

GENALYN D. YOUNG, PETITIONER, VS. SPOUSES MANUEL SY AND VICTORIA SY, RESPONDENTS.

G.R. Nos. 157745 & 157955. September 26, 2006

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-157745/>

AUSTRIA-MARTINEZ, J.:

The Cases

Before this Court are two Petitions for Review on Certiorari under Rule 45 of the Rules of Court. Since the two cases are interdependent and originate from the same proceeding, and for the sake of expediency, they have been consolidated by this Court.

The Petition under G.R. No. 157955 (Re: Supplemental Complaint) challenges the Decision dated November 18, 2002[1] of the Court of Appeals (CA) in CA-G.R. SP No. 65629 affirming the Orders dated December 28, 2000 and April 6, 2001 of the Regional Trial Court, San Pablo City, Branch 32, in Civil Case No. SP-5703 (2000) (RTC) which denied the admission of petitioner's Supplemental Complaint; and the CA Resolution dated April 2, 2003[2] which denied the petitioner's Motion for Reconsideration.

The Petition under G.R. No. 157745 (Re: Non-Suit) questions the Decision dated November 29, 2002[3] of the CA in CA-G.R. SP No. 70610 which affirmed the Orders of the RTC dated August 30, 2001, January 4, 2002 and January 16, 2002 (RTC Orders), all of which in effect dismissed the Complaint for non-suit; and the CA Resolution dated March 21, 2003[4] which denied the petitioner's Motion for Reconsideration.

Both petitions originated from a Complaint for Nullification of Second Supplemental Extra-judicial Settlement, Mortgage, Foreclosure Sale and Tax Declaration filed by the petitioner on May 2, 2000 with the RTC. Genalyn D. Young (petitioner), in her Complaint, alleged that the extra-judicial partition executed by her natural mother, Lilia Dy Young which adjudicated an unregistered parcel of land solely in favor of the latter, is unenforceable, since at the time of the execution, she (petitioner) was only 15 years old and no court approval had been procured; that the partition had been registered with the Register of Deeds; that Lilia Dy obtained a loan from spouses Manuel Sy and Victoria Sy (respondents) and mortgaged the subject property; that the property was foreclosed and sold to the highest bidder, respondent Manuel Sy; that a Certificate of Sale for this purpose had been registered with the Register of Deeds; and that, thereafter, respondents obtained in their name a tax declaration over the property in question.

The Antecedents

G.R. No. 157955 (Re: Supplemental Complaint)

On July 20, 2000, the petitioner filed with the RTC a Motion to Admit Supplemental Complaint, attaching the Supplemental Complaint wherein petitioner invoked her right, as co-owner, to exercise the legal redemption. The RTC denied the Motion in an Order dated December 28, 2000. Petitioner, on July 16, 2001, filed a Petition for

Certiorari and Mandamus under Rule 65 of the Rules of Court, docketed as CA- G.R. SP No. 65629, and raised the following grounds:

THE HONORABLE RESPONDENT COURT ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN ISSUING THE ORDERS DATED 28 DECEMBER 2000 AND 06 APRIL 2001 SINCE:

A.

THE RELIEFS IN THE SUPPLEMENTAL COMPLAINT MERELY DEVELOP OR EXTEND THE ORIGINAL CAUSES OF ACTION. PLAINTIFF'S CAUSE OF ACTION FOR LEGAL REDEMPTION ARISES DIRECTLY FROM AND IS A NATURAL EXTENSION OR CONSEQUENCE OF HER RIGHTS AS CO-OWNER OF THE PROPERTY SUBJECT OF THE CASE.

B.

