



Republic of the Philippines  
Supreme Court  
Baguio City

SECOND DIVISION

EMMANUEL M. LU, ROMMEL  
M. LU, CARMELA M. LU,  
KAREN GRACE P. LU and  
JAMES MICHAEL LU

G.R. No. 222070

Petitioners,

Present:

- versus -

CARPIO, *Acting Chief Justice*,\*  
Chairperson  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., *JJ.*

MARISSA LU CHIONG and  
CRISTINA LU NG,

Promulgated:

Respondents.

16 APR 2018

*[Handwritten signature]*

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RESOLUTION

REYES, JR., *J.*:

This resolves the petition for review on *certiorari* filed under Rule 45 of the Rules of Court by Emmanuel M. Lu, Rommel M. Lu, Carmela M. Lu, Karen Grace P. Lu and James Michael M. Lu (petitioners) to assail the Decision<sup>1</sup> dated September 11, 2015 and Resolution<sup>2</sup> dated December 14, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 139683.

The Antecedents

\* Acting Chief Justice per Special Order No. 2539, dated February 28, 2018.  
<sup>1</sup> Penned by Associate Justice Danton Q. Bueser, with Associate Justices Apolinario D. Bruselas, Jr. and Victoria Isabel A. Paredes concurring; *rollo*, pp. 25-37.  
<sup>2</sup> Id. at 38-39.

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This case arose from two complaints for *Nullification of Stockholder's Meeting, Election of the Members of the Board of Directors, Officers, General Information Sheet and Minutes of Meeting, and Damages with Application for the Issuance of a Temporary Restraining Order, or Status Quo Ante Order and a Writ of Preliminary Injunction* filed by Marissa Lu Chiong and Cristina Lu Ng (respondents) against the petitioners with the Regional Trial Court (RTC) of Calamba City, Laguna, particularly: (1) SEC Case No. 99-2014-C in relation to Remcor Industrial and Manufacturing Corporation (Remcor)<sup>3</sup>; and (2) SEC Case No. 100-2014-C in relation to Soutech Development Corporation (Soutech)<sup>4</sup>. Respondents questioned in their complaints the manner by which the stockholders' meetings and elections of directors and officers of the two companies were conducted on March 4, 2014. Both complaints were raffled-off to Branch 34 of the RTC of Calamba City, Laguna as a Special Commercial Court.

During the pendency of the actions, respondents filed a Motion for Inhibition<sup>5</sup> in each case, as they asked Presiding Judge Maria Florencia Formes-Baculo (Judge Formes-Baculo) to recuse herself from the cases. Among the grounds they cited to support their twin motions were as follows: (1) Judge Formes-Baculo granted the petitioners' applications for preliminary injunction on the basis of erroneous findings of fact, unfounded evidence and misapplication of law and jurisprudence, leading the respondents to believe that her order was made to favor the petitioners; (2) she appeared to have prejudged the pending cases and acted with bias and partiality; and (3) she was "not as enthusiastic in resolving [petitioners'] urgent motions" and instead opted to raffle the cases for Judicial Dispute Resolution (JDR).<sup>6</sup>

On February 18, 2015, Judge Formes-Baculo issued in the two cases her twin Orders<sup>7</sup> that granted the motions to inhibit, and with the same dispositive portions that read:

**WHEREFORE**, premises considered, the Motion for Inhibition is **GRANTED**. The Court is hereby voluntarily inhibiting and recusing itself from further hearing the instant case. And the resolution of the pending motions and pleadings of the parties are **HELD IN ABEYANCE** in order to give a free hand to the new Court where the instant case shall be transferred to resolve. Accordingly, let the records of this case be sent to the Office of the Clerk of Court for appropriate action.

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<sup>3</sup> Id. at 40-60.

<sup>4</sup> Id. at 61-81.

<sup>5</sup> Id. at 186-199, 200-213.

<sup>6</sup> Id. at 197, 211.

<sup>7</sup> Id. at 214-218, 219-222.

*Meyer*

**SO ORDERED.**<sup>8</sup>

Judge Formes-Baculo explained that the inhibition would dispel the “notion[s] of prejudgment and [partiality].”<sup>9</sup> She nonetheless still denied the allegation of bias, and further explained that all incidents in the cases were resolved on the basis of submitted evidence. The referral of the cases for JDR was part of the mandatory mediation aspect of the pre-trial proceedings. As regards the pending motions that remained unresolved, Judge Formes-Baculo explained that these were to be resolved after hearing the respective sides of the parties. Given the court’s decision to recuse from the cases, it withheld resolution of the pending incidents in order to allow the new court a free hand in resolving the issues.

