

**JOSE ESTANISLAO, REPRESENTED BY HIS ATTORNEY-IN-FACT
DANILO F. ESTANISLAO, PETITIONER, VS. THE HONORABLE JUDGE
REYNALDO P. HONRADO, STA. ANA & SONS, INC., MARIANO P.
STA. ANA A...**

G.R. No. L-41080. June 29, 1982

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0c457c4ebe96/>

CONCEPCION, JR., J.:

Petition for certiorari, prohibition, and injunction, with preliminary injunction and/or temporary restraining order, to annul and set aside the orders dated July 2, July 11, and August 1, 1975, issued by the respondent judge in Civil Case No. 10482 of the Court of First Instance of Rizal, entitled: "Sta. Ana & Sons, Inc., plaintiff, versus Jose Estanislao, defendant," as well as the writ of pos-session issued on July 11, 1975, the execution sale in favor of Mariano P. Sta. Ana, and TCT Nos. 482341 of the Register of Deeds of Rizal, which were issued pursuant to the orders in question, and to restrain the respondents from enforcing the same.

The record shows that on February 8, 1954, the Pac-mac Machinery & Merchandising Company, PACMAC for short, filed a complaint for the foreclosure of a chattel mortgage against the herein petitioner, Jose Estanislao, before the Court of First Instance of Manila, docketed therein as Civil Case No. 21907, entitled: "Pacmac Machinery & Merchandising Company, plaintiff, versus Jose Estanislao and Francisco Sta. Ana, defendants; Francisco Sta. Ana, third-party plaintiff, versus Ng Tiong, third-party defendants." After trial, judgment was rendered in favor of the plaintiff, "ordering defendant Jose Estanislao to pay the plaintiff the amount of P4,841.85, with legal interest thereon from the date of the filing of the complaint plus attorney's fees and liquidated damages equivalent to 20% of the said amount, and the costs." The complaint against Francisco Sta. Ana and the latter's third-party complaint against Ng Tiong were dismissed.[1] PACMAC, however, appealed, and the Court of Appeals modified the judgment, as follows:

"x x x. For all the foregoing considerations, we hereby reverse

"1. The lower court's action in dismissing the complaint with respect to defendant-appellee Francisco Sta. Ana. We order the foreclosure of the properties in question. From the proceeds of the sale thereof shall be satisfied the principal obligation of P4,841.85 with legal interest from the filing of the complaint, plus liquidated damages amounting to 20% of the principal amount due which total amount shall be paid to plaintiff-appellant.

"2. The lower court's action in dismissing the third-party complaint. Third-party defendant Ng Tiong is hereby ordered to pay to third-party plain-tiff Francisco Sta. Ana the sum of P10,000.00 with legal interest from the filing of the third-party complaint.

"In so far as the lower court's decision de-fines the liability of defendant Jose Estanislao the same is hereby affirmed."[2]

On July 31, 1958, PACMAC assigned its judgment credit in favor of the herein respondent, Sta. Ana & Sons,

Inc.[3] The judgment, however, was not enforced within the reglementary period so that on June 3, 1964, the assignee, Sta. Ana & Sons, Inc. filed a complaint for the revival of the judgment against Jose Estanislao before the Municipal Court of Pasig, Rizal, where the case was docketed as Civil Case No. 914.[4] On October 27, 1966, the Municipal Court of Pasig, Rizal, rendered judgment, as follows:

"Upon consideration of the evidence presented, judgment for plaintiff and against defendant is hereby rendered ordering the latter:

"(1) to pay plaintiff the sum of P4,841.85 plus 6% interest thereon from February 8, 1954 (the date of the filing of the complaint in the Court of First Instance of Manila, Civil Case No. 21907, 'Pac-mac Machinery & Merchandising Co., Inc. vs. Jose Estanislao, et al.') until fully paid;

"(2) to pay plaintiff 20% of the amount due as attorney's fees and liquidated damages;

"(3) to pay plaintiff the additional sum of P200.00 as litigation expenses, and to pay costs of suit."[5]

