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[G.R. Nos. L-47222-27. March 31, 1978]

VICENTE T. TAN, HELEN C. TAN and SUZAN Y. MABASA, *petitioners*, *vs.* **MILITARY COMMISSION NO. 5**, *respondent*.

RESOLUTION

TEEHANKEE, *J.*:

The petition at bar was filed on November 3, 1977 and on the basis of General Order No. 59 "Further Limiting the Jurisdiction of Military Tribunals" issued on June 24, 1977 by the President of the Philippines, prays for judgment "annulling the resolution of respondent Military Commission No. 5 which denied petitioners' motion to transfer Criminal Cases Nos. MC-5-42, 43, 44, 45, 46 and 47 to the civil courts, and commanding respondent Military Commission to desist from further proceedings in and to order the transfer of said criminal cases to the civil courts."

On November 8, 1977, the Court issued a temporary restraining order restraining respondent military commission "from proceeding with the hearing of Criminal Cases Nos. MC-5-42, 43, 44, 45, 46 and 47 on November 9, 1977, and from conducting further proceedings therein."

After considering respondent's comment required on the petition and petitioners' reply thereto, the Court issued its Resolution of February 9, 1978 giving due course to the petition and requiring the parties to submit their respective memoranda in lieu of oral argument.

On March 2, 1978, respondent military commission through the Solicitor General's Office filed a motion to dispense with the filing of memorandum stating the following:

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"1. That on February 17, 1978, respondent in the above-entitled case as well as in L-43247 and L-44090, filed its COMPLIANCE AND MOTION TO DISMISS dated February 16, 1978 alleging among others:

> '2. That the reported temporary release is therefore confirmed; moreover, the cases involving petitioners, which are pending before respondent Military Commission, have already been ordered transferred to the civil courts for further proceedings;
>
> '3. That consequently all pertinent issues in all the above-entitled cases have been rendered moot and academic;
>
> '4. That an impediment to the transfer of said cases to the civil courts is the existence of a temporary restraining order issued on November 8, 1977 in L-47222-27, enjoining the respondent 'from proceeding with the hearing of Criminal Cases Nos. MC-5-42, 43, 44, 45, 46 and 47 on November 9, 1977, and from conducting further proceedings therein,' and which restraining order prevents the respondent from acting on the directive of the Secretary of National Defense to transfer subject cases to the civil courts.'

and praying that 'the temporary restraining order issued on November 8, 1977 by this Honorable Court be lifted and dissolved, and the petitions in all the above entitled cases dismissed, the same having been rendered moot and academic.'"

The Court in its two Resolutions of March 16, 1978 in two related cases, namely, L-44090 (*In re: petition for Habeas Corpus of Vicente T. Tan, et al.*) and L-43247 (*Susan Y. Mabasa vs. Military Commission No. 5, et al.*) ordered the dismissal and termination of said cases for having become moot and academic on the ground that the petitioners have already been released from detention and the criminal cases against them have already been ordered transferred to the civil courts for further proceedings.

The cases at bar may therefore be dismissed for having been rendered moot and academic and the Court's temporary restraining order of November 8, 1977 may be lifted for the purpose of enabling respondent military commission to act for the sole purpose of transferring the cases before it to the civil courts.

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ACCORDINGLY, the Court's temporary restraining order of November 8, 1977 is lifted for the purpose of enabling respondent military commission to transfer the cases before it to the civil courts and upon receipt of the corresponding manifestation to this effect, the cases at bar shall be deemed dismissed for having become moot and academic.

Castro, C.J., Barredo, Makasiar, Antonio, Muñoz Palma, Aquino, Concepcion Jr., Fernandez, and *Guerrero, JJ.*, concur.

Fernando, J. and *Santos, JJ.*, took no part.

FIRST DIVISION

[G.R. No. L-26882. April 5, 1978]

ROSARIO *VDA. DE* LAIG, ROMEO, JOSE, NESTOR and BENITO, JR., all surnamed LAIG, minors, assisted by Rosario *Vda. de* Laig, Their Guardian *Ad Litem*, *petitioners, vs.* COURT OF APPEALS, CARMEN VERZO, PETRE GALERO, THE REGISTER OF DEEDS OF CAMARINES NORTE, THE DIRECTOR OF LANDS, AND THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, *respondents.*

SYLLABUS

CIVIL LAW; SPECIAL CONTRACTS; SALES; DOUBLE SALE; RULES IN CASE OF IMMOVABLE PROPERTY; CASE AT BAR.— As in the recent case of *Rosario Carbonell vs. Hon. Court of Appeals, et al.* (L-29972, Jan. 26, 1976), the first issue calls for the application of Article 1544, paragraph 2,