Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ALICIA Y. LAUREL, substituted by her sole heir and legal representative JUAN MIGUEL Y. LAUREL, *Petitioner,*	**G.R. No. 202967**
	Present:
- versus -	CARPIO, *Chairperson,* BRION, DEL CASTILLO, MENDOZA, *and* LEONEN, *JJ.*
FERDINAND M. VARDELEON, *Respondent.*	Promulgated: 05 AUG 2015

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DECISION

DEL CASTILLO, *J.*:

This Petition for Review on *Certiorari*[1] assails: 1) the October 13, 2011 Decision[2] of the Court of Appeals (CA) denying the appeal in CA-G.R. CEB CV No. 01360 and affirming the October 12, 2005 Order[3] of the Regional Trial Court (RTC), 6th Judicial Region, Kalibo, Aklan, Branch 6 in Civil Case No. 7249; and 2) the CA's June 20, 2012 Resolution[4] denying herein petitioner's motion for reconsideration of the herein assailed Decision.

Factual Antecedents

On July 23, 2004, petitioner Alicia Y. Laurel filed a Complaint[5] for recovery of possession and ownership and/or quieting of title against respondent Ferdinand M. Vardeleon concerning a 20,306-square meter island in Caticlan, Malay, Aklan. The case was docketed as Civil Case No. 7249 and assigned to

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1 *Rollo,* pp. 4-22.
2 Id. at 23-32; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Edgardo L. Delos Santos and Victoria Isabel A. Paredes.
3 Records, p. 182; penned by Judge Niovady M. Marin.
4 *Rollo,* p. 33; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Edgardo L. Delos Santos and Carmelita S. Manahan.
5 Records, pp. 2-7.

Branch 6 of the RTC of Kalibo, Aklan.

Respondent denied the material allegations in the complaint, claiming that he bought the island on April 9, 1973 from Avelina Casimero, and that petitioner was guilty of laches in filing her claim.[6]

In a July 6, 2005 Pre-Trial Order,[7] petitioner was scheduled to present her evidence on three separate dates: September 7, 2005; October 12, 2005; and November 23, 2005.

Previously, on August 1, 2005, respondent moved to correct the Pre-Trial Order, in order to reflect therein petitioner's supposed admission made during pre-trial that she knew of respondent's possession of the subject property since 1975.[8] Petitioner opposed the same.[9]

In an August 19, 2005 Order,[10] the trial court denied respondent's motion to correct the Pre-Trial Order. Respondent filed a motion for reconsideration[11] but the trial court did not act on the motion.

On September 2, 2005, petitioner's counsel moved to reset the scheduled September 7, 2005 hearing to October 12, 2005 or any available date.[12] The trial court, in a September 7, 2005 Order,[13] granted the motion provided that petitioner defrays the transportation expenses as well as the appearance fee of respondent's counsel. Petitioner moved to reconsider,[14] but the court failed to act on the same.

During the scheduled October 12, 2005 hearing, petitioner was present, together with substitute counsel Atty. Roy Villa and her first witness. Petitioner moved in open court to postpone trial on the ground that there are pending motions that have to be resolved, and that the substitute lawyer had yet to confer with the witness, since her true counsel, Atty. De la Vega – who originally interviewed the witness – was not present. This time, the trial court, in an Order[15] of even date, denied: 1) petitioner's oral motion to postpone trial; 2) her motion for reconsideration of the trial court's September 7, 2005 Order directing her to defray respondent's counsel's transportation expenses and appearance fees; and 3) respondent's motion for reconsideration of the trial court's August 19, 2005 Order

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6 Id. at 34-38.
7 Id. at 108-109.
8 Id. at 119.
9 Id. at 122-128.
10 Id. at 129.
11 Id. at 158-164.
12 Id. at 142-146.
13 Id. at 148-149.
14 Id. at 168-172.
15 Id. at 182.

denying his motion to correct the Pre-Trial Order. It likewise dismissed Civil Case No. 7249 on the ground of failure to prosecute on petitioner's part, pursuant to Section 3, Rule 17 of the 1997 Rules of Civil Procedure.[16] It decreed, thus:

