

DOLORES BENEDICTO AND RICARDO GEMORA, PLAINTIFFS AND APPELLANTS, VS. PANTALEON CAÑADA AND VICITACION MARIÑAS, DEFENDANTS AND APPELLEES.*G.R. No. L-20292. November 27, 1967*

Ponente: ZALDIVAR. J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/542e74b0dee1/>**ZALDIVAR. J.:**

This is an appeal by the plaintiffs from two orders of the Court of First Instance of Negros Occidental, in its Civil Case No. 4426, namely: (1) the order of May 4, 1962 ordering the lifting of the order of arrest and the release of defendants Pantaleon Cañada and Vicitacion Mariñas who had been charged of indirect contempt of court; and (2) the order of June 30, 1962 denying plaintiffs' motion for reconsideration of the order of May 4, 1962.

This case was originally an action for forcible entry and detainer filed with the Justice of the Peace Court of Sipalay, Negros Occidental, on January 4, 1957, by which herein plaintiffs-appellants sought to recover from herein defendants-appellees the possession of a portion of Lot No. 4120[1] of the cadastral survey of Cauayan (now Sipalay), awarded to plaintiff Dolores Benedicto by the Director of Lands under Sales Application No. V-1453, on June 7, 1952. An amended complaint, changing the defendants' names from Pantaleon Catalan and Vicitacion Elediera to Pantaleon Cañada and Vicitacion Mariñas, respectively, was admitted by the court. After hearing, on June 10, 1957, the justice of the peace court dismissed the complaint upon the ground that the proper action should have been an accion publiciana or reivindicacion. From this decision, appeal was taken by the plaintiffs to the Court of First Instance of Negros Occidental.

The defendants failed to file an answer in the Court of First Instance of Occidental Negros, and so upon motion by the plaintiffs said defendants were declared in default. After having received the evidence, the court rendered a decision on November 21, 1957 ordering the defendants to immediately vacate the area occupied by them in Lot No. 4120 in question, and to pay the plaintiffs the sum of P100.00 yearly beginning May, 1956. Upon a petition filed by plaintiffs, the court issued, on October 11, 1958, an alias writ of execution of the judgment and ordered the defendants to remove their dwelling house from the area in question within 60 days from notice. On May 23, 1959, the court ordered the Provincial Sheriff of Negros Occidental to remove defendants' house, which the sheriff did on July 29, 1959. Shortly afterwards, however, the defendants re-entered the premises and rebuilt their dwelling house. On January 6, 1962, plaintiffs filed with the court a motion for contempt, praying for the issuance of an order requiring the defendants to appear on April 14, 1962 and show cause why they should not be punished for contempt. The defendants received notice of the order, but failed to appear, so the court ordered their arrest. The defendants were brought to court on May 4, 1962. On that day, after having heard the explanation of defendants, the court issued an order lifting the order of arrest and directed the release of the defendants. The plaintiffs filed a motion for reconsideration of the order of May 4, 1962, but in its order of June 30, 1962, the court denied said motion. The order of June 30, 1962 reads as follows:

"Acting upon the motion for reconsideration dated July 7, 1962, filed by attorney for the plaintiffs, praying that the order of May 4, 1962 be reconsidered; and considering that it appears from the motion for contempt dated

January 6, 1962, filed by attorney for the plaintiffs, that the alleged re-entry of the defendants was affected by them a few days after July 29, 1959, when the Provincial Sheriff demolished the defendants' house standing on the land in question, and said motion for contempt was filed only on January 6, 1962, or about two and one-half years from the alleged re-entry, with the result that implication arises that said re-entry had the blessing of or was at least impliedly tolerated by the plaintiffs, and that the latter's remedy, if any, would be, not a motion for contempt, but a new action for recovery of possession;

"The Court is constrained to deny, as it hereby denies, the afore-said motion for reconsideration."

From the above-mentioned orders of May 4, 1962 and June 30, 1962, appeal was taken to this Court by the plaintiffs on purely questions of law. The plaintiffs pray this Court that said two orders be set aside, and that the lower court be ordered to proceed with the contempt proceedings.

Plaintiffs-appellants contend, in their brief, that the court a quo erred:

(1) In issuing the order dated May 4, 1962 lifting the order of arrest and releasing defendants-appellees;

(2) In denying, in its order of June 30, 1962, the motion for reconsideration of the order dated May 4, 1962, upon the ground that the motion for contempt was filed two years and a half after the alleged re-entry by defendants-appellees in the land in question; and

(3) In holding, in its order of June 30, 1962, that the plaintiffs-appellants' remedy, if any, would not be a motion for contempt but a new action for the recovery of possession.