Jose Estanislao appealed to the Court of First Instance of Rizal where the case was docketed as Civil Case No. 10482. He reiterated his defense that the Municipal Court of Pasig, Rizal, has no jurisdiction over the case since it is the Court of First Instance which has jurisdiction to try foreclosure cases or revive foreclosure judgments. Finding his contention meritorious, the Court of First Instance of Rizal dismissed the complaint with costs against the plaintiff on July 10, 1969. The plain-tiff and its bondsman, the Universal Insurance & Indemnity Co. were ordered to pay, jointly and severally, the here-in petitioner the amount of P5,000.00 for moral damages arising from the wrongful attachment of his property, and the amount of P2,000.00 for attorney's fees.[6]

From this judgment, the Sta. Ana & Sons, Inc. appealed. Pending the approval of the record on appeal, however, the bondsman moved for the reconsideration of the decision. Thereafter, on July 27, 1970, the Sta. Ana & Sons, Inc. filed a motion to re-open the case and on October 21, 1970, the trial court, over the vigorous objection of the petitioner, set aside its decision of July 19, 1969, to give the respondent Sta. Ana & Sons, Inc. an opportunity to present additional evidence without prejudice to the rights of the petitioner and the bonding company to adopt whatever evidence they had presented or to adduce further evidence in their behalves.[7]

After a hearing, the trial court rendered a decision on May 21, 1971, the dispositive portion of which reads, as follows:

"WHEREFORE, judgment is hereby rendered ordering the defendant to pay the plaintiff the amount of P4,841.85 with legal interest thereon from the date of the filing of the complaint in Civil Case No. 21907 of the Court of First Instance of Manila entitled: 'Pacmac Machinery & Merchandising Company vs. Jose Estanislao and Francisco Sta. Ana', or from February 8, 1954, up to full payment, plus attorney's fees and liquidated damages equivalent to 20% of the said amount and the costs of suit in said Civil Case No. 21907 and the costs in this instance.

"The defendant's counterclaim is hereby dis-missed."[8]

Jose Estanislao appealed. Pending approval of his record on appeal, however, the Universal Insurance and Indemnity Co. filed a motion to dismiss the appeal on the ground that the proper remedy is not to submit a notice of appeal, appeal bond, and record on appeal, but to file a petition for review under Section 29 of the Judiciary Act of 1948, as amended by Republic Act No. 5433. Acting Upon the motion, the trial court dismissed the petitioner's appeal on February 8, 1972.[9]

On February 19, 1972, the trial court ordered the issuance of a writ of execution of the decision of May 21, 1971,[10] and on March 2, 1972, a writ of execution was issued pursuant thereto. The herein petitioner sought the annulment of the order dismissing his appeal,[11] but the Court of Appeals dismissed his petition.[12] As a result,

the personal properties of Jose Estanislao were levied upon and subsequently sold at a public auction sale to the Sta. Ana & Sons, Inc., as the highest bidder thereof, for the amount of P730.00.[13] To satisfy the deficiency, an alias writ of execution was issued, and a parcel of land, belonging to Jose Estanislao, situated in Barrio Bagong Ilog, Pasig, Rizal, and covered by TCT No. 177520, was attached and levied upon, and then sold at a public auction sale to the Sta. Ana & Sons, Inc. for the sum of P7,200.00, the exact amount of the unpaid judgment plus the expenses of sale.[14]

After the expiration of the period of redemption without the property having been redeemed, a final deed of sale was executed in favor of Sta. Ana & Sons, Inc. on December 2, 1974.[15] But, when the deed of sale was presented for registration, it was discovered that a mortgage had been constituted on the parcel of land in favor of the Pasay City Development Bank. Accordingly, the Sta. Ana & Sons, Inc. redeemed the mortgage.[16] The certificate of redemption was presented to the Register of Deeds of Rizal in order that the certificate of title issued in the name of Jose Estanislao be cancelled and a new one issued in the name of the respondent Sta. Ana & Sons, Inc., but the Register of Deeds of Rizal refused to cancel the said certificate of title. Consequently, the Sta. Ana & Sons, Inc. filed, in Civil Case No. 10482, a pleading entitled: EX-PARTE MOTION FOR RECONSIDERATION OF TRANSFER CERTIFICATE OF TITLE NO. 177520 praying, "that after due hearing of this motion, an order be issued ordering the Register of Deeds of Rizal to cancel Transfer Certificate of Title No. 177520 in the name of the defendant, and in lieu thereof, a new one be issued in the name of the plaintiff, with a directive to carry over at the back of said title the right of redemption of the defendant insofar as the mortgage obligation with the Pasay Development Bank is concerned." [17]

