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WHEREFORE, the judgment of the trial court, insofar as appellant Jose Besorio is concerned, is hereby AFFIRMED.

SO ORDERED.

Barredo (Chairman), Aquino, Concepcion Jr., and *De Castro, JJ.*, concur.

Santos and *Abad Santos, JJ.*, are on official leave.

EN BANC

[G.R. No. L-38705. July 25, 1979].

CARLITO GAÑA, ET AL., *petitioners, vs.* **COURT OF APPEALS, ET AL.,** *respondents.*

[G.R. No. L-44358. July 25, 1979]

CARLITO GAÑA, ET AL., *petitioners, vs.* **COURT OF APPEALS, ET AL.,** *respondents.*

[G.R. No. L-44727. July 25, 1979]

BENIGNO CASTRO, *petitioner, vs.* **COURT OF APPEALS, ET AL.,** *respondents.*

[G.R. No. L-45043. July 25, 1979]

CANDIDO BARON, *petitioners, vs.* **COURT OF APPEALS, ET AL.,** *respondents.*

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SYLLABUS

REMEDIAL LAW; ACTIONS; MOOT AND ACADEMIC; WHERE THE MAIN CASE HAS ALREADY BEEN DECIDED WITH FINALITY, A MOTION FOR TEMPORARY RESTRAINING ORDER HAS BECOME MOOT AND ACADEMIC.— G. R. No. L-38705, which was submitted for decision on September 18, 1974 is hereby dismissed as the issues raised therein had been rendered moot and academic by the decision on the merits on the main case which had become final and executory in view of the November 26, 1976 denial with finality of G. R. No. L-44358.

APPEARANCES OF COUNSEL

Chita B. Terso for petitioners in G.R. No. L-38705.

Joselito L. Lim for private respondents in G.R. No. L-38705.

Greta-Diosa B. Quitorio for petitioner in G.R. No. L-44727.

Rodolfo M. Llorente for private respondents in G.R. No. L-44727.

Joselito L. Lim for petitioner in G.R. No. L-45043.

Greta-Diosa B. Quitorio for private respondents in G.R. No. L-45043.

R E S O L U T I O N

MAKASIAR, *J.*:

G.R. No. L-38705 and G.R. No. L-44358 involved the same parties and arose out of the same agrarian case (CAR Case No. 2546-T '73) entitled *Carlito Gaña, et al. vs. Atty. Casiano Tiongson, et al.*, originally filed on May 18, 1973 with the Court of Agrarian Relations, Branch III, Tarlac, Tarlac, by Carlito Gaña. *et al.*, alleging that they are agricultural share tenants of defendants over the latter's landholding principally devoted to planting of *palay* situated at Barrio Banaba, Tarlac, Tarlac. and thereby prayed for a change of the system from share to leasehold as envisioned in Republic Act No. 3844 and Republic Act No. 6389 and for the defendants to maintain them in peaceful possession and cultivation of their respective lots.

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G.R. No. L-38705

On June 1, 1973, Gaña, *et al.* filed with the Court of Agrarian Relations, Tarlac, Tarlac, a motion for the issuance of an interlocutory order to restrain defendants from dispossessing them of the landholdings in question, alleging that defendants are imposing unilaterally a change on the terms and conditions of their long standing agreement and agrarian relationship over the landholdings in question which act tends to eject them in their landholdings through employment of threat, intimidation and actual force and thereby prevented them from cultivating their farm this agricultural year, 1973-1974.

On June 7, 1973, the defendants opposed the aforesaid motion and incorporated in their opposition a counter-motion for the issuance of an interlocutory order to restrain Gaña, *et al.*, from entering the landholdings in question and from disturbing their possession.

On July 2, 1973, after preliminary hearings on the aforesaid two motions, respondent Judge Maglaya issued an order denying the motion of Gaña, *et al.*, and granting that of the defendants.

