

**JOSE L. C. DIZON, PETITIONER, VS. HON. MILAGROS A. GERMAN,  
AND THE DEPUTY SHERIFF OF ANGELES CITY, HILARIO C.  
SALVADOR, RESPONDENT.**

*G.R. No. L-46650. February 27, 1978*

Ponente: SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/07e6677580ed/>

---

**SANTOS, J.:**

This special civil action for certiorari and prohibition with prayer for preliminary injunction filed on 9 August 1977 seeks to annul the order dated June 28, 1977, directing the issuance of an alias writ of execution in CAR Case No. 62-P-65, rendered by respondent Judge, Milagros A. German, of the Court of Agrarian Relations (CAR), Angeles City and to restrain Deputy Sheriff of Angeles City, Hilario C. Salvador, from implementing and/or enforcing said alias writ of execution and from selling at public auction the personal properties of petitioner, which were levied upon by virtue of the alias writ of execution, on the ground that both respondents acted in excess of their jurisdiction and/or with grave abuse of discretion in issuing said order and in implementing the same.[1]

On August 22, 1977, We required respondents, without giving due course to the petition, to comment, not to file a motion to dismiss, within ten (10) days from notice. Respondent Judge, Milagros A. German, filed her comment on September 20, 1977.

In gist, the antecedent proceedings which gave rise to this petition follow. In 1965, Jose L. C. Dizon, herein petitioner was sued by his tenants, namely: (1) Jose Lansangan, (2) Gonzalo Cunanan, (3) Horacio Bundoc, (4) Godofredo Paguio, and (5) Lucio Garcia, before the CAR for the reliquidation of past harvests and reduction of leasehold rentals. Petitioner herein, defendant in said case, counterclaimed for the ejectment of above-named tenants of his landholdings. The petition for reliquidation and reduction of rentals and the counterclaim were dismissed.[2] Both plaintiffs and defendants appealed to the Court of Appeals, which appeal was docketed as CA G.R. No. L-39402.[3] On April 30, 1969, the Court of Appeals affirmed the dismissal of the counterclaim and reversed the dismissal of the complaint, sustained the right of tenants-appellants to a reduction of rentals and ordered the remand of the case to the CAR for reception of evidence to determine the amount of allowable rentals and the excess rentals which defendant landowner should reimburse to his five tenants.[4]

After remand of the case, respondent Judge conducted hearings and thereafter rendered the supplemental decision of February 25, 1970 and ordered defendant Dizon, herein petitioner, to reimburse to his five tenants the total amount of 660 cavans and 22 kilos of palay, representing excess rentals paid by them or to pay its equivalent in cash, computed at the prevailing market price of palay in the locality at the time of payment with interest of 6% per annum until fully paid.[5]

Dizon again appealed that supplemental decision of February 25, 1970, to the Court of Appeals which appeal was docketed as CA G.R. No. L-44941-R entitled "Lansangan et al. v. Jose L. C. Dizon." [6]

In the meantime, the CAR issued in April, 1970, a writ of execution pending appeal, to enforce the supplemental

decision of February 25, 1970.[7] Dizon questioned this order through a "Certiorari with Prayer for Preliminary Injunction" before the Court of Appeals in CA G.R. No. 45121-R, which gave due course to the petition and issued the restraining order prayed for and the writ of execution issued by the CAR was recalled.[8] This petition for certiorari was later denied on March 25, 1971 and the restraining order issued theretofore was lifted.[9] On June 17, 1971, Dizon appealed from this decision to Us which was docketed in this Court as G.R. L-33650.[10]

On November 25, 1975, the Court of Appeals decided CA G.R. No. 44941-R which was Dizon's appeal from the supplemental decision of the CAR dated February 25, 1970. The Court affirmed the supplemental decision and the same became final and executory.[11] Thereafter, the CAR issued, upon motion of the plaintiffs-tenants in CAR Case No. 62-P-65, the writ of execution, dated September 7, 1976.[12] And, again, Dizon assailed the issuance of this writ of execution before Us in a Petition for Prohibition docketed as G.R. No. L-44554. This Petition was, however, dismissed for lack of merit in the resolution of February 16, 1977.[13]

On April 22, 1977, We dismissed G.R. No. L-33650, the appeal from CA G.R. No. 45121-R, which upheld the CAR's issuance of the writ of execution pending appeal, on the ground that Dizon's appeal had become moot because the supplemental decision of the CAR was affirmed by the Court of Appeals in CA G.R. No. 44941-R.[14]

On June 24, 1977, plaintiffs-tenants filed before the CAR thru counsel, a motion for the issuance of an alias writ of execution.[15] The motion was granted per order of respondent Judge German on June 28, 1977.[16] This is the questioned order.