After an ex-parte hearing, the respondent judge, citing Section 78 of the Land Registration Act, issued the questioned order of July 2, 1975, ordering the Register of Deeds of Rizal to cancel Transfer Certificate of Title No. 177520 and to issue, in lieu thereof, a new transfer certificate of title in the name of Sta. Ana & Sons, Inc.[18] Pursuant thereto, TCT No. 177520 was cancelled and TCT No. 482340 was issued in the name of Sta. Ana & Sons, Inc.[19] Subsequently, TCT No. 482340 was cancelled and TCT No. 48231 was issued in the name of Mariano P. Sta. Ana, as assignee thereof.[20]

On July 3, 1975, Jose Estanislao tendered the amount of P10,368.00 in full and complete satisfaction of the judgment claim, together with the interests, attorney's fees and expenses, pleading that the purchase price of P7,200.00 is unconscionable since the property is worth about half a million pesos, but the respondent Sta. Ana and Sons, Inc. refused the tender. Hence, the money was deposited with the Provincial Sheriff of Rizal.[21]

Jose Estanislao also filed a complaint against the respondent Sta. Ana & Sons, Inc., Mariano Sta. Ana, the Provincial Sheriff of Rizal, and the Register of Deeds of Rizal before the Court of First Instance of Rizal, docketed therein as Civil Case No. 21550 for the annulment of Documents, more particularly the Certificate of Sale dated November 7, 1973, the Officer's Final Deed of Sale dated May 13, 1975, and to direct the Register of Deeds of Rizal to cancel TCT No. 482341 in the name of Mariano P. Sta. Ana and to issue, in lieu thereof, a new certificate of title in the name of Jose Estanislao.[22] The case is still pending trial and adjudication.[23]

Meanwhile on July 11, 1975, the respondent judge, upon previous motion of the respondents filed in Civil Case No. 10481 of the Court of First Instance of Rizal,[24] directed the issuance of a writ of possession,[25] and Jose Estanislao was ordered to vacate the premises within five (5) days therefrom.[26] However, the enforcement of the writ of possession was suspended when the herein petitioner filed a motion for the reconsideration of the orders of July 2, 1975 and July 11, 1975.[27] On August 1, 1975, the respondent judge denied the motion and ordered the enforcement of the writ of possession.[28]

Hence, the present recourse. As prayed for, the Court issued a temporary restraining order, directing the

respondents to desist from enforcing the orders of July 2, 1975, July 11, 1975, and August 1, 1975.[29] But, on August 7, 1975, the petitioner complained to the Court that the respondent Mariano Sta. Ana, with the assistance of the Deputy Sheriff of Rizal and certain policemen of Pasig, Rizal, has "succeeded in impeding and obstructing the administration of justice by circumventing the temporary restraining order issued by this Honorable Court and the order of suspension issued by the respondent judge,[30] which is an open and defiant disregard of judicial orders" and prayed that the said persons be declared in contempt of court.[31] The respondents were ordered to comment,[32] and, in answer, they claimed that they cannot be cited in contempt of court since the temporary restraining order was no longer effective as the writ of possession had been enforced prior to the issuance of the said temporary restraining order.[33] However, the contempt charge was later withdrawn when the respondents agreed to comply with the terms of the temporary restraining order issued by the court.[34]

The petitioner claims that the respondent judge had no jurisdiction to issue the disputed order of July 2, 1975, directing the cancellation of petitioner's TCT No. 177520 and the issuance, in lieu thereof, of a new certificate of title in the name of the respondent Sta. Ana & Sons, Inc. in Civil Case No. 10482 of the Court of First Instance of Rizal.

There is merit in the contention. According to Section 112 of the Land Registration Act, "all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered." Definitely, the petition for the cancellation of the title issued to Jose Estanislao should be filed with the Court of First Instance, sitting as a land registration court; and since the petition for cancellation was filed in Civil Case No. 10482 and the respondent judge considered the petition as an incident in said civil case, the order issued on July 2, 1975, directing the cancellation of the certificate of title issued in the name of Jose Estanislao and the issuance of a new certificate of title in the name of the respondent Sta. Ana & Sons, Inc. is null and void.