The foregoing prompted the respondents to file with the CA a Consolidated Petition<sup>10</sup> for *certiorari* and prohibition docketed as CA-G.R. SP No. 139683. On September 11, 2015, the CA rendered its Decision granting the petition. The RTC’s order that granted the motion for inhibition was declared contrary to Section 1, Rule 137 of the Rules of Court and jurisprudence. The CA’s decision ended with the following decretal portion:

**WHEREFORE**, in view of the foregoing, the instant Petition is hereby **GRANTED**. The assailed twin Orders are **REVERSED** and **SET ASIDE**. Accordingly, SEC Case Nos. 99-2014-C and 100-[2014]-C are ordered **RETURNED** to Branch 34, the [RTC] of Calamba City, for speedy trial and disposition.

Let Branch 35, the [RTC] of Calamba City, Laguna, be furnished a copy of this Decision.

**IT IS SO ORDERED.**<sup>11</sup>

In reversing the trial court, the CA explained that a judge’s voluntary inhibition from a case must be based on just or valid reasons. Mere imputations of bias or partiality are not enough grounds for inhibition. There should be concrete statements and proof of specific acts that could establish the charges, something which the petitioners failed to satisfy.

Dissatisfied with the CA’s ruling, the petitioners filed a motion for reconsideration<sup>12</sup> (MR) by which they raised four main grounds. *First*, they

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<sup>8</sup> Id. at 218, 222.

<sup>9</sup> Id. at 216, 221.

<sup>10</sup> Id. at 223-237.

<sup>11</sup> Id. at 36.

<sup>12</sup> Id. at 248-257.

*Meyer*

claimed that the CA petition was fatally defective as it was unaccompanied by certified true copies of the assailed orders. *Second*, mandamus, not *certiorari*, was the proper remedy to assail Judge Formes-Baculo's voluntary inhibition. *Third*, the issue raised in the petition was rendered moot and academic by the RTC, Branch 35 of Calamba City's issuance in SEC Case No. 99-2014-C and SEC Case No. 100-2014-C of its Consolidated Decision<sup>13</sup> dated July 13, 2015, which already resolved the main issues in the actions. *Fourth*, Judge Formes-Baculo did not commit grave abuse of discretion in voluntarily inhibiting from the two cases.

On December 14, 2015, the CA rendered its Resolution<sup>14</sup> that denied the MR. The Resolution reads:

This Court, after a meticulous study of the arguments set forth in the [MR] filed by [petitioner], finds no cogent reason to revise, amend, much less reverse, the Decision promulgated on September 11, 2015. The [MR] is thus **DENIED**.

**IT IS SO ORDERED.**<sup>15</sup>

Hence, this petition for review by which petitioners raise substantially the same grounds that they raised in the MR they filed with the CA.

### **The Court's Ruling**

The Court grants the petition. The promulgation on July 13, 2015 by the RTC, Branch 35 of Calamba City in SEC Case No. 99-2014-C and SEC Case No. 100-2014-C of the Consolidated Decision that finally disposed of the main issues in the two cases had rendered CA-G.R. SP No. 139683 moot and academic. Instead of issuing its Decision and Resolution on September 11, 2015 on December 14, 2015, respectively, the appellate court should have then dismissed the CA petition on the ground of mootness.

Based on records, the respondents' two complaints were already dismissed by the RTC, Branch 35 of Calamba City on the merits. The Consolidated Decision that resolved these main actions and upheld the validity of the contested stockholders' meetings and elections of board members and officers contained the following *fallo*:

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<sup>13</sup> Id. at 259-275.

<sup>14</sup> Id. at 38-39.

<sup>15</sup> Id. at 39.

*peyer*

**WHEREFORE**, Judgment is hereby rendered:

- a) Dismissing the complaints for lack of merit;
- b) Upholding the validity of the stockholders' meeting and election held on 4 March 2014 of Remcor and Soutech;
- c) Likewise dismissing [petitioners'] counter-claims for damages for lack of merit; and,
- d) Immediately recalling and setting-aside the Writs of Preliminary Injunction previously issued in these cases.

No pronouncement as to costs.

SO ORDERED.<sup>16</sup>

Branch 35 was with the authority to proceed with the main actions notwithstanding the pendency of the CA petition. It cited in its decision the circumstances that led to the case's assignment to it after Judge Formes-Baculo's inhibition from the cases and failed JDR, to wit:

Still later, [petitioners] likewise filed separate motions praying for Judge Formes-Baculo to recuse herself from the cases. Without any ruling on the pending motions, the cases were raffled and sent to Branch 92 for compulsory Judicial Dispute Resolution (JDR). While the cases were pending JDR, Judge Formes-Baculo acted on and granted [petitioners'] motions for her voluntary inhibition. Thus, when the JDR failed, these cases were assigned, without need of raffle in accordance with the rules, to the undersigned as Presiding Judge of Branch 35, the pairing court to the regular special commercial court.<sup>17</sup>

Pertinent is the settled rule that "the mere pendency of a special civil action for *certiorari* commenced in relation to a case pending before a lower court does not automatically interrupt the proceedings in the lower court."<sup>18</sup> Moreover, jurisdiction over the main actions attached to the RTC of Calamba City, not in its branches or judges, to the exclusion of others; the RTC's different branches did not possess jurisdictions independent of and incompatible with each other.<sup>19</sup>

It likewise bears emphasis that Branch 35's Consolidated Decision was promulgated before the CA could have issued the Decision and Resolution that were subjects of this petition. The mootness that resulted from the issuance of the Consolidated Decision was evident from the fact

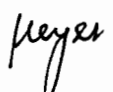
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<sup>16</sup> Id. at 275.