A motion for reconsideration of the aforesaid order proved futile; hence Gaña, *et al.*, went to the Court of Appeals, through a petition for review with preliminary mandatory injunction, therein docketed as CA-G.R. No. SP-02394-R, entitled "*Carlito Gaña, et al. vs. Froilan Maglaya, et al.*" and prayed thereat for the annulment of the July 2 and July 27, 1973 orders of the respondent Judge. A restraining order was issued by the Court of Appeals on September 19, 1973.

But on October 9, 1973, the Court of Appeals issued a resolution denying the motion of Gaña, *et al.*, for the issuance of a writ of preliminary mandatory injunction, lifted the September 19, 1973 restraining order, and set the case for hearing on the merits on October 15, 1973.

At the scheduled October 15, 1973 hearing, only counsel for private respondents was present; and upon his motion, the case was considered submitted for decision.

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On October 23, 1973, the Court of Appeals rendered its decision dismissing the petition of Gaña, *et al.*, per Justice Mateo Canonoy, concurred in by Justices Cecilia Muñoz Palma and Guillermo Santos (pp. 102-114, *Rollo* of G.R. No. L-38705). A motion for reconsideration, filed by Gaña, *et al.*, was denied by a special division of five by a vote of three (3) to two (2). The majority opinion was penned by Justice Guillermo Santos; concurred in by Justices Buenaventura dela Fuente and Ramon Fernandez, with the former writing a separate concurring opinion in which the latter concurred (pp. 125-131, *rollo*). This time, Justice Canonoy, the *ponente* in the main decision, wrote the dissenting opinion, concurred in by Justice Conrado Vasquez. It is their position to "send the record of this case to the Honorable Secretary of Department of Agrarian Reform or his authorized representative in Tarlac, Tarlac, for preliminary determination of the relationship between the contending parties, after which he should be requested to certify to this Court his finding whether it is a proper case for the court to hear and assume jurisdiction over the same" and that "(I)n the interim the effectivity of Our resolution of October 8, and 15, 1973 and decision promulgated on October 23, 1973 should be suspended x x x" (pp. 132-136, *rollo*).

On June 21, 1974, within the period extended, Gaña, *et al.* filed with this Court the (first) petition for *certiorari* seeking to set aside as null and void the aforesaid decision of the Court of Appeals. This is G.R. No. L-38705, entitled "*Gaña, et al. vs. Court of Appeals, et al.*"

On July 23, 1974, private respondents (Tiongson) filed their comment as required by the First Division resolution of June 29, 1974 (p. 138, *rollo*); and the Court *en banc* (to which the case was subsequently referred) in its resolution dated August 1, 1974, gave due course to the petition and set the case for hearing on the merits and on the matter of the issuance of a writ of preliminary injunction on August 8, 1974.

On August 8, 1974, this Court issued a resolution in the following tenor:

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"When this case was called for hearing this morning, there was no appearance for the petitioners, while Atty. Joselito Lim appeared for respondents. After considering the motion of petitioners to file memorandum in lieu of oral argument the Court RESOLVED: (a) to require both parties to SUBMIT simultaneously their respective memoranda in lieu of oral arguments within thirty (30) days from today; and (b) to advise respondent Judge: (1) to continue hearing CAR Case No. 2546-T '73, *Carlito Gañą, et al. vs. Atty. Casiano Tiongson, et al.*," of the Court of Agrarian Relations Branch III, Tarlac, Tarlac; and (2) to furnish this Court with a copy of his decision in the said case. The comment of respondent Judge Froilan Maglaya of the aforesaid court on the decision and resolution of the Court of Appeals, with prayer for the issuance of a writ of preliminary injunction, is NOTED."

The case was considered submitted for decision on September 18, 1974; petitioners having submitted their memorandum on September 6, 1974 and private respondents on September 18, 1974. But on October 9, 1974, petitioners filed a reply memorandum which was followed by the filing on November 5, 1974 of a reply memorandum by private respondents. Both pleadings were duly noted by the Court.

