

EDUARDO JALANDONI (DECEASED), SUBSTITUTED BY ROGELIA R. JALANDONI, BRENDA R. TAYAG, ARTHUR JALANDONI, DEANNA J. FELICIANO AND SUSAN R. JALANDONI, PETITIONERS, VS. PHILIPPINE NAT...

G.R. No. L-47579. October 09, 1981

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/540b7afd8dec/>

AQUINO, J.:

May the judgment debtor's land, which was levied upon within five years from the entry of judgment, be sold at an execution sale after the expiration of the ten-year period for enforcing the judgment? That legal issue arises under the following facts:

On March 31, 1959, the Court of First Instance of Manila rendered a judgment ordering Eduardo Jalandoni to pay the Philippine National Bank the sum of P63,297.53, together with daily interest of P12.57 from March 6, 1959 until fully paid, and ten percent of the total amount due as attorney's fees, plus the costs (Civil Case No. 38393).

That judgment became final and executory. Within five years from the entry of judgment in that case, or on March 9 1964, the sheriff of Silay City, pursuant to an alias writ of execution, levied upon Lot No. 657-C of the Silay cadastre, with an area of seventeen hectares, covered by Transfer Certificate of Title No. T-1827, which was later cancelled and replaced in 1969 by Transfer Certificate a Title No. T-3202 in the name of Eduardo Jalandoni.

The levy was annotated on TCT No. T-1827 and TCT No. 3202 in this manner:

"Entry NO. 2041 - Notice of Embargo. - x x x issued by the City Sheriff of Silay City subjecting the rights, in-terests and participations of Eduardo Jalandoni over the lot described in this title, to 'levy on execution in relation to Civil Case No. 38393 otherwise entitled Philippine National Bank, Plaintiff vs. Eduardo Jalandoni, Defendant'. Date of Instrument - March 9, 1964 - Date of Inscription - March 9, 1964 at 11:00 A.M."

No effort was made by the bank up to this time to have that land sold at public auction to satisfy the judgment against Jalandoni.

On April 22, 1974, or more than ten years after the levy was made, Jalandoni filed with The Court of First Instance of Negros Occidental at Silay City in the land registration proceeding, LRC Cadastral Record No. 86 for Lot No. 657-C, a petition for the cancellation a the levy on the ground of pres-cription. The petition was opposed by the bank.

The lower court in its order of October 31, 1974 directed Jalandoni to ask the Manila court to quash the writ of execution on the ground of prescription and thereafter to refile his petition in the lower court.

The said court also adverted to the rule that relief under section 112 of Act No. 496 can be granted only when there is unanimity among the parties or there is no adverse claim or serious objection on the part of an interested party.

On May 20, 1975, Jalandoni filed in the same court an action to quiet title or for the cancellation of the notice of embargo on the ground that, although more than ten years had elapsed from the time the levy was made, no execution sale had been held and, therefore, the levy had become in-efficacious and was a cloud on his title (Civil Case No. 685).

The bank answered the complaint. After a pre-trial and the submission of memoranda, the trial court rendered a decision dated June 15, 1977 dismissing the complaint. The heirs of Jalandoni (he died on January 20, 1977) appealed to this Court under Republic Act No. 5440.

It should be borne in mind that an action upon a judgment must be brought within ten years from the time the right of action accrues (Art. 1144, Civil Code). As clarified in the Rules of Court, that prescriptive period means that "a judgment may be executed on motion within five (5) years from the date of its entry or from the date it becomes final and executory" and "after the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action" (Sec. 6, Rule 39).

The Jalandoni heirs, in support of their contention that the levy cannot be enforced after the expiration in 1969 of the ten-year period for enforcing the judgment, rely on the rule laid down in *Ansaldo vs. Fidelity and Surety Co.* of the P.I., 88 Phil. 547, a 1951 case, that "properties levied upon by execution must be sold in public auction within the period of ten years during which the judgment can be enforced by action". The reason for that rule is that an execution is enforced (and therefore accomplished) by levy and sale, not by levy alone.

In the *Ansaldo* case, a writ of execution was issued by the Court of First Instance of Manila on April 11, 1933 and a notice of levy was annotated on April 17, 1933 on the Torrens titles covering the lots of the judgment debtor, Angel A. Ansaldo. No other step was taken by the judgment creditor on the writ of execution and levy.

More than fourteen years later, or on July 30, 1947, Jose Ma. Ansaldo, the heir of the judgment debtor, filed a petition with the Court of First Instance of Manila for the cancellation of the levy in view of the inaction of the judgment creditor. The latter opposed the petition.

The lower court granted it on the ground that the judgment creditor's right to enforce the judgment by execution had prescribed. This Court affirmed the lower court's order cancelling the levy annotated on *Ansaldo's* titles.

In passing, this Court noted that, although it was ruled in *Government of the Philippines vs. Echaus*, 71 Phil. 318 that if there is a valid levy within the period prescribed by law, the execution sale may be enforced thereafter, the execution sale in that case took place within the ten-year period from the entry of judgment.