<sup>17</sup> Id. at 260.

<sup>18</sup> *Trajano v. Uniwide Sales Warehouse Club*, 736 Phil. 264, 276 (2014).

<sup>19</sup> Id. at 278.



that the CA's subsequent order was for the return of the records to Judge Formes-Baculo's Branch 34 *for speedy trial and disposition*, something that Branch 35 had apparently already accomplished. The main actions' resolution was still the ultimate end that should result from the CA's disposition of CA-G.R. SP No. 139683. Thus, the proceedings conducted by Branch 35 and its resulting decision in the main cases could not have been simply set aside by the appellate court when it resolved CA-G.R. SP No. 139683.

Branch 35's Consolidated decision had in fact been later brought on appeal to the CA by the respondents themselves, *via* the petition for review docketed as CA-G.R. SP No. 141318 and on grounds that were unrelated to Judge Formes-Baculo's inhibition from the cases. Although the CA subsequently ordered in CA-G.R. SP No. 141318 the remand of SEC Case Nos. 99-2014-C and 100-2014-C to Branch 35 for pre-trial and further proceedings, this circumstance did not invalidate the authority of Branch 35 to take over the two cases. Incidentally, the remand to Branch 35 was ordered by the CA in its Decision dated August 28, 2015, which was then still prior to the CA's Decision dated September 11, 2015 and Resolution dated December 14, 2015 in CA-G.R. SP No. 139683.

As the Court reiterated in *King vs. CA*,<sup>20</sup> "an issue is said to have become moot and academic when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value."<sup>21</sup> As a rule, courts decline jurisdiction over such actions, or dismiss them on the ground of mootness.<sup>22</sup> In this case, this ground on mootness is sufficient to justify the grant of the present petition, rendering it unnecessary for the Court to rule on the merits of the other grounds that are invoked by the petitioners.

**WHEREFORE**, the petition is **GRANTED**. The Court of Appeals' Decision dated September 11, 2015 and Resolution dated December 14, 2015 in CA-G.R. SP No. 139683 are **REVERSED and SET ASIDE**, and a new one entered **DISMISSING** respondents Marissa Lu Chiong and Cristina Lu Ng's petition for *certiorari* and prohibition docketed as CA-G.R. SP No. 139683 on the ground of mootness.

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<sup>20</sup> 514 Phil. 465 (2005).

<sup>21</sup> *Id.* at 470.

<sup>22</sup> *Renato Ma. R. Peralta v. Jose Roy Raval*, G.R. No. 188467, *Jose Roy B. Raval v. Renato Ma. R. Peralta*, G.R. No. 188764, March 29, 2017.

*Meyer*

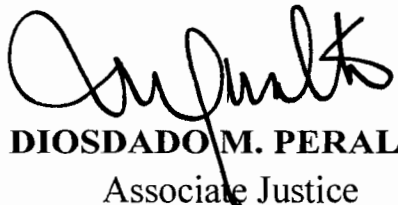
**SO ORDERED.**

*Reyes*  
**ANDRES B. REYES, JR.**  
Associate Justice

**WE CONCUR:**

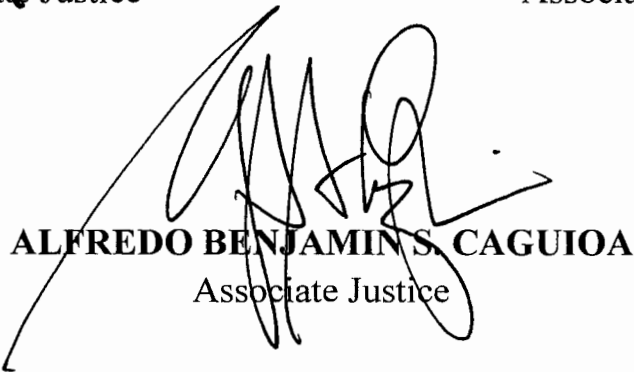


**ANTONIO T. CARPIO**  
Acting Chief Justice  
Chairperson



**DIOSDADO M. PERALTA**  
Associate Justice


*Estela M. Perlas-Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ALFREDO BENJAMINS S. CAGUIOA**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Acting Chief Justice