In the meantime and during the pendency of the case before US, respondent Judge Maglaya proceeded with the hearing of the case as mandated in the aforesaid August 8, 1974 resolution of this Court; and on November 11, 1974, rendered its decision on the merits which was totally adverse to petitioners (Gaña, *et al.*). Pursuant to the August 8, 1974 resolution of this Court, respondent Froilan Maglaya forwarded on November 13, 1974 to US a copy of his aforesaid November 11, 1974 decision. In OUR resolution of November 21, 1974, receipt of said decision was duly noted (p. 469, *rollo*).

On January 28, 1975, the Court resolved "to require the petitioners and the respondents to inform the Court, within ten (10) days from notice, whether or not an appeal has been taken to the Court of Appeals from the decision dated November 11, 1974, of the Court of Agrarian Relations, Branch III, Tarlac, Tarlac, with the Hon. Judge Froilan Maglaya presiding, in '*Carlito Gaña, et al. vs. Carlito Tiongson, et al.*'" (p. 470, *rollo*).

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On February 12, 1975, petitioners filed their compliance with the Court's January 28, 1975 resolution, informing this Court that they have appealed the November 11, 1974 decision of the Court of Agrarian Relations to the Court of Appeals, which was therein docketed as CA-G.R. No. SP 03803 (p. 471, *rollo*).

The aforesaid compliance was noted in this Court's resolution of February 19, 1975 (p. 473, *rollo*).

On February 14, 1975, respondent Judge Froilan Maglaya filed a pleading substantially affirming the information contained in the above manifestation of petitioners (p. 474, *rollo*).

On February 20, 1975, private respondents filed their own compliance with the January 28, 1975 resolution of the Court, likewise stating the same information as aforestated; but further moved to dismiss the petition on the following grounds:

(A) The Court of Agrarian Relations proceeded with the trial of CAR Case No. 2546-T73 and rendered a decision on the merits;

(B) An appeal has been taken by petitioners to the Court of Appeals from said decision; and

(C) The issues raised by the petition for review on *certiorari*, therefore, have become moot and academic x x x.

No positive action was taken by the Court on the aforesaid motion to dismiss.

On January 8, 1977, private respondents (Tiongson), filed a motion to dismiss the petition on the sole ground that the issue posed by the instant petition for review on *certiorari* has become moot and academic by reason of a decision on the merits on the main case — CAR Case No. 2546 T '73 which was affirmed by the Court of Appeals in CA-SP-03803; and a petition to review the same on *certiorari* filed by Gaña, *et al.*, in the Supreme Court, docketed as G.R. No. L-44358, was denied with finality on November 26, 1976 — which had become final and executory as of December 3, 1976. It was therein argued by movants-respondents that where a decision on the merits in the main case is rendered and the same has become final and

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executory, as in the case at bar, the action on procedural matters or issues is thereby rendered moot and academic, citing *Vivo vs. Cloribel, et al.*, 23 SCRA 1393; *Acting Director vs. Agcaoili, et al.*, 45 SCRA 115; and *Muñoz vs. Bagase, et al.*, 44 SCRA 526 (pp. 483-490, *rollo,* G.R. No. L-38705).

On February 10, 1977, the Court *en banc* resolved to require petitioners to comment on the aforesaid motion (p. 493, *rollo*).

Instead of filing the required comment, petitioners on March 23, 1977 filed an opposition (pp. 526-530, *rollo*).

On March 30, 1977, private respondents filed a rejoinder to the above opposition (pp. 532-542, *rollo*).

Status — no definite action yet.

G.R. No. L-44358

Pursuant to the August 8, 1974 resolution of this Court *en banc* in G. R. No. L-38705, Judge Froilan Maglaya proceeded with the trial on the merits of CAR Case No. 2546 '73 entitled "*Carlito Gaña, et al. vs. Atty. Casiano Tiongson, et al.*," and on November 11, 1974 rendered judgment therein against Carlito Gaña, *et al.*, and in favor of Casiano Tiongson, *et al.* The dispositive portion of the decision reads:

"WHEREFORE, based on the above considerations, judgment is hereby rendered:

"1. dismissing plaintiffs' claim for lack of merit;

"2. declaring herein plaintiffs to be mere hired laborers of defendants being employed on a crop-to-crop or seasonal basis over the landholdings in question proven to be under administration;

