

JUAN E. TUASON, PETITIONER, VS. HON. FRANCISCO ARCA, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA (BRANCH I) AND JUANA T. DE LA VIÑA, RESPONDENTS.*G.R. No. L-24346. June 29, 1968*

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/18269579a609/>**REYES, J.B.L., J.:**

Petition for a writ of certiorari with preliminary injunction to set aside certain orders, dated February 3, 1965 and December 17, 1964, of respondent Judge Francisco Arca of the Court of First Instance of Manila (Branch I) issued in Civil Case No. 21954 of said court, and to require the same court to grant petitioner's motion for demolition of a lessee's buildings.

Basic to these proceedings is that by decision of the Court of First instance of Manila in its Case No. 21954, the private respondent, Juana T. de la Viña, with other lessees who are not now involved, were on September 29, 1956 condemned to vacate the lots in Manila leased by them from herein petitioner, and -

“remove the buildings built thereon, and return the possession”

of the lots to herein petitioner: for said respondent de la Viña to pay P2,224.50 annually, beginning January 1, 1954, with interest at the legal rate, plus real estate tax of P278.06 per year until the possession of the lot occupied by her is restored to herein petitioner Tuason. Appealed to this Supreme Court (Case G.R. No. L-12020), the aforesaid judgment was affirmed, with costs against appellants, on August 31, 1960.

The records having been returned to the Court of First Instance (Branch I) of Manila, petitioner Tuason secured a writ of execution, by virtue of which the Sheriff levied upon personal property of respondent De la Viña, and sold the same on March 22, 1961. Thereafter, the Sheriff also made levy on three buildings belonging to the execution debtor, standing on the premises to be vacated.

De la Viña resorted to the Court of Appeals (Case CA-G.R. No. 29294-R) entreating that Court to set aside the writ of execution and the City Sheriff's sale of the personalty and the levy on the buildings aforementioned; and by decision of December 19, 1961, the Court of Appeals upheld the execution and sale of the personalty, but enjoined the sale of the real properties until proper notice of the sale had been made.

After new notices had been issued, the Sheriff of Manila sold the buildings to the herein petitioner Tuason as the highest bidder and on September 28, 1962 executed the corresponding certificate of sale. De la Viña moved to set aside the sale, but apparently upon indication from respondent judge, withdrew the motion on February 13, 1963 in order to file a separate civil action to annul the sheriff's sale.

The suit was actually instituted on September 17, 1963, docketed as Civil Case No. 54997 of the City Court of first Instance, Branch X, presided by Judge Moya; but the latter rejected de la Viña's application for a preliminary writ of injunction to restrain Tuason from consolidating ownership over the buildings and from taking possession thereof. Reason given for denying the writ was that one year had elapsed since the sale; that the petition showed

that the houses were in actual possession of the buyer, and that whatever prejudice might ensue could be adequately compensated.

Having obtained a final deed of sale from the Sheriff, petitioner Tuason secured from respondent Judge Arca an alias writ of execution on July 13, 1964 ordering de la Viña and all persons claiming under her to vacate the lot in question. On August 1, 1964, de la Viña once more resorted to the Court of Appeals for a writ of prohibition against the enforcement of the alias writ of execution (CA-G.R. No. 34350-R) but that appellate court, on August 25, 1964, dismissed the petition.

De la Viña returned to the court of respondent Arca, with a motion to quash the alias writ of execution, and on August 29, 1964 respondent judge issued an order authorizing her and her household help "to stay in her house No. 2, one of the subject matters of the ejectment". This order was set aside on September 22 by the same judge, after hearing the parties, and the motion to quash the execution was denied. Four days later, on September 26, a third alias writ was issued.

De la Viña asked for reconsideration, and on September 29 the respondent judge set aside its order of September 22, and restrained further action on the alias writs of execution.

After various other incidents, Tuason finally moved on November 28, 1964 for "leave to forthwith demolish and destroy the buildings in question," on the ground that his title to the land had never been disputed, and that regard-less of the validity or invalidity of the Sheriff's sale to him of the houses standing thereon, he was entitled to have the buildings removed, pursuant to the final judgment affirmed by the Supreme Court. By order of December 17, the respondent denied the motion for demolition, on the ground that the houses might have sentimental value for de la Viña and that she could not be deprived of her property without due process. And on February 3, 1965, upon ex parte motion, the respondent directed as follows:

"the sheriff and the defendant Tuason are hereby ordered to place the plaintiff de la Viña in possession of one house of her choice among the three houses in question x x x."

His motion for reconsideration having been denied, Tucson came to this Court on certiorari. We gave the petition due course and issued a preliminary writ of injunction upon a P1,000.00 bond.

Through the incredible turnings and twistings of this lawsuit one circumstance starkly juts out, though apparently ignored by the respondent judge: that a final judgement, directing Juana T. de la Viña to vacate the lot she leased from petitioner, to remove her buildings thereon and to restore possession to petitioner (a judgment affirmed by this Supreme Court since 1960) stands to this day unimplemented and not executed. Contrary to the terms of the judgment, the respondent court, which is duty bound to enforce it, has, on one pretext or another, ordered possession of one building of her choice restore to the judgment debtor, and refused to order its demolition, although the creditor has asked for it, and it is directed in the final judgment. Clearly, such action is in plain abuse of discretion.

That this situation should not be tolerated any longer is self-evident. To allow further evasion of a judgment that became final years ago does nothing but discredit judicial processes and cast contempt and disrepute upon the ad-ministration of justice.

Whether or not the respondent De la Viña is or is not the owner of the buildings is without relevance. She has been ordered to remove the buildings and return possession of the land to petitioner Tuason by a final adjudication that may no longer be altered. Having failed for years to do so voluntarily, it is but proper that the sheriff be now allowed to demolish the buildings and the landlord recover possession of his land (Rule 39, section 14) in order that the judgment in his favor be not reduced to a mockery. For the respondent judge to deny the judgment

creditor his remedy on the ground that the tenant-owner of the buildings can not be deprived thereof without due process is a perversion of the constitutional provision; for she has had ample opportunity to be heard, and was heard, before the judgment of eviction against her became final. Nor does the question of sentimental value of the property constitute a justification for refusal to execute that judgment. As ruled by Judge Moya, any prejudice that may ensue can be adequately compensated by a damage award.

Respondent De la Viña's belated contention that the buildings are not on petitioner's land is not entitled to serious consideration. If this claim had any truth in it, the said respondent would not have failed to invoke it in the main case or in the two proceedings initiated by her in the Court of Appeals to block execution of the judgment. Not having done so, the claim, even if true, is now barred by estoppel.

WHEREFORE, the writ of certiorari is granted, and the orders of February 3, 1965 and December 17, 1964, issued by the respondent Judge Francisco Arca, directing that, private respondent De la Viña be placed in possession of one of the houses in question, and denying the petition for their demolition, are hereby annulled and set aside and the respondent court is hereby ordered to grant the order of demolition and to cause the writs of execution to be forthwith completely carried out. Costs against respondent De la Viña.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.
Fernando, J., did not take part.

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.