On July 26, 1977, the Deputy Sheriff of Angeles City by virtue of the aforesaid alias writ of execution levied upon some of petitioner Dizon's personal properties consisting of a piano, a T.V. set, and a refrigerator to satisfy the judgment debt of Dizon in the amount of 660 cavans and 22 kilos of palay or its equivalent in money per the Decision of the CAR, dated February 25, 1970. The Deputy Sheriff appraised the adjudicated amount of palay at P55.00 per cavan. And, including interest thereon at 6% per annum for 7 years (from 1969-1976) the total judgment debt of Dizon amounts to Fifty-one Thousand Five Hundred Eighty Two Pesos (P51,582.00).[17] The Notice of Sheriff's Sale which was issued on July 26, 1977 set the auction sale of the levied properties on August 5, 1977.[18]

On the same date, July 26, Dizon filed his Manifestation and Comment wherein he proposed to the Court (CAR), first, that his obligation to pay the 660 cavans and 22 kilos of palay be appraised at P8.90 per cavan, not at P55.00 per cavan. This would amount to around Five Thousand Eight Hundred Seventy Pesos (P15,870.00) only, not P51,582.00 as computed by Deputy Sheriff Hilario C. Salvador. Second, that his landholdings which were then in the possession of his tenants, be also appraised accordingly and that the total value thereof be applied to cover his judgment debts and be considered in payment thereof.[19]

On July 30, 1977, Dizon moved to hold in abeyance the public auction set on August 5, 1977. The motion was set for consideration on August 2, 1977. The motion was, however, not heard on the said date.[20]

On August 9, 1977, the Manifestations and Comment filed on July 26, 1977 and the Motion to Hold in Abeyance Public Auction were both denied per order of respondent Judge Milagros A. German.[21]

Upon denial of the two foregoing motions, Dizon, now petitioner, filed this petition, also on the same date, August 9, alleging that respondents acted in excess of their jurisdiction and/or with grave abuse of discretion in issuing the questioned order and in implementing the alias writ of execution, dated June 29, 1977.

On September 14, 1977, petitioner filed his Memorandum and Manifestation.[22] In paragraphs 7 and 8 thereof, under the heading Arguments and Memorandum, he manifests as follows:

"7. This petition for Certiorari with Prohibition and Injunction refer only to the interpretation of paragraph 2, page 7 of the dispositive portion of said decision of the respondent Judge (Annex "A-6", G.R. No. L-46650). The said paragraph No. 2 states in the last phrase thereof:

'...computed at the prevailing market price in the locality at the time of payment which the latter have overpaid...'

"8. There is in the said decision page 3 (Annex "A-2", this petition) that the price per cavan 'ordinario' is P8.90 which is the average price as certified to by the Bureau of Commerce for 1950 to 1961, inclusive (sic). However, the shortage declared by the Court reached up to the year 1964. The defendant's obligation of reimbursing the plaintiffs 660 cavans and 22 kilos of palay 'ordinario' must have its equivalent value in money, which should have been computed, at most at the prevailing market price in 1964 and not at the time of payment. It was in that year when the obligation was created and not in 1977." [23]

It appears from the foregoing that petitioner seeks in this petition for a reassessment of his judgment debt which the Deputy Sheriff of Angeles City appraised as P51,582.00, the value of the 660 cavans and 22 kilos of palay in 1977. Petitioner argues in pars. 9, 10 and 11, under the same heading, as follows:

"9. There is no evidence submitted, evaluated and declared or established by the Court in the decision that the price per cavan of palay 'ordinario' is P50.60 in 1960 or in 1964, but this rate of P50.60 per cavan refers to the year 1977 and not for 1964.

xxx xxx xxx

"10. When the respondent Judge, Milagros A. German, issued her order dated August 9, 1977 (Annex "I"), she committed a grave and patent abuse of discretion. The decision is clear that the obligation of the defendant, Jose L. C. Dizon, to the plaintiffs 660 cavans and 22 kilos of palay 'ordinario' as his indebtedness, was contracted in 1964, at most. The price of palay 'ordinario' in 1977 cannot be applied in lieu of the price of palay in that year 1964. This obligation, as per the decision, carries with it an imposable interest of six per centum (6%) for every year of non-payment of the obligation.