> Resolving the Motion for Reconsideration filed by the plaintiff, the same is hereby DENIED. The alleged illness of Atty. Maria Theresa Diaz-dela Vega which allegedly prevented [sic] from appearing at the initial trial is not supported by a medical certificate that is under oath. (Sec. 4, Rule 30, 1997 Rules of Civil Procedure).
>
> As regards the Motion for Reconsideration filed by the defendant, the same was just a rehash of the ground mentioned in their [sic] first motion which was amply discussed in the Order sought to be reconsidered. Said Motion for Reconsideration is also DENIED.
>
> Called for trial, plaintiff is unable to present anew her evidence. She is asking for the postponement of the trial. It is significant to take note that when this case was set for trial on September 7, 2005, plaintiff failed to present evidence based on the alleged illness of her counsel. And today, plaintiff is not again ready to present evidence.
>
> Defendant opposed the motion, and manifested that he is willing that the counterclaim be dismissed to facilitate the eventual dismissal of this case.
>
> WHEREFORE, plaintiff's verbal motion to postpone the trial is hereby DENIED and the case is DISMISSED for failure to prosecute. The counterclaim is also DISMISSED.
>
> SO ORDERED.
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> Open Court, Kalibo, Aklan.
> October 12, 2005.

On November 9, 2005, petitioner filed a motion for reconsideration[17] of the trial court's October 12, 2005 Order, but in a January 31, 2006 Order,[18] the trial court denied the same, stating among others that –

> The fact that another trial date was left for her to present evidence cannot be made as a justification because for two settings, i.e., September 7, 2005 and October 12, 2005, she admittedly failed to present evidence. As a matter of fact, on September 7, 2005, the Court was already inclined to dismiss the case for failure of the plaintiff to appear, especially that her motion to postpone the

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16 On Dismissal of Actions.

Sec. 3. Dismissal due to fault of plaintiff. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

17 Records, pp. 191-197.

18 Id. at 260-261.

> hearing failed to comply with the 3-day period to file and serve the motion prior to the date of the hearing. The motion was filed two (2) days before the date of the hearing. Nonetheless, the Court had to bend the procedural rules by granting the motion and set the presentation of plaintiff's evidence on October 12, 2005 as previously set during the trial. The reason therefor is just to allow the plaintiff to present her evidence and decide the case on the merits. Unfortunately, as earlier stated, plaintiff was again unable to present evidence.
>
> Some pending incidents mentioned by the plaintiff is [sic] not a legal justification for her not to present evidence. The same were already resolved when the Court directed plaintiff to proceed with the presentation of her evidence. However, plaintiff refused to do so.
>
> Hence, the dismissal of the complaint for failure to prosecute as mentioned at the outset.
>
> WHEREFORE, the motion for reconsideration is denied for lack of merit.
>
> SO ORDERED.[19]

Ruling of the Court of Appeals

Petitioner filed an appeal before the CA, docketed as CA-G.R. CEB CV No. 01360. She claimed that the trial court should not have dismissed her case since she still had one more scheduled hearing – November 23, 2005 – for the presentation of her evidence. Petitioner asserted that she could not begin trial since respondent's motion for reconsideration of the trial court's August 19, 2005 Order remained unresolved and was still awaiting resolution. Moreover, her own motion for reconsideration of the trial court's September 7, 2005 Order directing her to defray the transportation expenses and appearance fee of respondent's counsel was still pending at the time. But in an October 13, 2011 Decision, the CA denied the appeal, stating thus:

> Appellant claims that it was her honest belief that during the hearing on October 12, 2005, the trial court would first hear and resolve appellee's motion for reconsideration from the Order denying his earlier motion to correct the pre-trial order. She was caught by surprise when the trial court outrightly denied appellee's motion for reconsideration and directed her to present her witness. Moreover, under the Pre-Trial Order, she still had another date to present her evidence, that is, on November 23, 2005.
>
> We are not impressed with appellant's contentions.
>
> Under Section 3, Rule 17 of the Rules of Court, if, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence-in-chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may

[19] Id.

be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by the court.