"3. directing the release in favor of defendants the amounts of ₱657.11 deposited under OR No. 8280738 in *custodia legis* under proper receipts;

"4. ordering the remaining plaintiffs, namely, Deogracias Fajardo, Epifanio Bildan, Bonifacio Valencia, Isaias Manaois, Gabriel Figueroa, Flor Bildan, Felicidad Reyes, Silvestre Villanueva, Reynaldo Garcia, Felino Fajardo, Leoncio Patio, Tiburcia Dueñas, Ireneo Sembrano,

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Andres Villanueva, Leonardo Villanueva, jointly and severally to pay damages and attorney's fees finding that this case was filed and prosecuted in bad faith, and as a restraint to future similar acts in the amount of ₱2,000.00;

"5. dismissing all other claims of the parties for not being worthy of any consideration and for insufficiency of evidence;

"6. confirming the interlocutory order in the form of writ of preliminary injunction issued by this Court earlier and hereby making it permanent;

"7. finding the actuations of Atty. Cezar Cotiangco in the case, not to mention the case of Marcelino Sacdalan, where he performed the same role of instigator-prosecutor, as worthy of censure; and

"8. finding the role played by Isabelo Tiqui in this case and another similar case as that of an unworthy citizen and *barrio* official.

"x x x x x x x x x."

Gaña, *et al.*, appealed the above decision to the Court of Appeals and was therein given or assigned the same number as the first case, G.R. No. SP 03803.

On March 31, 1976, the Court of Appeals affirmed the aforesaid decision of the Court of Agrarian Relations.

Gaña, *et al.* filed a motion for reconsideration but the same was denied on July 14, 1976, for lack of merit.

Hence, Gaña, *et al.*, filed on August 18, 1976 with this Court a petition for review on *certiorari* of said March 31, 1976 decision of the Court of Appeals in SP 03803 and the same was herein docketed as G.R. No. L-44358, likewise entitled "*Carlito Gaña, et al. vs. Court of Appeals, et al.* This is the second Gaña case arising from the CAR Case No. 2546 T '73.

On September 1, 1976, the Court (First Division) required respondents to comment on the petition.

On September 30, 1976, private respondents filed their comment.

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On October 18, 1976, the Court (First Division) dismissed the petition for the reason that "x x x the questions raised (are) factual and for insufficient showing that the findings of fact by respondent Court are unsupported by substantial evidence, and for lack of merit" (p. 135, *rollo*, G.R. L-44358).

On November 17, 1976, Carlito Gaña, *et al.*, filed a motion for reconsideration of the aforesaid October 18, 1976 resolution (p. 142, *rollo*).

On November 26, 1976, the Court (First Division) denied the aforesaid motion for reconsideration, for lack of merit and declared the denial final (p. 297, *rollo*).

On February 9, 1977, entry of final judgment was effected in the case, certifying that on December 3, 1976, the judgment therein has become final and executory and the same was thereby recorded in the Book of Entries of Judgments (p. 211, *rollo*).

Subsequently, however, Gaña, *et al.*, received a resolution of this Court issued on January 19, 1977, which reads:

"L-44358 (*Carlito Gaña, et al. vs. Court of Appeals, et al.*); L-44727 (*Benigno Castro, et al. vs. Court of Appeals, et al.*); and L-45043 (*Candido Baron vs. Court of Appeals, et al.*). Considering the comment of private respondent on the petition for review on *certiorari* in L-44727, the Court Resolved to REQUIRE the petitioners in said case to file a REPLY thereto, within ten (10) days from notice hereof."

Gaña, *et al.*, misinterpreting the aforequoted resolution, the body of which clearly referred only to petitioners in G.R. No. L-44727, as requiring them also to file a Reply in their case, filed on February 7, 1977 a motion for extension of time within which to file said reply (pp. 214-215, *rollo*).

