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are matters which will have to be determined in the pending litigations between the Opulencias and their children, as well as by proper charges that should be filed with the public service commission or its successor-agency.

ACCORDINGLY, judgment is hereby rendered revoking and setting aside the appealed order *en banc* of August 15, 1963 of the public service commission and affirming its decision of January 25, 1963. The preliminary injunction heretofore issued against implementation of the order *en banc* of August 15, 1963 is hereby made permanent. With costs jointly and severally against respondents.

Makalintal, Acting C.J., Ruiz Castro, Fernando, Barredo, Makasiar, Antonio, and *Esguerra, JJ.*, concur.

Zaldivar, J., is on leave.

[G.R. No. L-28516. July 31, 1973]

THE DIRECTOR OF LANDS, *plaintiff-appellee, vs.* ZOILO C. ALBERTO, THE COMMISSIONER OF LAND REGISTRATION COMMISSION, and THE REGISTER OF DEEDS OF LAGUNA, *defendants,* ZOILO C. ALBERTO, *defendant-appellant.*

SYLLABUS

REMEDIAL LAW; APPEALS; RIGHT OF PARTY TO WITHDRAW HIS APPEAL; EFFECT THEREOF.— On the basis of the manifestation from the Solicitor General that defendant-appellant has filed a motion stating that "he is ready and willing to accept and abide by the decision appealed from" and the Director of Lands interposing no objection, the appeal is hereby dismissed, the result being that the decision appealed from should be considered in full force and effect in its entirety.

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APPEARANCES OF COUNSEL

Solicitor General Estelito P. Mendoza, Assistant Solicitor General Jaime M. Lantin and *Solicitor Norberto P. Eduardo* for plaintiff-appellee.

De Santos, Balgos & Perez & Delfino counsel for defendants-appellants.

RESOLUTION

FERNANDO, *J.*:

From a lower court decision dated September 19, 1967, declaring null and void Transfer Certificates of Title Nos. T-39536 and T-39537 in the name of defendant Zoilo C. Alberto, who was likewise ordered to surrender within fifteen days from the date of the finality of the decision such certificates to the Register of Deeds of Laguna, an appeal was taken to this Court on the ground that it was contrary to law.[1] The parties duly filed their respective briefs, that of appellant on April 27, 1968, and that of appellee, the Director of Lands, on August 8 of the same year. Subsequently, on June 8, 1972, there was an urgent motion to withdraw appeal by appellant Alberto. When asked to comment, the Solicitor General, on behalf of the Director of Lands, did so in a pleading filed on September 6, 1972. He stated therein that while recognizing the right of a party to withdraw his appeal, appellant in such a case "must face the consequence of such withdrawal, which is the acceptance of the decision appealed from, its finality and execution; * * * "[2] There was a reply to such comment as wel as a rejoinder, after which this Court, on October 30, 1972, issued the following resolution: "Considering the grounds of the motion of respondent-appellant Zoilo Alberto to withdraw the appeal in

[1] Decision and Notice of Appeal, Record on Appeal, 84-85. The appeal could be taken directly to this Court as it was not until September 9, 1968, upon the approval of Republic Act No. 5433, that certiorari jurisdiction was given to this Court in cases where only questions of law were raised.

[2] Comment, 2.

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this case with prayer to lift the preliminary mandatory injunction, dated October 27, 1969 issued by this Court, the Court resolved to [deny] the withdrawal of the appeal, as wel as his prayer to lift said preliminary mandatory injunction. Barredo and Makasiar, *JJ.*, took no part."[3] There was a motion for reconsideration filed on November 8, 1972, which was denied in a resolution of this Court eight days later.

Then came the second and the third urgent motions to withdraw appeal, respectively submitted on May 23 and June 6, 1973. On June 21, 1973 came this manifestation from the Solicitor General: "1. That defendant-appellant Zoilo C. Alberto has appealed to this Honorable Court the decision of the Court of First Instance of Laguna in Civil Case No. B-582, the dispositive portion of which reads as follows: '[Wherefore], premises considered, Transfer Certificates of Title Nos. T-39536 and T-39537 in the name of the defendant Zoilo C. Alberto are hereby declared null and void. The defendant Zoilo C. Alberto is ordered to surrender within 15 days from the date this decision shall have become final the aforementioned certificates of title to the Register of Deeds of Laguna, who is hereby directed to cancel the said titles and to revive the previous Transfer Certificate of Title No. T-12304 of the registry of properties for Laguna with all the annotations duly recorded thereon. Without pronouncement as to costs.' 2. That upon the instance of plaintiff-appellee Director of Lands, this Honorable Court issued a writ of preliminary mandatory injunction, * * *. 3. That defendant-appellant Zoilo Alberto has filed with this Honorable Court a third motion dated June 20, 1973, stating that 'he is ready and willing to accept and abide by the decision appealed from'; 4. That said third motion of defendant-appellant Zoilo Alberto, which is unqualified, simply means that: a) Upon the withdrawal of his appeal, the decision of the court *a quo* in said Civil Case No. B-582 of the Court of First Instance of Laguna, becomes final and executory; b) Defendant-appellant Zoilo Alberto will limit his activities within the area of the land described in his previous title, Transfer Certificate of Title No. T-12304, of the Registry of Deeds of Laguna and will no

[3] Resolution dated October 30, 1972.

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longer intrude into portions of the shores of Laguna de Bay belonging to the Government, not covered by said TCT No. T-12304; 5. That on the basis of the foregoing considerations, plaintiff-appellee Director of Lands offers no objections to the aforesaid motion of the defendant-appellant Zoilo Alberto to withdraw the latter's appeal."[4]

WHEREFORE, on the basis of such manifestation, without appellee, the Director of Lands, offering any objection, the appeal is hereby dismissed, the result being that the decision appealed from should be in full force and effect in its entirety. No pronouncement as to costs.

Makalintal, Actg. Chief Justice, Ruiz Castro, Teehankee, Antonio, and *Esguerra, JJ.,* concur.
Barredo and *Makasiar, JJ.,* took no part.
Zaldivar, J., is on official leave.

[G.R. No. L-28873. July 31, 1973]

EMMA VELEZ Y BATO and ANTONIO BATO, *plaintiffs-appellants vs.* ROBERTO VELEZ and EDUARDO BUN-AN, *defendants-appellees.*

SYLLABUS

1. **CIVIL LAW; PATERNITY AND FILIATION; ILLEGITIMATE CHILDREN; CLAIM FOR INHERITANCE BY UNRECOGNIZED ILLEGITIMATE CHILD FROM PUTATIVE PARENT SHOULD BE DISMISSED FOR LACK OF CAUSE OF ACTION.**— Emma Velez, during her minority with the assistance of her mother, attempted, as far back as 1952 to have herself judicially declared as an illegitimate child of Nicolas Velez. She desisted from pursuing her suit, with an express acknowledgment that no such

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[4] Manifestation, 1-3.