THE SUPERVENING EVENT WHICH IS THE CONSOLIDATION OF TITLE TO THE SUBJECT PROPERTY IN THE NAME OF MANUEL SY, OCCURRED AFTER 21 JUNE 2000; SUCH DATE IS PLAINLY SUBSEQUENT TO THE FILING OF THE COMPLAINT ON 02 MAY 2000.[5]

On November 18, 2002, the CA promulgated its Decision denying the Petition for Certiorari and Mandamus and held that the cause of action of the petitioner in the Supplemental Complaint is entirely different from the original complaint; that the Supplemental Complaint did not merely supply its deficiencies; and that, at any rate, in the event the trial court issues an adverse ruling, the petitioner can still appeal the same, hence, the petition under Rule 65 is not proper.

Hence, the present Petition for Review on Certiorari under Rule 45, raising the following issues:

A.

WHETHER OR NOT THE RTC ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LOSS OF JURISDICTION IN ISSUING THE ORDERS DATED 28 DECEMBER 2000 AND 06 APRIL 2001.

1.

WHETHER OR NOT THE RELIEFS IN THE SUPPLEMENTAL COMPLAINT MERELY DEVELOP OR EXTEND THE ORIGINAL CAUSES OF ACTION.

2.

WHETHER OR NOT THE SUPERVENING EVENT WHICH IS THE CONSOLIDATION OF TITLE TO THE SUBJECT PROPERTY IN THE NAME OF MANUEL SY, OCCURRED AFTER 21 JUNE 2000 OR SUBSEQUENT TO THE FILING OF THE COMPLAINT ON 02 MAY 2000.

B.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY THE RTC AND THAT THERE WAS NO NEED TO FILE A "PETITION" TO EXERCISE THE RIGHT OF LEGAL REDEMPTION.

C.

WHETHER OR NOT THE INSTANT PETITION IS MOOT AND ACADEMIC.

D.

WHETHER OR NOT PETITIONER COMMITTED FORUM-SHOPPING.[6]

G.R. No. 157745 (Re: Non-Suit)

I. Appeal to the CA

While the Petition for Certiorari and Mandamus (re: Supplemental Complaint) was pending in the CA, trial in the RTC continued. On August 29, 2001, a day before the hearing slated for August 30, 2001, the petitioner filed a Motion to Cancel Hearing, alleging that she was indisposed. On the day of the hearing, respondents, through counsel, objected to the postponement and moved for the dismissal of the case for non-suit. The RTC sustained the objection and issued the assailed August 30, 2001 Order dismissing the Complaint. This Order reads in full:

ORDER

Atty. Raul S. Sison and his client arrived on time. When the case was called for hearing, the Court found attached to the records a last minute Motion to Cancel Hearing from Atty. Perpetuo M. Lotilla, Jr. The Court invited the attention of Atty. Sison on the said motion. Atty. Sison vehemently objected to the postponement on the following grounds:

- 1) the motion is in violation of the three-day notice rule;
- 2) the ground stated in the motion is too shallow to be appreciated because it merely states that a witness is indisposed without stating the indisposition and there is no Medical Certificate attached to the motion;
- 3) the instant motion for postponement is one of the several postponements filed by Atty. Lotilla and this is confirmed by the records of this case showing that last minute postponements and other postponements were filed by Atty. Lotilla;
- 4) that damages are being suffered by defendants in paying the legal services of their counsel and that defendants are unduly deprived of the possession and enjoyment of the subject property.

The Court is constrained to sustain the objection to the Motion for Postponement by Atty. Sison. The Court has also been quite liberal with the Motions for Postponement filed by Atty. Lotilla by granting the same. The Court holds that somehow the practice of filing several postponements must be discouraged.

Atty. Sison therefore moved for the dismissal of the case for non-suit. The Court finds merit on the Motion to Dismiss.

WHEREFORE, the Motion to Dismiss is granted and this case is ordered DISMISSED without costs.

SO ORDERED.[7]

On January 4, 2002, the RTC denied the petitioner's Motion for Reconsideration. The dispositive portion of this Order states:

WHEREFORE, the Motion for Reconsideration is DENIED. The resolution on the pending incident of execution pendente lite is now considered moot and academic.[8]

On January 16, 2002, the RTC issued an Order correcting the January 4, 2002 Order due to a typographical error. This Order reads in full:

ORDER

Finding merit on the Motion, the same is granted. The Court is sure that only typographical error was committed.