Because of the confusion that ensued, the Court (First Division) had to issue on February 28, 1977 the following clarificatory resolution, thus:

"L-44358 (*Carlito Gaña, et al. vs. Court of Appeals, et al.*); L-44727 (*Benigno Castro vs. Court of Appeals, et al.*); and L-45043 (*Candido Baron vs. Court of Appeals, et al.*) The respective motions of petitioners for extension to file reply to comment in L-44358 and

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in L-45043, are NOTED, *aforesaid petitioners being informed that in view of the denial with finality of their respective motions for reconsideration of the resolutions denying the petitions for review, replies are no longer necessary in said cases.* x x x" (p. 217, *rollo*).

Notwithstanding the aforesaid clarificatory resolution, Gaña, *et al.*, filed on March 23, 1977 a motion praying the Court to reconsider its February 28, 1977 (dated March 2) resolution and its resolution denying the petition for *certiorari*.

Private respondents opposed the same on March 30, 1977.

G.R. No. L-44727

This petition seeks to review the decision of the Court of Appeals rendered on August 16, 1976 in CA-G.R. No. SP-04692-R, affirming the decision of the Court of Agrarian Relations, Tarlac, Tarlac, presided by Judge Froilan Maglaya, in CAR Case No. 2540-T '73, in favor of herein respondent landowner Candido Baron (petitioner in G.R. No. L-45043).

On January 19, 1977, the Court (First Division) acting on the comment of private respondent, required petitioners to file a reply thereto (p. 126, *rollo*).

On February 28, 1977, the Court (First Division) issued this resolution:

"x x x. In L-44727, the Court Resolved: (a) to DISPENSE with the reply to comment; and upon consideration of the allegations, issues and arguments adduced in the petition for review filed in *forma pauperis*, as well as respondents' comment thereon, (1) to GIVE DUE COURSE to the petition; and (2) to REQUIRE both parties to file simultaneous memoranda in lieu of briefs within thirty (30) days from notice hereof." (note: first part of resolution was quoted in p. 8).

With the subsequent submission by the parties of their respective memoranda, the case was submitted for decision on July 27, 1977.

G.R. No. L-45043

This case likewise originated from the Court of Agrarian Relations of Tarlac, Tarlac, presided by Judge Froilan Maglaya,

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in CAR Case No. 2462-T-73. The case was decided in favor of petitioner landlord Candido Baron.

But on appeal, the Court of Appeals reversed on September 7, 1976 the aforesaid decision of the Court of Agrarian Relations (CA-G.R. No. SP-04607-R).

Petitioner Candido Baron thus came to US on a petition for review on *certiorari*.

On November 24, 1976, the Court (First Division) denied for lack of merit the aforesaid petition.

Petitioner filed on January 8, 1977 a motion for reconsideration of the aforesaid resolution of denial.

Pending the resolution of the motion, petitioner received a copy of the "confusing resolution" of January 19, 1977 as earlier quoted herein (see p. 8). He then filed a motion for extension of time to file reply in the belief that said resolution required him to do so.

On February 7, 1977, the Court (First Division) denied with finality petitioner's motion for reconsideration.

On February 28, 1977, the Court (First Division) further resolved to inform petitioner that, in view of the denial with finality of (his) motion for reconsideration, his reply is no longer required.

The resolution of denial became final and executory on February 16, 1977; and the records of the case were remanded to the Court of Appeals on March 31, 1977.

In the Court of Appeals meanwhile, Entry of Judgment was made in CA-SP-03803 (G.R. No. L-44358, S.C.), on January 1, 1977 certifying that the March 31, 1976 decision rendered therein had become final and executory as of July 21, 1976 (see Court of Appeals' Records, CA-SP-03803), copy of which was received by counsel for appellants therein on February 28, 1977.

