in Our statement in the resolution of May 4, 1981 that in a sense said respondents submitted voluntarily to the jurisdiction of this Court.

## IV

Counsel further criticizes the Court because, according to them "(n)either was it accurate for this Honorable Court to state that the petition lacked merit -

'x x x it being obvious that the purported basis of the motion for inhibition against respondent judge, which indirectly, at least affects his integrity, has not and cannot seemingly be supported by any shred of substantial evidence, what with the adamant refusal of Atty. Federico Agcaoili to be examined in court under oath regarding his imputation to Atty. Consulta of certain statements indirectly, if not directly, alleging money consideration as being needed by petitioner in order to view their motion for reconsideration x x x'" (underscoring ours) (P. 9, Motion, p. 366, Record)

The Court does not indulge in any debate with counsel as to the correctness or incorrectness of its holding that a petition lacks merit. In many instances it does not even state the reason for such a conclusion and all practicing lawyers are aware of this. In this case at bar, the Court took pains to state why it believes the petition has no merit insofar as the move to inhibit respondent judge is concerned. And suffice it now to add that Atty. Federico Agcaoili has nobody else to blame for his adamant refusal to be put on the witness stand in order for the trial court to have proof in the record, with the requisite cross examination of the accuser, of the charge that Atty. Consulta had made statements derogatory to the integrity of the trial judge. It must be emphasized in this connection, that the contention of counsel that the statement of Atty. Academia during the hearing before the trial court that he had gone thereat with a prepared manifestation withdrawing his opposition to the motion for inhibition is indicative of the truth of counsel Agcaoili's charge is a veritable non-sequitur, particularly, because Atty. Academia was pre-cisely demanding legally admissible evidence to such effect by insisting that Atty. Agcaoili take the witness stand.

Withal, there are considerations which are taken into account but are not stated in the pertinent resolution as decision. It is not incumbent upon the Court to discuss every pro and con in the pleadings and memoranda of the parties.

As regards the instant motion for reconsideration, the Court, after mature deliberation thereon in the light of the opposition thereto of private respondents, the reply of petitioner and the rejoinder to said reply as well as all relevant matters extant in the record, holds that the points raised in said motion have already been duly taken up and considered in the formulation of the resolution of May 4, 1981 and there is nothing new for the Court to pass upon, except to reiterate, at this point that counsel for petitioner should in the future be less inaccurate in his indictments against the Court. By and large and considering that counsel Agcaoili's broadsides may be deemed as manifestation of excessive zeal, and, anyway, this is the first occasion he has committed such a fault, the Court is inclined to consider reminders and admonitions above as sufficient.

Accordingly, the motion for reconsideration is DENIED.

Concepcion, Jr., Fernandez, Guerrero, and De Castro, JJ., concur.
Aquino, J., no part.


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Abad Santos, J., on official leave.
Fernandez and Guerrero, JJ., designated to sit with the Second Division.

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