The dispositive portion of the Order should therefore read as follows:

"WHEREFORE, the Motion for Reconsideration is DENIED. The resolution on the pending incident of Motion for Writ of Possession, pendente lite, is now considered moot and academic.

SO ORDERED.[9]

On January 31, 2002, the petitioner filed a Notice of Appeal questioning the foregoing RTC Orders. The case was eventually docketed as C.A.-G.R. CV No. 74045. In said appeal, the petitioner assigned the following errors:

A

THE TRIAL COURT GRAVELY ERRED IN ISSUING THE ORDERS DATED 30 AUGUST 2001, 04 JANUARY 2002 AND 16 JANUARY 2002, SINCE THERE WAS NO FACTUAL OR LEGAL BASIS TO DISMISS THE COMPLAINT FOR NON-SUIT.

B.

THE TRIAL COURT GRAVELY ERRED IN NOT HOLDING THAT PLAINTIFF-APPELLANT HAD A JUST AND VALID GROUND TO MOVE FOR THE CANCELLATION OF THE HEARING SET ON 30 AUGUST 2001.[10]

The CA rendered a Decision dated March 30, 2005[11] in favor of the petitioner, reversing and setting aside the RTC Orders, the dispositive portion of this Decision reads:

WHEREFORE, premises considered, the Orders, dated August 30, 2001, January 4, 2002 and January 16, 2002, issued by Branch 32 of the Regional Trial Court of San Pablo City are hereby REVERSED and SET ASIDE. The record/case is hereby remanded to the court of origin for further proceedings.

SO ORDERED.[12]

The respondents filed their Motion for Reconsideration, and based on the records before the Court, this case is still pending in the CA.

II. Petition for Certiorari filed with the CA

On top of the foregoing appeal, the petitioner, four months after filing her Notice of Appeal to the CA, or on May 28, 2002, filed with the CA a Petition for Certiorari under Rule 65, docketed as CA-G.R. SP No. 70610 to annul the same RTC Orders that comprise the subject matter of the ordinary appeal. Predictably, the petitioner raised essentially the same issues:

THE HONORABLE RESPONDENT COURT ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LOSS OF JURISDICTION IN ISSUING THE ORDERS DATED AUGUST 30, 2001, JANUARY 4, 2002, AND JANUARY 16, 2002, SINCE:

A.

THERE WAS NO FACTUAL OR LEGAL BASIS FOR DISMISSAL OF THE COMPLAINT ON THE GROUNDS OF NON-SUIT;

B.

PETITIONER HAD A JUST AND VALID GROUND TO MOVE FOR THE CANCELLATION OF THE HEARING SET ON AUGUST 30, 2001.[13]

On November 29, 2002, ahead of the Decision dated March 30, 2005 rendered in the appealed case, the CA denied[14] the Petition for Certiorari and held that the dismissal of the case by the RTC on the ground of non prosecutur has the effect of an adjudication upon the merits; that an order of dismissal, whether right or wrong, is

a final order that may constitute an error of judgment correctible by ordinary appeal and not by certiorari; that the petitioner actually chose the mode of ordinary appeal by filing a Notice of Appeal on January 31, 2000; and that since the remedy of appeal was available, then the petition for certiorari, being an extraordinary remedy, must fail.

Hence, the present Petition for Review under Rule 45, with the following issues that are likewise similar to the appealed case in the CA:

A.

WHETHER OR NOT THE REGIONAL TRIAL COURT ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LOSS OF JURISDICTION IN ISSUING THE ORDERS DATED AUGUST 30, 2001, JANUARY 4, 2002, AND JANUARY 16, 2002, DISMISSING THE COMPLAINT.

1.

WHETHER OR NOT THERE WAS FACTUAL OR LEGAL BASIS FOR DISMISSAL OF THE COMPLAINT ON THE GROUNDS OF NON- SUIT.