In *The Echaus* case, the judgment was rendered in 1932, the writ of execution was issued and the levy was made in 1934, and the execution sale was held in 1939 or within the ten-year period.

On the other hand, in this case the trial court and the bank hold the view that the execution sale can be made beyond the ten-year period for enforcing the judgment as long as the levy was effected within five years from the entry of judgment as in the instant case.

They rely on the dictum that while section 6 of Rule 39 "limits the time within which a writ of execution may be issued to enforce a judgment, it does not prescribe a period when the sale at public auction by the sheriff shall take place after the issuance of the writ of execution and a valid levy made pursuant thereto" (*Del Rosario vs. Yatco*, L-18735, December 29, 1966, 18 SCRA 1263). That dictum was based on the following ruling, also cited in the *Echaus* case:

"The levy is the essential act by which the property is set apart for the satisfaction of the judgment and taken into the custody of the law, and. . . after it has been taken from the defendant, his interest is limited to its application to

the judgment, irrespective of the time when it may be sold." (Southern Cal. Lumber Co. vs. Hotel Co., 94 Cal. 217, 28 American State Reports 115).

In the decision in the Southern California Lumber case, the phrase "irrespective of the time when it may be sold" means that after a levy has been made, the property levied upon may be sold even after the sixty-day period, which is the term of the writ of execution, but that phrase does not mean that the execution sale could be held beyond the ten-year period for enforcing the judgment.

In the Del Rosario case, the judgment was rendered in 1955, the writ of execution was issued in 1956 and a levy was made on the land of the judgment debtor, Narciso del Rosario, which levy was annotated on his title and was recorded in the registry of deeds. No execution sale was held.

In 1961, Del Rosario and the persons to whom he had mortgaged the land levied upon filed in court a petition to cancel the levy on the ground that more than five years had already elapsed since the levy was made and no auction sale had been held. Del Rosario contended that the judgment creditor's remedy was to file an action to revive the judgment.

The trial court did not grant the petition. It ordered the judgment creditor to take steps that the land levied upon be sold at an execution sale within sixty days. This Court affirmed that order of the trial court. It should be noted that the said execution sale would take place within the ten-year prescriptive period for enforcing the judgment.

In the Del Rosario case, this Court cited the case of Quimbao vs. Manila Motor Co., Inc., 113 Phil. 431, which reaffirmed the rule in the Ansaldo case that "a valid execution issued and levy made within the five-year period after entry of the judgment may be enforced by sale of the property levied upon thereafter, provided the sale is made within ten years after the entry of the judgment".

We hold that the trial court erred in not applying the ruling in the Ansaldo case which is on all fours with this case.

The employees of the bank were negligent. They did not require the sheriff to sell Jalandoni's land at public auction. The bank is bound by its employees' negligence. This case should teach the responsible officers of the bank to be more vigilant in exercising its rights and in supervising its employees. The law helps the diligent and vigilant, not those who sleep on their rights.

"For laches and neglect on the part of those, who, under the law are entitled to require of others the fulfillment of their obligations, the statute of limitations has been enacted, which provides that such rights prescribe after a certain period of time, in order that it may serve alike as a punishment for those who do not know how to look after their own interests, and as a source of reassurance to those who may have rested in the belief that their creditors had waived their rights, and also to insure economic stability and the certainty of rights". (Villa-Real, J., in Lutero vs. Siuliong & Co., 54 Phil. 272, 280.)

We find that the "notice of embargo" annotated in 1964 on Jalandoni's title is no longer enforceable and has become a cloud upon his title. Following the rule in the Ansaldo case, he and his heirs have a good cause of action under article 476 of the Civil Code for the removal of that stale encumbrance.

Moreover, article 478 of the Civil Code provides that "there may also be an action to quiet title or remove a cloud therefrom when the contract, instrument or other obligation has been extinguished or has terminated, or has been barred by extinctive prescription". (See sec. 112 of Act No. 496.)

"A court of equity will remove a cloud cast upon title to property by a lien, interest, or title which has become barred by reason of laches or the running of the statute of limitations. x x x.

"Liens which were acquired by virtue of judgments or levies of execution, and which have become barred by limitations or by delay in enforcing them, and sales based on such liens, have been held to be removable as clouds." (65 Am Jur 2nd 163-164).

WHEREFORE, the trial court's decision is reversed and set aside. The register of deeds of Silay City is directed to cancel the "Notice of Embargo" annotated on Jalandoni's title, TCT No. T-3202, covering Lot No. 657-C of the Silay cadastre. No costs.

SO ORDERED.

Fernando, C.J., Makasiar, Concepcion, Jr., Fernandez, De Castro, and Melencio-Herrera, JJ., concur.

Barredo, J., concurs because it is his considered view that the life of the writ of execution can longer be longer than the period within which the judgment may be reviewed by action.

Teehankee, J., on official leave.

Guerrero, J., reserves his vote.

Abad Santos, J., no 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.