There is failure to prosecute when the plaintiff, being present, is not ready or is unwilling to proceed with the scheduled trial or when postponements in the past were due to the plaintiff's own making, intended to be dilatory or caused substantial prejudice on the part of the defendant.

Appellant could not pretend that she did not know that she would be presenting her evidence on October 12, 2005. Appellant was duly notified of the hearing dates. The Pre-Trial Order dated July 6, 2005 clearly stated that appellant was set to present her evidence on the following dates: September 7, 2005, October 12, 2005 and November 23, 2005 at 9:30 in the morning. When appellant's counsel filed a motion to reset the hearing, the trial court granted the same.

With due notice of the proceedings, appellant and her counsel were both well aware that they had to present their evidence on October 12, 2005. This was their chosen date, but instead of coming prepared, appellant moved for another postponement. Appellant's justification that her counsel was not yet able to talk to the witness is not a meritorious ground to defer the hearing of the case. In fact, under Sec. 3, Rule 30 of the Rules of Court, a motion to postpone a trial on the ground of absence of evidence can be granted only upon affidavit showing the materiality or relevancy of such evidence and that due diligence had been utilized to procure it. There was no such affidavit in this case, nor was there any showing that due diligence had been exerted to procure the attendance of the intended witness.

The fact that the trial court no longer heard appellee's motion for reconsideration is of no moment. Appellant's complacent attitude and lack of preparedness [in pursuing] her case warrants its dismissal for failure to prosecute. x x x [A] plaintiff is duty-bound to prosecute his action with utmost diligence and with reasonable dispatch in order to obtain the relief prayed for and, at the same time, minimize the clogging of court dockets. The expeditious disposition of cases is as much the duty of the plaintiff as the court's.

The trial court therefore did not err in issuing the assailed Order since it was only performing its duty in ensuring that litigations are prosecuted and resolved with dispatch. To allow appellant to postpone the case until such time that she is ready to present her evidence would only cause unreasonable delay and violate appellee's right to speedy trial.

Accordingly, We sustain the trial court's dismissal of appellant's complaint for failure to prosecute.

WHEREFORE, the Appeal is DENIED. The Order dated October 12, 2005 of the Regional Trial Court, 6th Judicial Region, Branch 6 of Kalibo, Aklan in Civil Case No. 7249 is AFFIRMED in toto. Costs on plaintiff-appellant.

SO ORDERED.[20]

[20] *Rollo*, pp. 27-31.

Petitioner moved to reconsider, but in its assailed June 20, 2012 Resolution, the CA held its ground. Hence, the present Petition.

Issues

Petitioner submits that –

> THE HONORABLE COURT OF APPEALS AND THE COURT *A QUO* COMMITTED SERIOUS ERROR AND GRAVE ABUSE OF DISCRETION IN DISMISSING PETITIONER'S COMPLAINT FOR SUPPOSED FAILURE TO PROSECUTE DESPITE THE FACT THAT PETITIONER THROUGH HER COUNSEL HAD ACTIVELY PARTICIPATED IN THE PROCEEDINGS IN THE COURT *A QUO* AND DESPITE THE FACT THAT THERE WAS A PENDING UNRESOLVED MOTION INVOLVING THE PRE-TRIAL ORDER.
>
> BOTH THE COURT *A QUO* AND THE HONORABLE COURT OF APPEALS HAVE CLEARLY DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION BY THIS HONORABLE COURT.[21]

Petitioner's Arguments

Praying that the assailed CA dispositions be set aside and that Civil Case No. 7249 be reinstated, petitioner essentially maintains in her Petition and Reply[22] that during the October 12, 2005 scheduled hearing, her counsel and witness were present but they did not commence trial because they honestly believed that the respondent's pending motion for reconsideration of the trial court's August 19, 2005 Order denying his motion to correct/amend the July 6, 2005 Pre-Trial Order needed to be resolved first. Petitioner insists that said motion for reconsideration had a direct bearing on the course of the trial, thus the necessity of resolving it first. In any case, it was already agreed upon during pre-trial and allowed by the trial court in its pre-trial order, that she still had one more opportunity to present her evidence on the scheduled hearing on November 23, 2005. Thus, the RTC – instead of dismissing the case – should have allowed her to present evidence on said date. Petitioner posits that agreements reached at the pre-trial conference and embodied in the pre-trial order control the course of trial and should not be disturbed unless there would be manifest injustice.[23] Since she had one more scheduled hearing available to her, it cannot be concluded that she has failed to prosecute her case. In addition, petitioner claims that she has a meritorious case since she purchased the property from a seller who has a valid tax declaration in