2.

WHETHER OR NOT PETITIONER HAD A JUST AND VALID GROUND TO MOVE FOR THE CANCELLATION OF THE HEARING SET ON AUGUST 30, 2001.

B.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY THE RTC AND THAT ORDINARY APPEAL IS PETITIONER'S REMEDY FROM THE DISMISSAL OF THE COMPLAINT BY THE RTC.[15]

The Ruling of the Court

The Petition (re: Supplemental Complaint) is meritorious; but the Petition (re: Non-Suit) must fail.

On the denial of the Motion to Admit Supplemental Complaint:

The courts a quo held that the Supplemental Complaint constituted a substantial amendment of the original complaint; that the relief prayed for in the former is inconsistent with the latter; and that the causes of action of both are likewise different. This is incorrect.

Section 6, Rule 10 of the Revised Rules of Court provides:

SECTION 6. Supplemental Pleadings. - Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) days from notice of the order admitting the supplemental pleading.

As its very name denotes, a supplemental pleading only serves to bolster or add something to the primary pleading. A supplement exists side by side with the original. It does not replace that which it supplements.[16] Moreover, a supplemental pleading assumes that the original pleading is to stand and that the issues joined with the original pleading remained an issue to be tried in the action.[17] It is but a continuation of the complaint. Its usual office is to set up new facts which justify, enlarge or change the kind of relief with respect to the same subject matter as the controversy referred to in the original complaint.[18]

The purpose of the supplemental pleading is to bring into the records new facts which will enlarge or change the

kind of relief to which the plaintiff is entitled; hence, any supplemental facts which further develop the original right of action, or extend to vary the relief, are available by way of supplemental complaint even though they themselves constitute a right of action.[19]

In *Leobrera v. Court of Appeals*,[20] the Court ruled that when the cause of action stated in the supplemental complaint is different from the causes of action mentioned in the original complaint, the court should not admit the supplemental complaint; the parties may file supplemental pleadings only to supply deficiencies in aid of an original pleading, but not to introduce new and independent causes of action. However, in *Planters Development Bank v. LZK Holdings and Development Co.*,[21] the Court held that a broad definition of causes of action should be applied: while a matter stated in a supplemental complaint should have some relation to the cause of action set forth in the original pleading, the fact that the supplemental pleading technically states a new cause of action should not be a bar to its allowance but only a factor to be considered by the court in the exercise of its discretion; and of course, a broad definition of "cause of action" should be applied here as elsewhere.[22]

In this case, the consolidation of title over the subject property in the name of respondent Manuel Sy and the issue as to whether it precluded petitioner as alleged co-owner from exercising the right of legal redemption, are new matters that occurred after the filing of the original complaint. The relief prayed for in the Supplemental Complaint, which is the exercise of the right of legal redemption accorded to co-owners of property, is germane to and intertwined with the cause of action in the Complaint for the nullification of the "Second Supplemental to the Extrajudicial Partition" on the ground that it lacked the approval of a guardianship court.

The petitioner's right to redeem the property is dependent on the nullification of the partition which is the subject of the original complaint. Unless the partition is nullified or declared without any force or effect, the petitioner will not be considered a co-owner of the property and, consequently, she will be unable to exercise any right of legal redemption under Article 1620[23] of the Civil Code granted to co-owners of property.

The right of legal redemption as co-owner is conferred by law and is merely a natural consequence of co-ownership. Hence, the petitioner's cause of action for legal redemption as embodied in her Supplemental Complaint stems directly from and is an extension of her rights as co-owner of the property subject of the Complaint.

Furthermore, the evidence required to prove petitioner's right of legal redemption in the Supplemental Complaint will be exactly the same evidence required to prove the nullification of the partition in the Complaint.

If a separate action is filed for the subject covered by the Supplemental Complaint, there will be multiplicity of suits. Should a separate complaint be filed before the nullification of the partition, the same would be dismissed for being premature pending the resolution of the Complaint for nullification.

