

RICARDA FARISCAL VDA. DE EMNAS, ELVIRA EMNAS, ELENA EMNAS, EDUARDO BARREDA AND LOLITO VILLAFLOR, PETITIONERS, VS. GREGORIO EMNAS AND HONORABLE HONORATO GARCIANO, AS JUDGE OF THE...

G.R. No. L-26095. January 28, 1980

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6f524db26cf5/>

DE CASTRO, J.:

Petition for writ of certiorari seeking a review of the order dated September 25, 1965 of the Court of First Instance of Leyte, Branch VI, Carigara.

Petitioner Ricarda Fariscal is the widow of Eduardo Emnas who died intestate on September 16, 1953, leaving no debts, but left properties consisting of parcels of lands devoted to coconut, corn and rice, and residential lots with improvements thereon located in the different barrios of Barugo, Leyte. Petitioners Elvira and Elena Emnas and respondent Gregorio Emnas are the children of the deceased, Eduardo Emnas.

Petitioners filed a complaint[1] against private respondent in the Court of First Instance of Leyte sometime in April, 1958 for the partition of the estate of the deceased, and for the accounting of the proceeds and income of the estate being administered by private respondent Gregorio Emnas, with prayer that the latter be required to turn over to petitioners their corresponding shares of said proceeds and to pay actual and moral damages.

In his answer to the complaint, private respondent denied the material allegations and admitted that at the instance of petitioner Ricarda, he became administrator of the estate of his deceased father as well as the paraphernal properties of said petitioner, and that the quantity and/or proceeds from any sale therefrom are reported and/or turned over to Ricarda to be placed at her own disposal.[2] After the issues were joined, petitioners filed a Project of Partition which was approved by the Court in a decision dated June 18, 1962 worded as follows:[3]

"When this case was called for hearing, Attorney Estanislao Granados, representing the plaintiffs, manifested in open court that the parties gave conformity to the project of partition which was submitted on July 21, 1958, with slight modification in the sense, that the land located at Tigbao, Barugo, Leyte, consisting of eight hectares, be allotted to the defendant. The parties also agreed that a decision be rendered with the said project of partition.

"IN VIEW WHEREOF, let a decision be issued approving the said project of partition, with the modification that the land in Tigbao, Barugo, Leyte, be allotted to the defendant Gregorio Emnas in addition to his share mentioned in the said project of partition. The defendant is ordered to deliver all papers and plans covering the lands adjudicated to the other heirs, for their personal use.

"SO ORDERED."

No appeal having been filed, the decision became final and executory.

On December 24, 1963, petitioners filed a motion to require respondent to render an accounting of the income of the estate and to pay the taxes due, since they were assured by respondent that he will pay the taxes in consideration of the approval of the project of partition. No opposition was filed to said motion, so the trial court issued an order dated January 15, 1964 requiring respondent:

- To render an accounting of the products or income of the estate of Eduardo Emnas for the years 1954, 1955, 1956 and 1957;
- To pay the estate, inheritance and income taxes of the estate of Eduardo Emnas especially for the years 1955 to 1957;
- To surrender or deposit with the court the residue of the income for the years 1954 to 1957 for its disposition to the heirs of Eduardo Emnas, namely, the plaintiffs in this case; and
- To surrender and deliver to the Clerk of Court within 15 days from receipt hereof certain documents mentioned therein. (Annex "E", p. 22, Rollo).

On account of failure of private respondent to comply with the order of January 15, 1964, petitioners filed a motion to declare him in contempt of court. Private respondent filed a motion to quash stating that the facts charged do not constitute an offense, and that nowhere in said decision maybe found where he was considered an administrator of the estate of his father, and nowhere was he ordered to render any accounting as such administrator. (Annex "I", Petition). Petitioners opposed the motion to quash stating among other things, that the basis of the motion for contempt is the repeated and adamant refusal of the respondent to obey the order of the court.

On September 25, 1965, the court issued an order granting the motion to quash and setting aside its order of January 15, 1964. Unable to secure reconsideration, petitioners filed the instant petition for certiorari seeking a review of the order of September 25, 1965, raising the following issues:

"1) Whether or not the lower court acted in excess of jurisdiction and/or grave abuse of discretion in setting aside an order disposing of a cause of action in a complaint more than one year after said order became final and even without the benefit of a motion to set aside said order.

