

JOSE Y. DE LA ROSA, ESTEBAN MEDINA, AND ENRIQUE SANTAMARIA, PETITIONERS, VS. CITY OF BAGUIO AND HERMOGENES CONCEPCION, AS JUDGE OF FIRST INSTANCE OF THE CITY OF BAGUIO, RESPONDE...

G.R. No. L-4955. August 01, 1952

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/70805b12d272/>

BAUTISTA ANGELO, J.:

The city of Baguio filed three separate actions against herein petitioners in the Court of First Instance to certain additional fees which are charged against the owners and operators of theaters within the city by Ordinance No. 83 and Ordinance No. 118. After the three cases were tried jointly because of their intimate relation the court rendered judgment for the plaintiff. Jose Y. de la Rosa was ordered to pay a total of P12,643.57; Esteban Medina, a total of P12,148.66; and Enrique Santamaria a total of P11,512.58. The defendants were like-wise ordered to pay all the sums collected by them under said ordinances from January, 1951, to date of judgment, and those that may be collected thereafter.

From this judgment, defendants gave notice of their intention to appeal, and put up the corresponding appeal bond. While the record on appeal was pending approval, however, the city of Baguio filed a petition for the immediate execution of the judgment invoking the provisions of section 2, Rule 39, of the Rules of Court. To this petition defendants interposed a written objection.

On July 7, 1951, the court denied the petition for execution, but required the defendants to file within five days from receipt of the order a bond to guarantee the payment of the amounts awarded in the decision with the warning that, failure on their part to file such bond, the court will immediately issue the writ of execution prayed for. Contending that the court exceeded its jurisdiction and committed a grave abuse of discretion in requiring the defendants to put up the bond above mentioned, defendants brought these cases before this court by way of certiorari.

Section 2, Rule 39, of the Rules of Court provides:

"SEC. 2. Execution discretionary.—Before the expiration of the time to appeal, execution may issue, in the discretion of the court, on motion of the prevailing party with notice to the adverse party, upon good reasons to be stated in a special order. If a record on appeal is filed thereafter, the special order shall be included therein. Execution issued before the expiration of the time to appeal may be stayed upon the approval by the court of a sufficient supersedeas bond filed by the appellant, conditioned for the performance of the judgment or order appealed from in case it be affirmed wholly or in part."

The above section is clear. It provides that prior to the expiration of the time to appeal, the court may issue execution upon good reasons to be stated in a special order, regardless of whether such order is issued before or after the filing of the record on appeal. The good reasons are required to be stated in the special order (*Heiman vs. Cabrera*, 73 Phil., 707), but it has been held that the statement of the reasons by reference is sufficient (*Joven vs.*

Boncan,[*] 38 Off. Gaz. [No. 3] p. 40), as when such reasons appear in a motion for execution, and reference thereto is made in the special order as ground therefore. The element that gives validity to an order of execution is the existence of the good reasons if they may be found distinctly somewhere in the record (I Moran, Comments on the Rules of Court, 3rd ed., 709).

In the petition filed by counsel for the City of Baguio praying for the issuance of a writ of execution, counsel made it plain to the court that defendants were insincere in that they made the court to believe that they deposited with the bank the various amounts being claimed by the city of Baguio when the truth was that they did not. Thus, the verification made by the city of Baguio showed that Jose Y. de la Rosa had only a deposit of P138.84 in the bank when the judgment against him amounts to at least P12,643.57; Esteban Medina had no deposit at all when the claim against him is P2,148.66; whereas Enrique Santamaria had only a deposit of P117.33 in his and P2,762.64 in his name and in that of his wife, the claim against him is P31,512.58.

These acts of insincerity, which plaintiff took pains to discover in view of the manifestation made in court by the defendants that they deposited in the bank the collections they had made under the Ordinances in question, prompted the plaintiff to ask for the execution of the judgment. Otherwise, plaintiff would not have taken such step considering that defendants are well known businessmen. These facts appear in the petition for execution filed by the plaintiff, and they appear supported by the affidavit of one Antonio T. Caparas. Apparently they are not disputed by defendants. It is perhaps for this reason that respondent judge required the defendants to put up a bond to guarantee the payment of the judgment rendered against them in spite of his finding that they are "well known businessmen with excellent reputation in the city of Baguio". In the opinion of the court, these facts which appear in the petition for execution and are mentioned in the order by reference, may be deemed to be "good reasons" within the purview of the rule under consideration.

It has been held that the power to grant or deny a motion for execution is discretionary with the court (Federal Films Inc. vs. Ocampo et al.,[*] 44 Off. Gaz., [No. 10], 3819). Accordingly, the appellate court will not interfere to modify, control or inquire into the exercise of this discretion, unless it be shown that there has been an abuse thereof (I Moran, Comments on the Rules of Court, 3rd ed., 711; see footnote 25 and cases cited therein). As a corollary, it may be said that the power to stay execution by requiring a supersedeas bond is also discretionary with the court, subject only to interference in case of abuse of discretion. Under the circumstances obtaining in this case, we hold that the respondent judge did not abuse his discretion in requiring a supersedeas bond from the defendants.

Wherefore, the petition is dismissed, with costs.

Feria, Pablo, Bengzon, Padilla, and Labrador, JJ., concur.

* 67 Phil. 252.

* 78 Phil., 479.

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.