

## THIRD DIVISION

[ G.R. No. 126405, February 25, 1999 ]

**DRA. JOSEFA E. NEPOMUCENO, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**PURISIMA, J.:**

The pivot of inquiry in this special civil action for *Certiorari* under Rule 65 is: whether or not the Court of Appeals acted with grave abuse of discretion in denying petitioner's Motion To Strike Off the Record OSG's Comment dated June 4, 1996 and in denying her motion to reconsider its December 15, 1995 Decision.

The antecedent facts that matter are, as follows:

On December 15, 1995, the Court of Appeals promulgated its decision in CA GR No. 15386, entitled *People of the Philippines v. Reynaldo Cartalla y Abasolo*.

On January 12, 1996, the petitioner, Dra. Josefa E. Nepomuceno, moved for reconsideration. Acting thereupon on January 23, 1996, the Court of Appeals required the Office of the Solicitor General to comment within ten (10) days from notice.

On June 4, 1996, or after more than four (4) months, the Solicitor General sent in the Comment called for.

On June 19, 1996, while the motion for reconsideration was pending resolution, petitioner presented a "Motion To Strike Off The Record the OSG's Comment dated June 4, 1996", contending that subject Comment was filed beyond the time fixed by the Court of Appeals in its Resolution of May 17, 1996.

On September 20, 1996, the Court of Appeals denied both the "Motion to Strike Off the Record OSG's Comment dated June 4, 1996", as well as the Motion for Reconsideration; ratiocinating, thus:

*"The motion to strike off the record the OSG's Comment on the present motion for reconsideration should be denied considering that after the issuance of our Resolution dated May 17, 1996, we issued another resolution dated June 10, 1996 granting plaintiff -appellee a final extension of fifteen days from May 24, 1996 or until June 8, 1996 within which to file its comment. The said comment was timely filed on June 6, 1996.*

*As to the motion for reconsideration filed by the accused, the same is bereft of merit as the grounds raised therein have already been considered and passed upon in the Decision of the Court promulgated on*