While Section 78 of the Land Act, on which the questioned order of July 2, 1975 is premised, provides that upon the failure of the judgment debtor to redeem the property sold at public auction, the judgment creditor may petition the court for the issuance of a new certificate of title in his favor, the "court" referred to in said Section 78 is the Court of First Instance, sitting as a land registration court, which issued the decree of registration.[35]

Besides, Section 112 of the Land Registration Act requires "notice to all parties in interest". Since the petitioner Jose Estanislao was not notified of the "Ex-Parte Motion for Reconsideration of Transfer Certificate of Title No. 177520," and of the hearing conducted therein, the respondent court did not acquire jurisdiction over the person of Jose Estanislao.

Furthermore, the respondent Sta. Ana & Sons, Inc. failed to exhaust all administrative remedies before re-sort to the court was made. Thus, the questioned order of July 2, 1975 was issued pursuant to the "Ex-Parte Motion for Reconsideration of Transfer Certificate of Title No. 177520," filed by the respondent as an incident in Civil Case No. 10482 of the Court of First Instance of Rizal. The reason for the filing of the said motion was the alleged refusal of the Register of Deeds of Rizal to cancel TCT No. 177520 and to issue a new certificate of title in the respondent's name. The pertinent allegation reads, as follows:

"15. That the Certificate of Redemption was presented by the plaintiff to the Register of Deeds of Rizal in order that the certificate of title in question be cancelled and a new one in the name of the plaintiff be issued, on condition that the right of redemption by the defendant from the Pasay City Development Bank be annotated on the certificate of title to be issued in the name of the plaintiff, but the Register of Deeds notwithstanding the provisions of law on the matter which upholds and sustains the validity of said cancellation, refused to cancel the said certification of title in the name of the defendant, thereby rendering the judgment;" (italicized for emphasis).[36]

The remedy under such circumstances, however, is to sub-mit the question of refusal to the Commissioner of Land Registration en consulta pursuant to Section 53 of the Land Registration Act and if not satisfied with the ruling of the Commissioner of Land Registration and the question involved is one of law, to appeal the said ruling to the Supreme Court. Section 53 of Act 496 reads, as follows:

"Sec. 53. Reference of doubtful matters to Commissioner of Land Registration.- When the Register of Deeds is in doubt with regard to the proper step to be taken or memorandum to be made in pursuance of any deed, mortgage, or other instrument presented to him for registration, or where any party in interest does not agree with the Register of Deeds with reference to any such matter, the ques-tion shall be submitted to the Commissioner of Land Registration either upon the certification of the Register of Deeds, stating the question upon which he is in doubt, or upon the suggestion in writing of the party in interest; and thereupon the Commissioner, after consideration of the matter shown by the records certified to him, and in case of regis-tered lands, after notice to the parties and hear-ing, shall enter an order prescribing the steps to be taken or memorandum to be made. His decision in such cases shall be conclusive and binding upon all Registers of Deeds; Provided, however. That when a party in interest disagrees with the ruling or resolution of the Commissioner and the issue involves a question of law, said decision may be appealed to the Supreme Court within thirty days from and after receipt of the notice there."

It is the rule in this jurisdiction that when, in accordance with law, a plain, speedy and adequate remedy is accorded to the aggrieved party within the Executive Department of the Government, the courts will not intervene until that remedy has been resorted to and exhausted.[37] For this, and for want of jurisdiction over the subject matter of the action and over the person of the petitioner, the order rendered on July 2, 1975 is null and void.

WHEREFORE, the petition is GRANTED and the orders dated July 2, July 11, and August 1, 1975, issued by the respondent judge in Civil Case No. 10482 of the Court of First Instance of Rizal, entitled: "Sta. Ana & Sons, Inc., plaintiff, versus Jose Estanislao, defendant," and the proceedings conducted subsequent thereto, are hereby ANNULLED and SET ASIDE. The temporary restraining order heretofore issued is hereby made permanent. No costs.

SO ORDERED.

