

THIRD DIVISION

[G.R. No. 132426, August 19, 1999]

PUBLIC ESTATES AUTHORITY, PETITIONER, VS. HON. JOSE F. CAOIBES, JR., IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 253, LAS PINAS CITY AND MARTA D. MADRIAGA, RESPONDENTS.

DECISION

PURISIMA, J.:

In this Petition for *Certiorari* and *Mandamus* under Rule 65 of the Revised Rules of Court, the Public Estates Authority (PEA) assails and seeks to set aside the two Orders^[1] of Branch 253, of the Regional Trial Court, Las Pinas City, in Civil Case No. LP-97-0034.

On October 2, 1997, the respondent court issued the first challenged Order which considered as not filed the Motion to Dismiss^[2] interposed by the herein petitioner in Civil Case No. LP-97-0034 on the ground of non-compliance with **Section 11**, Rule 13 of the 1997 Revised Rules of Civil Procedure.

Meanwhile, the Complaint in subject civil case was amended in view of the death of one of the defendants. Petitioner then sent in a Manifestation and Motion,^[3] praying that its Answer previously filed be treated as its Answer to the Amended Complaint. But the same was denied by the respondent court in its second Order of December 5, 1997 under attack, for failure to comply with **Section 13**, Rule 13 of the 1997 Revised Rules of Civil Procedure.

Hence, the present petition, theorizing that:

"I

RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN CONSIDERING AS NOT HAVING BEEN FILED, THE PLEADINGS ENTITLED 'MOTION TO DISMISS' AND 'MANIFESTATION AND MOTION' FILED BY PETITIONER THROUGH REGISTERED MAIL, ALLEGEDLY FOR FAILURE TO COMPLY WITH RULE 13, SECTIONS 11 AND 13 OF THE 1997 RULES OF CIVIL PROCEDURE.

II

RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN UNJUSTIFIABLY FAILING TO RESOLVE WITH DISPATCH PETITIONER'S MOTION FOR RECONSIDERATION OF RESPONDENT JUDGE'S ORDER DATED OCTOBER 2, 1997."^[4]