"11. It is by these acts of the respondent Judge, that she exercised her discretion despotically x x x". [24]

In short, petitioner assails the portion of the supplemental decision which orders him to "reimburse to the plaintiff the total amount of 660 cavans and 22 kilos or its equivalent in cash, computed at the prevailing market price in the locality at the time of payment x x x". His main objection is against the assessment of his judgment debt which the Deputy Sheriff of Angeles City has appraised at P55.00 per cavan of palay and not at P8.90 per cavan which he maintains to be the price of palay in 1964.

This petition is without merit. The increase in value of petitioner's judgment debt is due to the delay in the settlement thereof. This may be attributed to petitioner's own dilatory tactics. The original writ of execution was

issued way back in April, 1970.[25] However, a restraining order was secured by petitioner from the Court of Appeals to stop the implementation thereof. Again, on January 11, 1974, an alias writ of execution was issued but the same was recalled upon petitioner's motion[26] per order of the CAR on February 1, 1974.[27] Another alias writ of execution was issued on September 7, 1976 for the enforcement of the same supplemental decision.[28] This was partially executed.[29] And, finally, on June 29, 1977, an alias writ of execution, the writ now in question, was issued.[30]

In all the foregoing proceedings, it was petitioner who deferred the execution of the supplemental decision and through multiple recourse to this Court and the Court of Appeals, in dilatory maneuvers, defeated his tenants' recovery on the final and executory judgment.

Moreover, paragraph 2 of the dispositive portion of the decision specifically ordered petitioner Dizon "to reimburse to plaintiff the total amount of 660 cavans and 22 kilos (of palay) or its equivalent in cash, computed at the prevailing market price in the locality at the time of payment, which the latter have overpaid x x x".[31] This proviso of the decision, having long become final, is conclusive between petitioner and his tenants. Thus, no further review can be entertained as regards thereto.[32] The assessment of the judgment debt of petitioner by Deputy Sheriff Hilario C. Salvador, based at the current rate of palay, which was P55.00 per cavan, was a faithful implementation of the decision.

The execution of the said supplemental decision of the CAR, dated February 25, 1970, or some eight (8) years ago is a matter of right and it is the ministerial duty of the court, upon proper application of the prevailing party, to issue the corresponding writ therefor. Respondents have not, therefore, committed any act in excess of their jurisdiction or any abuse of authority;[33] their actuations, instead, are noteworthy as an implementation of the social justice provisions of the Constitution and the vigorous implementation of the land reform measures.

WHEREFORE, this petition is hereby DISMISSED, for lack of merit.

Fernando, (Chairman) Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

---

[1] Rollo, p. 4.

[2] Id., Rollo, p. 11, Annex "A".

[3] Id., p. 68.

[4] Id., pp. 11 and 69.

[5] Id., pp. 17-18.

[6] Id., pp. 20-23.

[7] Id., p. 20; See also Resolution, G.R. L-33650 dated April 22, 1977, 76 SCRA 459.

[8] Id., pp. 20 and 78.

[9] Ibid.

[10] Ibid.; See also Pet., G.R. L-33650, decided on April 22, 1977, 76 SCRA 459.

[11] Id., p. 23.

[12] Id., pp. 20 and 90-93.

[13] Id., p. 20.

[14] Resolution in G.R. L-33650, *supra*.

[15] *Id.*, pp. 19-22.

[16] *Id.*, pp. 23-24.

[17] *Id.*, p. 28.

[18] *Id.*, p. 29.

[19] *Id.*, pp. 6 and 25-27.

[20] *Id.*, pp. 30-33.

[21] *Id.*, pp. 97-99.

[22] *Id.*, pp. 67-77.

[23] *Ibid.*

[24] *Ibid.*

[25] See note 7.

[26] Rollo, pp. 78-81.

[27] *Id.*, pp. 86-87.

[28] See note 12.

[29] Rollo, p. 94.

[30] *Id.*, pp. 23-24.

[31] *Id.*, pp. 7-8; 17-18.

[32] Rules of Court, Rule 39, Sec. 49 (b)

[33] See *Garcia v. Vasquez*, L-26808, March 28, 1968, 27 SCRA 505.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.