Guerrero, De Castro, and Escolin, JJ., concur. Barredo, J., (Chairman), concurs in a separate opinion. Aquino, J., see dissent. Abad Santos, J., votes for the denial of the petition which is posited on a legal technicality. There must be an end to litigation so that the discharge of undeniable obligation can be laid to rest.

[1] Rollo, p. 105.

[2] Id., p. 157.

[3] Id., p. 158.

[4] Id., p. 100.

[5] Id., p. 103.

[6] Id., p.109.

[7] Id., p. 110.

[8] Id., p. 2.

[9] Id., pp. 111-113.

[10] Id., p. 113.

[11] Id., p. 104.

[12] Id., p. 119.

[13] Id., p. 2.

[14] Id., p. 3.

[15] Id., p. 138.

[16] Id., p. 33.

[17] Id., p. 35.

[18] Id., p. 38.

[19] Id., p. 41.

[20] Id., p. 44.

[21] Id., p. 46.

[22] Id., p. 130.

[23] Id., p. 98.

[24] Id., p. 47.

[25] Id., p. 47.

[26] Id., p. 49.

[27] Id., p. 58.

[28] Id., p. 59.

[29] Id., p. 65.

[30] Id., p. 79.

[31] Id., p. 67.

[32] Id., p. 88.

[33] Id., p. 142.

[34] Id., pp. 179, 184.

[35] Sec. 2, Act 496, as amended.

[36] Rollo, p. 36.

[37] *Montes vs. Civil Service Board of Appeals*, 101 Phil. 490 and other cases cited therein; *Cabe-nes vs. Rodriguez*, 101 Phil. 1241; *Villanueva vs. Ortiz*, 103 Phil. 875 and other cases cited therein; *Songahid vs. Cinco*, 106 Phil. 946; *Cruz vs. Del Rosario*, 119 Phil. 63 and other cases cited therein.

DISSENTING OPINION

AQUINO, J.:

I dissent. My view is that this twenty-eight year-old litigation should be terminated in this Court once and for all by requiring Jose Estanislao to pay as redemption price to Mariano P. Sta. Ana the sum of P4,841.85 with six percent legal interest from February 8, 1954 up to the date of payment and twenty percent of P4,841.85, or P968.37, as liquidated damages but less the sum of P730 which was realized at the first execution sale.

Payment of that amount should be made within thirty days from notice of the receipt by the lower court of the record from this Court.

If payment is made, then TCT No. 482341 in the name of Mariano P. Sta. Ana should be cancelled and a new title for Lot 13-A, with an area of 1,872 square meters, located at Bagong Ilog, Pasig, Metro Manila should be issued to Estanislao.

If no payment is made within that period, then the lower court's order should be sustained. The title in Sta. Ana's name should not be cancelled.

It is revolting to one's sense of justice that a lot with an area of 1,872 square meters should be applied to the payment of a debt of P4,841.85.

CONCURRING OPINION

BARREDO, J.:

I concur in the setting aside of the questioned orders for want of jurisdiction a respondent judge.

I can see the need for the earliest termination of this case emphasized in the dissent of Mr. Justice Aquino. But to label the attack on the jurisdiction of respondent judge as a mere technicality amounts to my mind to condoning shortcuts, not only on a procedural matter, but one as substantive as to affect the very authority of the court to act within the ambit circumscribed for it by law. I have always maintained as correct and good law what we learned early in the law school jurisdiction of the court over any matter cannot be appropriated by the court itself no matter how well intentioned its action might be, much less conferred upon it by any act of any of the parties even in pursuit of the clearest substantial right. Jurisdiction is power and authority to act and it is a long unbroken rule that only the law can vest the same on the court or judge. I still maintain that the Sibonghanoy modification of such a fundamental and basic rule is bad law based as it is on the dubious theory that when a party seeks a remedy in the wrong court, he cannot complain against any adverse action thereof even if his error of choice might be the product of ignorance of material facts or a lack of full comprehension of the jurisdictional law on the part of his lawyer.

In any event, it is quite clear in the main opinion how the substantive rights of the parties stand. All We have to do is to direct that the controversy be taken to the proper court which should act accordingly, and it is to be expected that once that is done, the lawyers concerned will heed the advice of Mr. Justice Aquino that this litigation be put to a definite end soonest.

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.