After all, the respondents have the right to file a supplemental answer to the Supplemental Complaint, conformably with Section 7, Rule 11 of the Rules of Court which reads:

SEC. 7. Answer to supplemental complaint. - A supplemental complaint may be answered within ten (10) days from notice of the order admitting the same, unless a different period is fixed by the court. The answer to the complaint shall serve as the answer to the supplemental complaint if no new or supplemental answer is filed.

In affirming the RTC's denial of the admission of the Supplemental Complaint, the CA rationalized that "[i]n the event that the lower court rules in favor of petitioner, then there is no need for her to file a petition to exercise the right of redemption. On the other hand, should the trial court issue[] an adverse ruling then petitioner can still appeal the same. The petition for certiorari is therefore not proper." [24]

This, too, is incorrect.

As the petitioner correctly pointed out, even if the trial court decides in her favor, the redemption period would have lapsed and would not form a part of the decision since it was not prayed for, much less alleged in the original complaint. In such a case, the respondents could oppose the exercise of the right to redeem since it would not have been included in the decision over the original complaint. And should the trial court issue an adverse ruling, the petitioner can only appeal what is included in the ruling which is limited to the denial of the prayer for the nullification of the partition. Naturally, such a decision would not concern any right of redemption.

Besides, as in *Planters Development Bank*,^[25] the admission of the petitioner's Supplemental Complaint will better serve the ends of justice. The Rules of Court were designed to facilitate the administration of justice to the rival claims of the parties in a just, speedy and inexpensive manner.

Thus, the courts a quo erred in denying the admission of petitioner's Supplemental Complaint and the Petition (G.R. No. 157955) should be granted.

On the alleged Forum Shopping:

This Court is now concerned with the question of whether the petitioner has engaged in forum shopping in appealing the RTC Orders which dismissed her complaint for non-suit and in filing a Petition for Certiorari under Rule 65 with the CA involving the same RTC Orders.

Forum shopping consists of filing multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.^[26]

There is forum shopping where there exist: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful would amount to *res judicata*.^[27]

Ineluctably, the petitioner, by filing an ordinary appeal and a petition for certiorari with the CA, engaged in forum shopping. When the petitioner commenced the appeal, only four months had elapsed prior to her filing with the CA the Petition for Certiorari under Rule 65 and which eventually came up to this Court by way of the instant Petition (re: Non-Suit). The elements of *litis pendentia* are present between the two suits. As the CA, through its Thirteenth Division, correctly noted, both suits are founded on exactly the same facts^[28] and refer to the same subject matter-the RTC Orders which dismissed Civil Case No. SP-5703 (2000) for failure to prosecute. In both cases, the petitioner is seeking the reversal of the RTC orders. The parties, the rights asserted, the issues professed, and the reliefs prayed for, are all the same. It is evident that the judgment of one forum may amount to *res judicata* in the other.

But it is the proposition of the petitioner that between these two cases, the one that is "proper" is the petition for certiorari filed with the CA, since the RTC, according to her, acted with grave abuse of discretion; and that her appeal in the CA "has proven to be not a speedy remedy" and had only been instituted as a "precautionary measure." As proof of the averment that the appeal was not speedy enough, she points out the fact that while the CA had just promulgated a Decision on March 30, 2005 with respect to the appealed case, that case, however, is still pending to this day in the CA by virtue of a motion for reconsideration recently filed by the respondents, whereas, in the proceedings that led to the present Petition (re: Non-Suit), the CA had rendered a Decision dated November 29, 2000 - over four years ahead of its counterpart. From these premises, she proceeds to cite jurisprudence invoking the exceptional instances where a party may directly resort to the extraordinary remedy of certiorari, because the appeal, in those cases, is not speedy enough.^[29]

This is completely unacceptable.

