

ISIDRA P. CADIRAO, ACCOMPANIED BY HER HUSBAND, PABLO CADIRAO, AND CONSOLACION P. CAMARISTA, ACCOMPANIED BY HER HUSBAND, RAMON CAMARISTA, PETITIONERS, VS. THE HONORABLE NUMERIANO...*G.R. No. L-42408. September 21, 1984*

Ponente: CUEVAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3d135b45d8a0/>**CUEVAS, J.:**

Private respondent Juanita M. Diego, represented by her attorney-in-fact Salvador Nicano, filed before the defunct Court of First Instance of Iloilo-Branch III a complaint (Civil Case No. 10104) against petitioners Isidra P. Cadirao and her husband Pablo Cadirao, together with Consolacion P. Camarista and the latter's husband, Ramon Camarista "To Quiet Title and Remove Clouds of Ownership of Real Property with Damages" over a parcel of land situated at the Poblacion of Miag-ao, Iloilo, Philippines, which is more particularly described as follows:

"A parcel of unregistered land, situated in the Poblacion of Miag-ao, Iloilo, known as Assessor's Lot N 276, bounded on the North by the properties of Gerardo Nemiada, Hrs. of Julian Frantilla and Eusebio Mueda; on the East by Eusebio Mueda and Quezon Street; on the South by Hrs. of Jesus Nequino and Lucas Paguntalan; and on the West by Osmeña Street and Ignacio Nasilom, containing an area of about eight hundred and eighty-nine (889) square meters, more or less. This is assessed for P360.00 and used for residential purposes and declared for tax purposes in the name of Eusebio Mueda under Tax Declaration NO. 26957."

The complaint among others, alleged that private respondent is the only child and exclusive legal heir of the deceased Eusebio Mueda, who died sometime in the year 1973 and as such, is the sole and exclusive owner of the afore-described parcel of land; that private respondent has been and still is in possession of the same continuously, peacefully, publicly and adversely against the whole world in the concept of legal owner thereof; and that for almost two years now, petitioners have been surreptitiously and illegally committing acts of intrusion, conversion and spoliation on the afore-described parcel by means of strategy and stealth, thereby taking away for their own use, some of the products of the fruit trees thereon and planted later some banana plants besides putting up a bamboo fence on the boundaries of the said land abutting the streets and extending a portion of their house to a portion of the lot in question.

Answering the complaint, petitioners (then defendants) denied the material averments thereof and set up by way of special and affirmative defenses that the parcel of land described in the complaint is exclusively owned by them, having inherited the same from their deceased father Rafael Paguntalan who died sometime on December 30, 1969; that Rafael Paguntalan was the real and exclusive owner of the aforementioned parcel of land before and after the second world war; that the said property was declared in his name in 1945 under Tax Declaration NO. 23404 and land taxes thereon from 1945 to 1948 paid by him as per Official Receipt NO. W522534 issued on May 31, 1950; that on July 19, 1971 and February 27, 1973, land taxes on the said parcel of land were paid twice for the years 1945 to 1973 as per Official Receipt NOS. E6937592 and F7037446 in their names; that for the

years 1974 to 1975, the above parcel of land was declared for taxation purposes under a new declaration (Tax Declaration NO. 0011054) and taxes were correspondingly paid thereon in their names as per Official Receipt Nos. G8562337 and 1630946 dated May 11, 1974 and February 24, 1975 respectively; that the deceased Rafael Paguntalan had never mortgaged, encumbered or sold the aforementioned parcel of land; and that the petitioners, not private respondents, have been and are still exercising ownership and possession continuously, peacefully, publicly and adversely against the whole world for a long period of time by virtue of the principle of tacking of possession from their predecessor-in-interest up to the present.

Traversing petitioners' aforementioned special and affirmative defenses, private respondents in their REPLY alleged –

"That with the exception of those that are deemed admitted in the Complaint and this Reply, the plaintiff denies the material allegations of Paragraphs 5 to 9 of the Special and Affirmative Defenses in the defendants' Answer, especially with reference to their claim of ownership of the land in question, because (a) the deceased, Rafael Paguntalan, during his lifetime recognized the ownership thereof by the deceased Eusebio Mueda, father of the plaintiff, and due to such recognition Tax Declaration No. 23404 (in the name of Rafael Paguntalan) was cancelled and substituted by Tax Declaration No. 26957 (in the name of Eusebio Mueda), as evidenced by a copy of a document, a copy of which is hereto attached to form part of this Reply to Answer, as Annex "A"; (b) that in recognition Rafael Paguntalan never exercised any act of ownership over the land in question nor paid the taxes thereof up to the time of his death which covered a period of more than twenty (20) years; and (c) that it was only in 1973, or four (4) years after the death of Rafael Paguntalan, when the defendants started to pay taxes on said land and committed illegal acts thereon as alleged in the complaint." [1]

The issues having been joined, the case was thereafter set for pre-trial on September 8, 1975, during which date, the trial court, then presided by the Hon. respondent Judge Numeriano G. Estenzo, required the parties to submit affidavits of their witnesses and their exhibits in order to enable the court to determine the propriety of rendering a summary judgment or a judgment on the pleadings.