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On March 1, 1977, counsel for appellants therein filed with the Court of Appeals a pleading denominated as Manifestation with Motion to Set Aside Entry of Judgment, praying that the "x x x entry of judgment x x x be set aside; and that the remanding of the original records to the Court of Agrarian Relations, Tarlac, Tarlac, be held in abeyance pending resolution of the Supreme Court in the instant petition for review by *certiorari*." Said prayer was denied on March 15, 1977, the Court of Appeals acting through a division of five (5), voting 3 to 2, thus:

"CA-G.R. No. SP-03803 (CAR), *Carlito Gaña, et al. vs. Casiano Tiongson, et al.*

"Acting upon the MANIFESTATION WITH MOTION TO SET ASIDE ENTRY OF JUDGMENT, filed by plaintiffs-appellants on March 1, 1977, on the ground that the Supreme Court in its Resolution dated February 14, 1977 required the petitioner to 'Comment on Private Respondents Motion To Dismiss the Petition for *Certiorari* (G.R. No. L-38705) within ten days from notice'; and considering that the case at bar was docketed in the Supreme Court as G.R. No. L-44358 (*Carlito Gaña, et al. vs. Court of Appeals, et al.*), the Court RESOLVED:

"Justice Ramon C. Fernandez voted to DENY the Motion to set Aside Entry of Judgment 'because the case pending in the Supreme Court is different from the case at bar.'

"Justice Delfin Fl. Batacan voted to deny the subject motion.

"Justice Lorenzo Relova voted to DENY the subject motion.

"Justice Ricardo C. Puno voted to set aside the entry of judgment.

"Justice Corazon Juliano Agrava (vice Justice Godofredo P. Ramos, retired) voted to GRANT the prayer in appellants' motion 'because of the possibility that if it should turn out that our judgment was erroneous, as may appear or be directed in connection with the final resolution of the Supreme Court in L-44727, then this case can be reopened with facility (*Sangle vs. Alejandro, et al.*, CA-G.R. No. 53798-R)."'

It would seem to appear that the Court of Appeals' Division of 5 at the time it considered and resolved the March 1, 1977 motion of appellants was not AWARE of this Court's clarificatory

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resolution of February 28, 1977 wherein WE clarified the confusion brought about by the misinterpretation by the parties of OUR resolution of January 19, 1977, which was compounded by the allegations made by appellants in their aforesaid March 1, 1977 motion with the Court of Appeals which manifestly was filed by appellants still laboring under the aforesaid confusion. This can be gleaned from the dissenting opinion of Justice Agrava, thus:

"I vote to grant the prayer in appellants' 'Manifestation and Motion to Set Aside Entry of Judgment,' dated February 28, 1977.

"Petitions for Review by *Certiorari* of decisions of this Court have been filed with the Supreme Court in these cases:

"L-44358 (*Carlito Gaña, et al. vs. Court of Appeals, et al.*).

"L-44727 (*Benigno Castro, et al. vs. Court of Appeals, et al.*); and

"L-45043 (*Candido Baron vs. Court of Appeals, et al.*)

"The three cases appear to involve the same issue or issues of law.

"L-44358, the first case, was the appeal from the decision in the present case. The appeal was denied due course in the Resolution of the Supreme Court of October 18, 1976. A Motion for Reconsideration was denied on November 26, 1976. Ordinarily, the present case should be considered closed.

"In the second case, L-44727, it appears that the Supreme Court is considering whether or not to give due course to the petition filed therein. On January 19, 1977, the Supreme Court promulgated a Resolution as follows:

'L-44358 (*Carlito Gaña, et al. vs. Court of Appeals, et al.*); L-44727 (*Benigno Castro, et al. vs. Court of Appeals, et al.*); and L-45043 (*Candido Baron vs. Court of Appeals, et al.*). Considering the comment of private respondent on the petition for review on *certiorari* in L-44727, the Court Resolved to REQUIRE the petitioners in said case to file a REPLY thereto, within ten (10) days from notice hereof.'

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"What needs special notice is the inclusion of L-44358 in the above Resolution, despite the fact that the petition therein has already been denied. It can be presumed that if the petition in L-44727 is given due course, the Supreme Court may reopen L-44358 and also give it due course.

"It is therefore my considered opinion that the record in the instant case should not as yet, be remanded to the CAR because of the possibility that if it should turn out that our judgment was erroneous, as may appear or be directed in connection with final Resolution of the Supreme Court in L-44727, then this case can be reopened with facility (*Sangle v. Alejandro, et al.*, CA-G.R. No. 53798-R)."