The Court begins with the unassailable premise that the RTC orders dismissing the case for failure to prosecute are final orders, because such orders of dismissal operate as a judgment on the merits.[30] This principle is now an express provision in Section 3, Rule 17 of the Rules of Court, to wit:

Section 3. Dismissal due to fault of plaintiff. - If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (emphasis supplied)

It is firmly established, and with very few exceptions, that the remedy against such final order is appeal and not certiorari.[31]

The general rule is that a writ of certiorari will not issue where the remedy of appeal is available to the aggrieved party. The remedies of appeal in the ordinary course of law and that of certiorari under Rule 65 are mutually exclusive and not alternative or cumulative.[32] Hence, the special civil action of certiorari under Rule 65 cannot be a substitute for an appeal where the latter remedy is available.

While indeed there are exceptions to the foregoing rule, and assuming further that the case of the petitioner falls under any of those exceptions which allows her to elect Rule 65, the jurisprudence which she calls upon does not sanction the successive or cumulative filing of both an appeal and a special civil action of certiorari. Quite the opposite, these cases set down the exceptional circumstances where certiorari can be directly invoked in lieu of appeal.

The remedies of appeal and certiorari under Rule 65 are mutually exclusive and not alternative or cumulative.[33] This is a firm judicial policy. The petitioner cannot hedge her case by wagering two or more appeals, and, in the event that the ordinary appeal lags significantly behind the others, she cannot post facto validate this circumstance as a demonstration that the ordinary appeal had not been speedy or adequate enough, in order to justify the recourse to Rule 65. This practice, if adopted, would sanction the filing of multiple suits in multiple fora, where each one, as the petitioner couches it, becomes a "precautionary measure" for the rest, thereby increasing the chances of a favorable decision. This is the very evil that the proscription on forum shopping seeks to put right. In *Guaranteed Hotels, Inc. v. Baltao*,[34] the Court stated that the grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached. To avoid the resultant confusion, the Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of the case.[35]

Thus, the CA correctly dismissed the petition for certiorari and the petition for review (G.R. No. 157745) filed with this Court must be denied for lack of merit.

WHEREFORE, the Petition for Review in G.R. No. 157745 is DENIED for lack of merit.

The Petition for Review in G.R. No. 157955 is GRANTED. The Decisions and Resolutions of the Court of Appeals in CA-G.R. SP No. 65629 are REVERSED AND SET ASIDE. The Regional Trial Court, San Pablo City, Branch 32, is DIRECTED to ADMIT the petitioner's Supplemental Complaint dated July 20, 2000.

No costs.

SO ORDERED.

Panganiban, C. J. (Chairperson), Ynares-Santiago, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Bernardo P. Abesamis (retired) and Edgardo F. Sundiam concurring.

[2] Id.

[3] Penned by Associate Justice Sergio L. Pestaño (retired), with Acting Presiding Justice Cancio C. Garcia (now Associate Justice of the Supreme Court) and Associate Justice Eloy R. Bello, Jr. (retired) concurring.

[4] Id.

[5] CA rollo, CA-G.R. SP No. 65629, p. 157.

[6] Rollo, pp. 386-387. The issue as to whether the petitioner engaged in forum shopping refers to two cases covering the same subject (Re: Non-Suit), namely, CA-G.R. CV No. 74075 and CA-G.R. SP No. 70610 which will be discussed forthwith.

[7] Records, pp. 308-309.

[8] Id. at 393.

[9] Id. at 397.

[10] Rollo, G.R. No. 157745, p. 343.

[11] Penned by Associate Justice Edgardo F. Sundiam, with Associate Justices Renato C. Dacudao and Japar B. Dimaampao concurring.

[12] Rollo, G.R. No. 157745, pp. 346-347.

[13] Rollo, G.R. No. 157745, p. 140.

[14] Penned by Associate Justice Sergio L. Pestaño (retired), with Acting Presiding Justice Cancio C. Garcia (now Associate Justice of the Supreme Court) and Associate Justice Eloy R. Bello, Jr. (retired) concurring.

[15] Rollo, G.R. No. 157955, pp. 496-497.