"2) Did the order of January 15, 1964, which, as above stated, was already final and partly executory, vest proprietary rights to the petitioners and, therefore, entitle them to protection under the due process clause of the Constitution?" (p. 106, Rollo)

Petitioners contend that the order of September 25, 1965 setting aside the order of January 15, 1964 is a complete nullity since there was no motion to set it aside; that the issuance of the January 15, 1964 order is proper, respondent having been furnished with the motion to render accounting of the proceeds of the estate and he did not oppose the same; that the order of June 18, 1962 approving the project of partition is just a partial judgment since the issue of administration has not been settled; and that the January 15, 1964 order, having attained finality, vests proprietary rights on petitioners.

The decisive issue is whether or not respondent Judge abused his discretion in setting aside the order of January 15, 1964.

The lower court in approving the project of partition on June 18, 1962 disposed of and terminated the case. There is no indication whatsoever that it will hear evidence on the other issues presented. There was no appeal made from this decision within the reglementary period to do so. Hence, it attained finality. The Court lost jurisdiction over the case except the ministerial act of ordering execution for judgment. It can no longer pass upon the other

reliefs prayed for in the complaint. After judgment has become final, no additions can be made thereto, and nothing can be done therewith except its execution; otherwise, there would be no end to litigations, thus setting at naught the main role of courts of justice, which is to assist in the enforcement of the rule of law and the maintenance of peace and order, by setting justiciable controversies with finality.[4] The court having lost its jurisdiction over the case, the subsequent orders issued by it are null and void.

But, even admitting that the decision of June 18, 1962 is a partial judgment and the question of administration and accounting of the estate are still open issues, the same cannot be disposed of by mere motion, as what happened in the case at bar. The court on January 15, 1964 granted petitioners' motion for accounting of the proceeds of the estate without the benefit of a hearing to give the other party a chance to present evidence. Said motion was set for hearing on January 4, 1964 but respondent received a copy of the motion on January 10, 1964. Actual consideration of the motion was made on January 15, 1964 and there was no showing that respondent was notified of the change of date.

Respondent judge in rendering the order of January 15, 1964 relied merely on the allegations in petitioners' Motion dated December 24, 1963. There was no actual hearing held to enable the court to appreciate the facts obtaining in the case and to examine the evidence to be presented. Obviously, said order was issued thru a misapprehension of facts, since the decision of June 18, 1962 approving the project of partition was rendered by Judge Demetrio G. Vinson and not by the herein respondent. The respondent judge should have therefore, exercised greater care in the discharge of his judicial function before rendering what in effect was an ex-parte judgment, the questionable order of January 15, 1964. Private respondent should be afforded a fair and full trial and is entitled to be notified of the date thereof.

If there was a denial of due process which is a jurisdictional defect rendering judgment or order void, it was committed against respondent Emnas. Where a judicial order of judgment is void in this sense, it maybe said to be a lawless thing, which can be treated as an outlaw and slain at sight or ignored wherever it exhibits its head.[5] In the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard.[6] The due process clause requires a hearing before a court or tribunal, and every litigant is entitled to nothing less than the cold neutrality of an impartial judge.[7]

Petitioners did not, therefore, acquire any right by virtue of the order of January 15, 1964, the same being null and void, hence, compliance therewith cannot be enforced respondent judge having abused his discretion in issuing the said order, after losing jurisdiction over the case as discussed earlier. Further, We observe that the order of January 15, 1964, is actually an amendment of the decision of June 18, 1962 which is not legally permissible, because it involves not merely a clerical error but a substantial matter, which is the issue of administration and accounting. A decision which has become final and executory can no longer be amended or corrected except for clerical errors or mistakes. To allow this, litigations would be endless and no questions could be finally settled.[8] Hence, the respondent court was legally justified in issuing its order of September 25, 1965 setting aside, even without motion from private respondent, its order of January 15, 1964.

WHEREFORE, the petition is hereby dismissed for lack of merit. Costs against petitioners.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] Annex "A" of the petition, p. 1, Rollo.

[2] Answer to the complaint, p. 91, Rollo.

[3] Decision, p. 19, Rollo.

[4] Kimpo vs. Tabañar, 3 SCRA 423.

[5] Banco Español vs. Palanca, 37 Phil. 921. See also Aducayen vs. CFI of Rizal, et al., 51 SCRA 78-83.

[6] Cornejo vs. Sec. of Justice, 57 SCRA 663; Carmoria vs. Barrios, 31 SCRA 764, 775-776.

[7] Palang vs. CFI of Cebu, Branch V, 58 SCRA 777.

[8] Maramba vs. Lozano, 20 SCRA 477.

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.