On April 4, 1977, therein plaintiffs-appellants filed a motion for reconsideration of the March 15, 1977 resolution of the Court of Appeals Division of Five (5), but the same was denied on May 19, 1977.

Back to this Court. On March 23, 1977, petitioners (Gaña, *et al.*) in G.R. No. L-44358 & L-38705 filed a pleading entitled Motion to Reconsider Resolution March 2, 1977 (referring to resolution of February 28, 1977) & Opposition to Dismiss Petition for *Certiorari* with the following prayer:

"1. to reconsider its Resolution denying the Petition for Review by *Certiorari* in G. R. No. L-44358;

"2. to deny private respondents Motion to Dismiss the Petition for *Certiorari* (Special Civil Action) G.R. No. L-38705 for lack of merit;

"3. to resolve the said Petition for *Certiorari* (L-38705) on its merits; and

"For such other reliefs available in the premises."

A rejoinder thereto was filed on March 30, 1977 by private respondents in G.R. No. L-38705, reiterating their January 8, 1977 motion to dismiss the said case for being moot and academic in view of the finality of the decision of the Court of Appeals in CA-G.R. No. SP-03803-R and the denial with finality by this Court of the petition to review the said decision (G.R. No. L-44358); while private respondents filed in G.R. No. L-44358 an opposition to the motion of Gaña, *et al.*, for reconsideration

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of the February 28, 1977 resolution of the Court dated March 2, 1977 which informed petitioners that their filing of a reply in said case was no longer necessary in view of the denial with finality of their motion for reconsideration.

As the records of the four cases would now show, their respective status are as follows:

(1) G.R. No. L-38705 *Gaña, et al. vs. Court of Appeals, et al.* — petition pending decision on the merits as of September 18, 1974, when it was submitted for decision. A motion to dismiss the case was however filed on January 8, 1977 by private respondents on the ground that the same has become MOOT AND ACADEMIC (pp. 483-491, *rollo*). Required to comment by the Court, Petitioners, instead filed an OPPOSITION (pp. 526-530, *rollo*). Private respondents filed on March 30, 1977 a rejoinder thereto (pp. 532-542, *rollo*). No definite action yet.

(2) G.R. No. L-44358 — *Gaña, et al. vs. Court of Appeals, et al.* — final and executory as of December 3, 1976; records remanded to Court of Appeals on February 9, 1977.

On March 24, 1977, petitioners filed a motion to reconsider the resolution dated March 2, 1977 (pp. 243-247, *rollo*). This refers to the February 28, 1977 resolution of the First Division which informed them that in view of the denial with finality of their motion for reconsideration of the resolution denying their petition for review, reply is no longer required in their case.

This was opposed by private respondents on March 30, 1977 (pp. 248-251, *rollo*);

(3) G.R. No. L-44727 — *Benigno Castro, et al. vs. Court of Appeals and Candido Baron* — given due course in the February 28, 1977 resolution of the Court (1st Division); and the same was submitted for decision on July 27, 1977; and

(4) G.R. No. L-45043 — *Candido Baron vs. Court of Appeals and Romulo Bondoc* — final and executory as of February 16, 1977; records remanded to Court of Appeals on March 31, 1977.

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WHEREFORE

1. G. R. No. L-38705, which was submitted for decision on September 18, 1974 is hereby dismissed as the issues raised therein had been rendered moot and academic by the decision on the merits on the main case which had become final and executory in view of the November 26, 1976 denial with finality of G. R. No. L-44358;

2. G. R. No. L-45043 is hereby considered closed and terminated, it appearing that it had been denied with finality by the Court's resolution of February 7, 1977 (First Division), which became final and executory on February 16, 1977; and the records remanded on March 31, 1977 to the Court of Appeals; and

3. G. R. No. L-44727 is hereby returned to the First Division of the Court, it appearing that it was given DUE COURSE therein on February 28, 1977 and considered submitted for decision on July 7, 1977.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Antonio, Concepcion Jr., Santos, Fernandez, Guerrero, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, concur.

Aquino, J., took no part.