After the parties had submitted their respective affidavits, exhibits and memorandum in support of their stand, the trial court rendered a Summary Judgment on September 17, 1975, the pertinent portion of which reads as follows –

"Section 8, Rule 8 of our Rules of Court, reads as follows:

'Sec. 8. How to contest genuineness of such documents. - When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he claims to be the facts; but this provision does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused.'

Taking into account the fact that no specific denial and under oath had been made on Annex "A" to the reply to the said pleading wherein the document was attached so that the same is being admitted.

Considering such admission on Annex "A" to the rejoinder to the answer, the genuineness and due execution of Annex "A" of reply to the answer is deemed admitted. So that any intrusion of claim of right of ownership into the land described in Annex "A" to the reply to answer as above copied will have no leg to stand on.

WHEREFORE, summary judgment is hereby rendered in favor of the plaintiff and against the defendants declaring the plaintiff as the owner of Assessor's Lot No. 276 of Miag-ao, Iloilo covered by Tax Declaration No. 26957 hereby ordering that clouds of the title of the plaintiff over the land in question be removed and prevented

by declaring that Tax Declaration No. 23404 in the name of Rafael Pagunta-lan over the land in question is declared null and void and of no force and effect and further ordering the defendants to remove whatever construction they may have made on the land in question or otherwise have said construction demolished and finally ordering defendants to refrain from further committing acts of intrusion, conversion and spoilation on the land in question with costs against the defendants."

Petitioners, (then defendants) moved to re-consider the Summary Judgment in question contending that the document referred to as Annex "A" in the judgment, appears to have been signed by the late Rafael Paguntalan who is not a party to the case and therefore, petitioners who are not signatories there-to are not bound to make a denial under oath pursuant to the concluding sentence of Sec. 8, Rule 8 of the Rules of Court.

In an Order dated October 1, 1975, Judge Valerio V. Rovira, in his capacity as Executive Judge, (respondent Judge Estenzo's temporary assignment to Branch III having expired in the meantime) set aside the Summary Judgment dated September 17, 1975 and ordered the case to be tried anew. The pertinent portion of the said Order reads as follows –

"According to the defendants, Annex "A" of plaintiffs' reply is not an actionable document defined in Sec. 7, Rule 8 of the Rules of Court, on the ground that the person who allegedly executed Annex "A" was Rafael Paguntalan while the defendants in this case are his children. The movants contend that when the adverse party does not appear as a party to the instrument, like in the present case, they are not bound by the note signed by their deceased father even if they do not deny under oath the genuineness and due execution thereof. (Nery Lim Chiago vs. Terairay, 5 Phil. 120) In Macias vs. Warner Barnes, 43 Phil. 155; Velarde vs. Paez, 101 Phil 376, the real parties in interest are those, who on the face of the contract, appear to be the parties thereof.

To the mind of the Court Exh. "A" is not an actionable document but evidentiary in nature and, hence, need not be denied under oath.

The important issue in this case is this: Who is the owner of the land described in paragraph 2 of the complaint? The plaintiff claims that she is the owner thereof, having inherited the same from her deceased father Eu-sebio Mueda. The defendants, on the other hand, also claim that the land belongs to them and that they have been possessing the same since the year 1945. In other words, the fact in issue are disputed. There is genuineness of controversy upon the question of facts. Summary judgment is proper if the facts are clear and undisputed, and there is no genuine controversy upon any question of fact (Sec. 3, Rule 34, Rules of Court; Gatchalian vs. Paulin, G.R. NO. L-17619, October 31, 1962; Clemente vs. Pascua, G.R. No. L-25153, October 4, 1968)

The Court finds the motion of the defendants to be tenable."

Private respondent, then plaintiff, moved to reconsider the aforesaid Order but the same was denied by Executive Judge Rovira in his Order dated November 24, 1975.

On December 3, 1975, private respondent filed a Second Motion for Reconsideration.

On December 8, 1975, Judge Numeriano G. Estenzo whose temporary assignment in Branch III had been extended, reconsidered the Order dated November 24, 1975, and sustained the Summary Judgment previously rendered by him on September 17, 1975.

Hence, on December 22, 1975, petitioners filed the instant petition for review on certiorari before this Court praying for the annulment and setting aside of the challenged Summary Judgment, contending that the same was allegedly issued with grave abuse of discretion amounting to lack of jurisdiction.

In the Resolution of the First Division dated March 22, 1976, the petition was given due course and treated as a special civil action.

The principal issue which We are called upon to resolve is whether or not the trial court gravely abused its discretion in disposing the case by Summary Judgment.