[16] *Planters Development Bank v. LZK Holdings and Development Co.*, G.R. No. 153777, April 15, 2005, 456 SCRA 366, 379; *Aznar III v. Bernad*, G.R. No. L-81190, 9 May 1988, 161 SCRA 276, 281-282.

[17] *Planters Development Bank* case, *supra*; *Delbros Hotel Corporation v. Intermediate Appellate Court*, G.R. No. L-72566, April 12, 1988, 159 SCRA 533, 543.

[18] *Planters Development Bank* case, *supra*.

[19] *Ibid*.

[20] G.R. No. 80001, February 27, 1989, 170 SCRA 711.

[21] *Supra* note 16.

[22] Id. at 380.

[23] Article 1620 of the Civil Code provides:

Art. 1620. A co-owner of a thing may exercise the right of redemption in case the shares of all the other co-owners or of any of them, are sold to a third person. If the price of the alienation is grossly excessive, the redemptioner shall pay only a reasonable one.

Should two or more co-owners desire to exercise the right of redemption, they may only do so in proportion to the share they may respectively have in the thing owned in common. (1522a)

The foregoing article should be read in light of Article 1623 of the same Code:

Art. 1623. The right of legal pre-emption or redemption shall not be exercised except within thirty days from the notice in writing by the prospective vendor, or by the vendor, as the case may be. The deed of sale shall not be recorded in the Registry of Property, unless accompanied by an affidavit of the vendor that he has given written notice thereof to all possible redemptioners.

x x x x

[24] CA rollo, p. 159.

[25] Supra.

[26] *Guaranteed Hotels, Inc. v. Baltao*, G.R. No. 164338, January 17, 2005, 448 SCRA 738, 743.

[27] *Id.* at 743-744.

[28] Rollo, G.R. No. 157745, pp. 340-342.

[29] Rollo, G.R. No. 157955, pp. 407-408, citing *Raymundo v. Court of Appeals*, 374 Phil. 95, 101 (1999); *Conti v. Court of Appeals*, 366 Phil. 956, 965 (1999); *Jaca v. Davao Lumber*, 198 Phil. 493, 517 (1999); *Co Chuan Seng v. Court of Appeals*, 213 Phil. 274, 279 (1984); *PNR v. CFI of Albay*, No. L-46943, June 8, 1978, 83 SCRA 569; Rollo, pp. 511-513 G.R. No. 157745, citing, in addition, *Republic v. Court of Appeals*, 357 Phil. 174 (1998); *Philippine Long Distance Telephone Co. v. Genovea*, 201 Phil. 862 (1982); *Rexwell Corporation v. Canlas*, 113 Phil. 854 (1961); *Philippine Commercial and Industrial Bank v. Escolin*, 155 Phil. 228 (1974).

[30] *Suarez v. Villarama*, G.R. No. 124512, June 27, 2006; *Heirs of the Late Flor Tungpalan v. Court of Appeals*, G.R. No. 136207, June 21, 2005, 460 SCRA 392, 398; *Ilasco, Jr. v. Court of Appeals*, G.R. No. 88983, December 14, 1993, 228 SCRA 413, 418.

[31] *Suarez v. Villarama*, supra note 30.

[32] *Perez-Rosario v. Court of Appeals*, G.R. No. 140796, June 30, 2006; *Hanjin Engineering and Construction Co. Ltd. v. Court of Appeals*, G.R. No. 165910, April 10, 2006; *Land Bank of the Philippines v. Court of Appeals*, G.R. No. 129368, August 25, 2003.

[33] *Perez-Rosario v. Court of Appeals*, G.R. No. 140796, June 30, 2006; *Hanjin Engineering and Construction Co. Ltd. v. Court of Appeals*, G.R. No. 165910, April 10, 2006; *Land Bank of the Philippines v. Court of Appeals*, 456 Phil. 755, 785 (2003).

[34] Supra note 26.

[35] *Id.*

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.