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[21] Id. at 9.
[22] Id. at 132-145.
[23] Citing *Dy, Jr. v. Court of Appeals*, G.R. No. 97130, June 19, 1991, 198 SCRA 468.

his name, while respondent himself admitted during pre-trial that his supposed predecessor-in-interest Avelina Casimero had no document or tax declaration to support her title to the subject property.[24] She points out that the trial court erred in not giving the parties the opportunity to present their arguments on their pending motions for reconsideration, and instead denied them outright on October 12, 2005; and that the power to dismiss the case for failure to prosecute should be exercised with care, as it may forever bar a litigant from pursuing judicial relief, and so the circumstances surrounding the case should be considered to the end that technicality shall not take precedence over substantial justice.[25]

Respondent's Arguments

In his Comment,[26] respondent maintains that the CA is correct in affirming the dismissal. He labels petitioner's insistence for the RTC to resolve first the pending motions for reconsideration before trial could commence, and for her to be allowed to commence the presentation of evidence on November 23, 2005, as specious and flimsy. He argues that these claims even constitute glaring proof of petitioner's lack of interest in prosecuting her case; and that if petitioner was keen on pursuing her case, then the substitute counsel (Atty. Villa) should nonetheless have been prepared on October 12, 2005. He avers that petitioner has exhibited a complacent attitude toward her case in violation of his right to speedy trial/ disposition of his case. Finally, he contends that petitioner has been accorded due process and given ample opportunity to present her case.

Our Ruling

The Petition must be granted.

This Court has said that "[t]he fundamental test for *non prosequitur* is whether, under the circumstances, the plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude. **There must be unwillingness on the part of the plaintiff to prosecute.**"[27]

> To constitute failure to prosecute, his non-appearance must be equated with **unwillingness to proceed with the trial** as when both plaintiff and counsel made no appearance at all, or with the assumption that plaintiff has already lost interest in prosecuting his action, in the same way that should the ground for dismissal be delay, this delay or failure to proceed must be for an unreasonable length of time beyond the reasonable allowance which by judicial leniency a

[24] Records, pp. 108-109.
[25] Citing *Gapoy v. Judge Adil*, 171 Phil. 652 (1978).
[26] *Rollo*, pp. 106-131.
[27] *Shimizu Philippines Contractors, Inc. v. Magsalin*, G.R. No. 170026, June 20, 2012, 674 SCRA 65, 81. Emphasis supplied.

litigant is normally entitled.[28]

Likewise –

> While a court can dismiss a case on the ground of *non prosequitur*, the real test of such power is whether, under the circumstances, plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude. In the absence of a pattern or a scheme to delay the disposition of the case or a wanton failure to observe the mandatory requirement of the rules on the part of the plaintiff, x x x courts should decide to dispense rather than wield their authority to dismiss.[29]

Finally, in *Padua v. Hon. Ericta*,[30] the following pronouncement was made:

> ... (T)rial courts have ... the **duty to dispose of controversies after trial on the merits whenever possible. It is deemed an abuse of discretion for them, on their own motion, to enter a dismissal which is not warranted by the circumstances of the case'** (Municipality of Dingras v. Bonoan, 85 Phil. 458-59 [1950]). **While it is true that the dismissal of an action on grounds specified under Section 3, Rule 17 of the Revised Rules of Court is addressed to their discretion** (Flores v. Phil. Alien Property Administrator, 107 Phil. 778 (1960]; Montelibano v. Benares, 103 Phil. 110 [1958]; Adorable v. Bonifacio, 105 Phil. 1269 [1959]; Inter-Island Gas Service, Inc. v. De la Gerna, L-17631, October 19, 1966, 18 SCRA 390), **such discretion must be exercised soundly with a view to the circumstances surrounding each particular case** (Vernus-Sanciangco v. Sanciangco, L-12619, April 28, 1962, 4 SCRA 1209). If facts obtain that serve as mitigating circumstances for the delay, the same should be considered and dismissal denied or set aside (Rudd v. Rogerson, 15 ALR 2d 672; Cervi v. Greenwood, 147 Colo 190, 362 P. 2d 1050 [1961]), **especially where the suit appears to be meritorious and the plaintiff was not culpably negligent and no injury results to defendant** (27 C.J.S. 235-36; 15 ALR 3rd 680). (Abinales vs. Court of First Instance of Zamboanga City, Br. I, 70 SCRA 590, 595). (Emphasis supplied)