Rule 34 of the Rules of Court authorizes the rendition of a summary judgment when on motion of the plaintiff, after the answer to the complaint had been filed, it would appear at the hearing for such a judgment, from the pleadings, depositions and admissions on file, together with the affidavits that, except as to the amount of damages, there is no genuine issue as to any material fact and that the winning party is entitled to a judgment as a matter of law.[2] Conversely, the rendition of a summary judgment is not proper when the defending party's pleading tenders vital issues which calls for the presentation of evidence.[3] As we have earlier held in the case of *Viajar vs. Estenzo*, 89 SCRA 684 –

"Relief by summary judgment is intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits. But if there be a doubt as to such facts and there be an issue or issues of fact joined by the parties, neither one of them can pray for a summary judgment. Where the facts pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial.

An examination of the Rules will readily show that a summary judgment is by no means a hasty one. It assumes a scrutiny of facts in a summary hearing after the filing of a motion for summary judgment by one party supported by affidavits, depositions, admissions or other documents (Section 3, Rule 34). In spite of its expediting character, relief by summary judgment can only be allowed after compliance with the minimum requirement of vigilance by the court in a summary hearing considering that this remedy is in derogation of a party's right to a plenary trial of his case. At any rate, a party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is so patently unsubstantial as not to constitute a genuine issue for trial, and any doubt as to the existence of such an issue is resolved against the movant."

The case at bar may not, even by the most liberal or strained interpretation, be considered as one not involving genuine issues of fact which necessitates presentation of evidence to determine which of the two conflicting assertions of facts is correct. A careful examination of the pleadings will show that private respondent claims ownership of the land in question having allegedly inherited the same from her deceased father, Eusebio Mueda. Said claim is controverted by the petitioners who also assert ownership over the same land having allegedly also inherited the same from their deceased father Rafael Paguntalan, the owner thereof. These diametrically opposed and conflicting claims present a factual dispute which can be resolved and settled only by means of a trial on the merits. The affidavits, documents and memorandum submitted by the parties all the more show that the facts pleaded are disputed or contested. The issue of ownership, thus raised by the parties may not be categorized as frivolous and sham so as to dispense with the presentation of evidence in a formal trial. Reliance by the trial court on Section 8, Rule 8 of the Rules of Court as its basis for the rendition of the challenged Summary Judgment is misplaced and without legal support. As correctly contended by the petitioners, the genuineness and due execution of Annex "A" of private respondents' Reply which is allegedly an Acknowledgment of Ownership signed by the late Rafael Paguntalan, petitioners' predecessor-in-interest, is not deemed admitted by the failure of the petitioners to deny the same under oath, they not being parties to the said instrument.

And that is not all. The nullity of the assailed Summary Judgment stems not only from the circumstances that such kind of a judgment is not proper under the state of pleadings obtaining in the instant case, but also from the failure to comply with the procedural guidelines for the rendition of such a judgment. Contrary to the requirements prescribed by the Rules,[4] no motion for a summary judgment was filed by private respondent. Consequently, no notice or hearing for the purpose was ever conducted by the trial court. The trial court merely

required the parties to submit their affidavits and exhibits, together with their respective memoranda, and without conducting any hearing, although the parties presented opposing claims of ownership and possession, hastily rendered a Summary Judgment. The trial court was de-cidedly in error in cursorily issuing the said Judgment.

Anent the propriety of the remedy availed of by the petitioners, suffice it to state, that although appeal was technically available to them, certiorari still lies since such appeal does not prove to be a speedy and adequate remedy.[5] Where the remedy of appeal cannot afford an adequate and expeditious relief, certiorari can be allowed as a mode of redress to pre-vent irreparable damage and injury to a party.[6] Certiorari is a more speedy and efficacious remedy of nullifying the assailed summary judgment there being absolutely no legal basis for its issuance. Moreover, the records show that private respondent had already moved for the issuance of a writ of execution and that respondent Judge merely held in abeyance resolution of the same pending resolution by this Court of the ins-tant petition. Clearly then, even if appeal was avail-able to the petitioners, it is no longer speedy and adequate.[7]

WHEREFORE, the Summary Judgment and the Order dated December 8, 1975 issued in Civil Case No. 10104 are hereby SET ASIDE and the Presiding Judge of the sala to whom the aforementioned case has been assigned is directed to proceed with the trial of the said case and to render judgment accordingly.

No costs.

SO ORDERED.

Makasiar (Chairman), Aquino, Abad Santos, and Escolin, JJ., concur.

Concepcion, Jr., and Guerrero, JJ., on leave.

[1] Paragraph 2, Reply.

[2] Sec. 3, Rule 34, Rules of Court.

[3] Villanueva vs. National Marketing Corporation, 28 SCRA 729.

[4] Rule 34, Rules of Court.

[5] Dimayacyac vs. CA, 93 SCRA 265 (1979); Zenith Ins. Corp. vs. Purisima, 114 SCRA 63 (1982).

[6] Marcelo vs. de Guzman, 114 SCRA 657 (1982).

[7] Matute vs. CA, 26 SCRA 772 (1969).

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.