

THIRD DIVISION

[G.R. No. 113296, January 16, 1998]

ABC DAVAO AUTO SUPPLY, INC., PETITIONER, VS. COURT OF APPEALS, ABUNDIO T. MERCED, DOING BUSINESS UNDER THE NAME AND STYLE OF SOUTHERN ENGINEERING WORKS, RESPONDENTS.

D E C I S I O N

FRANCISCO, J.:

On October 6, 1980, a complaint for a sum of money, attorney's fees and damages^[1] was filed by petitioner before the Court of First Instance (now Regional Trial Court) of Davao City which was raffled to Branch XVI. The pre-trial was conducted by Judge Pacita Canizares-Nye and later by Judges Alejandro Siazon and Cristeto Dinopol.^[2] During the trial on November 20, 1984, Judge Renato Fuentes heard the evidence for petitioner and private respondent, but the latter's cross examination on August 28, 1985 and the presentation of the parties' rebuttal and sur-rebuttal evidences were heard by Judge Roque Agton, having assumed office on August 1, 1985. When the judiciary was reorganized under the Aquino administration, Judge Agton was transferred to another branch of the Regional Trial Court,^[3] (RTC) but within the same Judicial Region. Meanwhile, Judge Romeo Marasigan, who assumed office on February 3, 1987,^[4] was assigned to Branch XVI.

Sometime on May 1987, Judge Marasigan acted on private respondent's motion for extension of time to file memorandum. On June 9, 1987 a decision penned by Judge Agton was rendered in favor of petitioner. Private respondent moved to reconsider said decision, but the same was denied in an order dated March 1, 1988, issued by Judge Marasigan. Private respondent appealed to the Court of Appeals (CA) which nullified Judge Agton's decision on the ground that at the time he rendered the judgment, he was neither the judge *de jure* nor the judge *de facto* of the RTC Branch XVI, and correspondingly remanded the case to the lower court.^[5] Hence, this petition on the sole issue of whether or not the decision of Judge Agton is valid.

It is a rule that a case is deemed submitted for decision upon the filing of the last pleading, brief or memorandum required by the rules, or by the court. Records disclose that this case was submitted for decision sometime on March 1987 after the parties' submission of their memoranda as required by the court, at which time Judge Marasigan was already presiding in Branch XVI. Thus, the case was submitted for decision to Judge Marasigan and not to Judge Agton who by then was already transferred to another branch. Judge Agton's decision, therefore, appears to be tainted with impropriety. Nevertheless, the subsequent motion for reconsideration of Judge Agton's decision was acted upon by Judge Marasigan himself and his denial of the said motion indicates that he subscribed with the adopted *in toto* Judge Agton's