With the above-cited pronouncements as guides, the Court declares that the trial court erred in dismissing Civil Case No. 7249, and the appellate court should not have affirmed such dismissal. Petitioner's actuations indicate that she was not at all unwilling to prosecute her case; nor can it be said that – as the trial court puts it – she "refused" to present her evidence. Far from these, she was indeed more than eager to see her case through. When she instituted Civil Case No. 7249 in 2004, petitioner was already eighty-one (81) years of age.[31] Yet, despite her advanced age, the record indicates that petitioner attended the scheduled hearing of October 12, 2005, together with her counsel and the first witness – only that the

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28 *Gapoy v. Judge Adil*, supra note 25 at 658. (Emphasis supplied)

29 *Bank of the Philippine Islands v. Court of Appeals*, 362 Phil. 362, 369 (1999).

30 244 Phil. 479, 481-482 (1988).

31 *Rollo*, p. 14. In 2012, when she filed the instant Petition, petitioner was already eighty-nine (89).

lawyer who attended was a mere proxy, and not petitioner's true counsel who previously conferred with the witness. Moreover, in coming to court that day, petitioner and the substitute counsel were acting in the honest belief that trial cannot proceed on account of pending incidents which the trial court has failed to resolve, that is: 1) her motion for reconsideration of the trial court's September 7, 2005 Order directing her to defray respondent's counsel's transportation expenses and appearance fees; and 2) respondent's motion for reconsideration of the trial court's August 19, 2005 Order denying his motion to correct the Pre-Trial Order. Given the circumstances petitioner was confronted with at the time, it is understandable that she should seek another continuance. Given her advanced age, determination, the surrounding circumstances of the case, and the fact that no prejudice is caused to respondent by further postponement of trial since petitioner – by prior agreement during pre-trial – is expected to conclude her case within the agreed three settings, the trial court should have extended to petitioner the courtesy she deserved by granting a continuance.

There is merit in petitioner's argument that since she was granted three scheduled hearings within which to present her evidence, then she should have been afforded such opportunity. Thus, it was error for the trial court to summarily dismiss the case after only the second hearing. Since petitioner and respondent agreed to the three settings during pre-trial, then petitioner should have been given three opportunities to present her case, and not merely two. As far as the parties are concerned, an allocation of time for trial has been made and agreed upon by and between them. So long as the parties act within schedule, then none of them should complain. Besides, the delay or failure to prosecute contemplated under Section 3, Rule 17 of the 1997 Rules must be for an "unreasonable length of time." In petitioner's case, the continuance she sought was not for an unreasonable length of time. It was within the period expected by and made known to the defendant and the trial court during pre-trial. In fact, it was only until the next scheduled setting on November 23, 2005, which was just over one month away. This may not be characterized as delay, as such scheduled hearing was expected by respondent and could not have come as a surprise to him. He was expected, as he agreed, to wait until the termination of these three scheduled hearings. Within such period, he can do nothing but await his turn to present evidence, unless petitioner terminates it earlier. Moreover, respondent could not have been prejudiced by the postponement being sought. The trial court even ordered petitioner to reimburse his counsel's expenses and attorney's fees for the scheduled September 7, 2005 hearing. Using this as precedent, it could have ordered the same with respect to the October 12, 2005 setting.

