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SECOND DIVISION

[G.R. No. L-26675. May 25, 1979]

PELAGIA V. AGUILAR, *ET AL.*, *petitioners, vs.* COURT OF APPEALS, COURT OF FIRS INSTANCE OF MANILA, SHERIFF OF MANILA and LA JOLLA, INC., *respondents.*

RESOLUTION

ABAD SANTOS, *J.*:

This is an appeal by *certiorari* to review a decision of the Court of Appeals. After issue were joined, the case was submitted for decision on March 30, 1967. It remained unacted until May 7, 1979, when this Court issued the following resolution:

"In L-26675 entitled, "*Pelagia V. Aguilar, et al. vs. Court of Appeals, et al.* which involves questions of law relating to ejectment suits filed against the petitioners; considering that ejectment suits are summary in nature so as to afford the plaintiff expeditious relief; and considering that events may have transpired through the long lapse of time since the suits were commenced in January, 1965, and which may have changed the status of the litigants with respect to the disputed premises and altered their remedial rights, the parties are required to INFORM the Court within ten (10) days after receipt of this resolution whether or not the petition has become moot and academic."

Counsel for petitioners responded with a Manifestation dated May 15, 1979 as follows:

"PETITIONERS, through counsel, with reference to the resolution dated May 7, 1979, a copy of which was received on May 9, 1979, to this Honorable Court respectfully manifest that they are still occupying the premises leased to them based on adjusted monthly rentals and for this reason, they accordingly consider their petition in this case already moot and academic."

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Respondents have not filed any manifestation. However, they seek no relief other than the dismissal of the present petition.

WHEREFORE, the petition is hereby dismissed for having become moot and academic. No costs.

SO ORDERED.

Antonio (Actg. Chairman), Aquino, Concepcion Jr., and *Santos JJ.,* concur.

Barredo, J., on official leave.

FIRST DIVISION

[G.R. No. L-32245. May 25, 1979]

DY KEH BENG, *petitioner, vs.* **INTERNATIONAL LABOR and MARINE UNION OF THE PHILIPPINES, *ET AL.*,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; EMPLOYER-EMPLOYEE RELATIONSHIP; CONTROL TEST; APPLICATION. — Under the control test, an employer-employee relationship exist "where the person for whom the services are performed reserves a right to control not only the end to be achieved but also the means to be used un reaching such end." The control test calls merely for the existence of the right to control the manner of doing the work, not the actual exercise of the right where the proprietor of an establishment is "engaged in the manufacture of baskets known as "*kaing*," it is natural to except that those working therein would have to observe, among others, the proprietor's requirements of size and quality of the *kaing*. Some control would necessarily be exercised by the proprietor as the making of the kaing would be subject to his specifications. And where