Plaintiffs-appellants, in support of the three errors assigned, argue that the lower court, in the two orders appealed from, impliedly held that it had no authority to punish defendants-appellees for contempt because the motion for contempt was filed two years and a half after the alleged re-entry, and in this the lower court erred because under Rule 64, Section 3(h) of the Rules of Court the lower court has such authority, and this is so held by the Supreme Court in the case of *Azotes v. Blanco, et al.*, 78 Phil. 739.

The defendants-appellees had not filed an appellee's brief. However, We are deciding this case on the basis of the pertinent facts appearing in the record and the law applicable.

Plaintiffs-appellants are correct in contending that the court a quo has authority to entertain a charge for indirect contempt even if the contempt charge is filed about two and a half years after the commission of the contumacious act, which, in this case, is the re-entry by the defendants into the land from which they had been ejected by order of the court and in rebuilding their house thereon. Under Rule 64, Section 3(h) of the old Rules of Court (now Rule 71, Section 3(b) of the new Rules) the act of re-entry into the land by a party from which he was ordered by the court to vacate may be punished as for contempt of court even after the lapse of five years from the date of the execution of the judgment.[2]

We find, however, that the lower court dismissed the charge for contempt, and ordered the release of the defendants, not upon the ground of lack of authority to act on the contempt charge but because, as is stated in the order of June 30, 1962, it could be implied that the re-entry "had the blessing of or was impliedly tolerated by the plaintiffs. . . ." That there was an implied consent to the re-entry is a conclusion of fact by the lower court, and this conclusion cannot be reviewed by this Court in this appeal where only questions of law may be considered. The consent or acquiescence by the plaintiffs, as concluded by the lower court, is a sufficient defense for the defendants to the charge of contempt of court. Thus, it has been held that:

"As a rule, the fact that the contempt charge is the result of the direct or implied advice or consent of complainant is a sufficient justification therefor." (17 C.J.S., p. 103)

There is another reason why this appeal cannot prosper. Under Sections 3, 5, 6, 7 and 8 of Rule 71 of the Rules of Court, a charge for contempt of court partakes of the nature of a criminal action,[3] even when the act complained of is an incident in a civil action. This Court had occasion to say, in the case of *Lee Yick Hon v. Collector of Customs*, 41 Phil., 548, 552, that:

"In proceedings against a person alleged to be guilty of contempt of court, it is not to be forgotten that such proceedings are commonly treated as criminal in their nature even when the acts complained of are incidents of civil actions. For this reason the mode of procedure and rules of evidence in contempt proceedings are assimilated as far as practicable to those adapted to criminal prosecutions. (6 R.C.L., p. 530.)"

As a consequence, a judgment in contempt proceedings is subject to review only in the manner provided for review of judgments in criminal cases.[4] In fact, Section 10 of Rule 71 of the Rules of Court provides that the appeal in contempt proceedings may be taken as in criminal cases. Hence, as in criminal proceedings, an appeal would not lie from the order of dismissal of, or an exoneration from, a charge of contempt of court. This Court in *Pajao v. Provincial Board of Canvassers of Leyte*, 88 Phil., 588, 591, ruled that:

"On the other hand, if it be appellant's purpose to have the mandamus case kept alive so that he could prosecute his action to have the respondent therein punished for contempt, his appeal would equally be untenable because contempt proceedings are in their nature penal, and denial of the motion for contempt after trial amounts to a virtual acquittal from which an appeal would not lie."

In the same vein was the ruling of this Court in *Villanueva v. Lim, et al.*, 69 Phil., 654, wherein this Court said:

"No es posible en derecho, ninguna apelacion contra una sentencia absolutoria, porque los procesos por desacato indirecto . . . son de caracter penal."

In view of the foregoing, the orders of the lower court of May 4, 1962 and June 30, 1962, appealed from, should be, as they are hereby, affirmed. Without costs. It is so ordered.

Dizon, Actg., C.J., Makalintal, Bengzon, J.P., Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Orders affirmed.

[1] With an area of about five gantas of palay in seedling.

[2] This was so held by this Court in *Azotes V. Blanco, et al.*, 78 Phil., 739, as cited by plaintiffs-appellants.

[3] *Villanueva v. Lim, et al.*, 69 Phil., 654.

[4] *Slade Perkins v. Director of Prisons*, 58 Phil., 271, 278.

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.