> In a number of previous cases, we have consistently warned that courts must ensure that litigations are prosecuted and resolved with dispatch. We also held that although the grant or denial of postponements rests entirely on the sound discretion of the judge, we cautioned that the exercise of that discretion must be reasonably and wisely exercised. **Postponements should not be allowed except on meritorious grounds, in light of the attendant**

> **circumstances. Deferment of the proceedings may be allowed or tolerated especially where the deferment would cause no substantial prejudice to any party.** 'The *desideratum* of a speedy disposition of cases should not, if at all possible, result in the precipitate loss of a party's right to present evidence and either in the plaintiff's being non-suited or of the defendant's being pronounced liable under an *ex-parte* judgment.' While a court can dismiss a case on the ground of *non-prosequitur*, the real test for the exercise of such power is whether, under the circumstances, plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude.[32] (Emphasis supplied)

As the Court has ruled in *Shimizu Philippines Contractors, Inc. v. Magsalin*:[33]

> While it is discretionary on the trial court to dismiss cases, dismissals of actions should be made with care. The repressive or restraining effect of the rule amounting to adjudication upon the merits may cut short a case even before it is fully litigated; a ruling of dismissal may forever bar a litigant from pursuing judicial relief under the same cause of action. Hence, sound discretion demands vigilance in duly recognizing the circumstances surrounding the case to the end that technicality shall not prevail over substantial justice.

For its part, the trial court was remiss in its duty to act on the two pending motions before it. It appears that it did not even grant the parties the opportunity to comment respectively on these motions, and instead simply summarily denied them in open court during the October 12, 2005 scheduled hearing. The trial court should be reminded that "the unreasonable delay of a judge in resolving a pending incident is a violation of the norms of judicial conduct and constitutes a ground for administrative sanction against the defaulting magistrate."[34]

On respondent's argument that he is entitled to a speedy disposition of his case by agreeing to grant petitioner three scheduled hearings for the presentation of her evidence, respondent is expected to honor such agreement and await his turn. So long as petitioner acts within the period allowed her for the presentation of her evidence, respondent may not complain; any grumbling on his part would be flimsy, arbitrary, and unfair. As far as petitioner is concerned, no right of respondent has been violated by her actions; as elsewhere declared herein, petitioner is not guilty of delay and/or failure to prosecute her case for an unreasonable length of time.

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32 *Producers Bank of the Philippines v. Court of* Appeals, 396 Phil. 497, 505-506 (2000).

33 Supra note 27.

34 *Canson v. Justice Garchitorena*, 370 Phil. 287, 303 (1999), citing *Dysico v. Judge Dacumos*, 330 Phil. 834 (1996); *Re: Report on the Audit and Inventory of Cases in RTC, Branch 55, Alaminos, Pangasinan*, 331 Phil. 43 (1996); *Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Makati*, 318 Phil. 5 (1995); *Query of Judge Tenerife*, 325 Phil. 464 (1996); *Re: Report on the Audit and Inventory of Cases in MTCC, Br. 2, Batangas City*, 318 Phil. 43 (1995); *Bentulan v. Dumatol*, Adm. Matter No. RTJ-93-999, June 15, 1994, 233 SCRA 168; *Re: Letter of Mr. Octavio Kalalo*, A.M. No. 93-7-1158-RTC, March 24, 1994, 231 SCRA 403; and *Longboan v. Polig*, Adm. [Matter] No. R-704-RTJ, June 14, 1990, 186 SCRA 557.

The foregoing disquisition is consistent with the trial court's exercise of discretion in deciding how best to administer justice, taking into consideration the rules of procedure, applicable jurisprudence, and the circumstances of the case. In not assuming a similar stance, the trial court and the CA committed evident error, thus resulting in misguided and unjust dispositions that unnecessarily took the parties all the way to this Court.

WHEREFORE, the Petition is **GRANTED**. The assailed October 13, 2011 Decision and June 20, 2012 Resolution of the Court of Appeals in CA-G.R. CEB CV No. 01360 are **REVERSED and SET ASIDE**. Civil Case No. 7249 is **REINSTATED**, and the Regional Trial Court, 6th Judicial Region, Kalibo, Aklan, Branch 6 is **ORDERED** to forthwith set the case for the reception of petitioner Alicia Y. Laurel's evidence.

SO ORDERED.

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest 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
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

MARIA LOURDES P. A. SERENO
Chief Justice