

**SERVILLANO DE LA CRUZ, JR., AND CRISANTO DE LA CRUZ,
PETITIONERS, VS. ASUNCION D. STA. MARIA AS ADMINISTRATRIX OF
THE INTESTATE ESTATE OF LUIS DOMINGO, SR. LUIS DOMINGO, JR.,
AU...**

G. R. No. L-17928. April 30, 1963

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/71f2d99e6b85/>

PADILLA, J.:

This is a petition for a writ of certiorari filed on 11 January 1961 to annul, and set aside two orders of the Court of First Instance of Pangasinan dated 2 December 1960 (Annex F) and 15 December 1960 (Annex N) in civil case No. T-98 and reinstate its order dated 12 October 1960 (Annex D) that had confirmed the sale at public auction of two parcels of land conducted by the Sheriff of Pangasinan on July 20, 1960.

On 29 May 1959 the Court of First Instance of Pangasinan (Branch VI) rendered judgment in civil case No. T-98 entitled: "Tiu Kian Hem vs. Asuncion D. Sta. Maria et al." in favor of the plaintiff-creditor Tiu Kian Hem and against the defendants, respondents herein, directing the latter to pay the amount of the judgment to the plaintiff within 90 days from receipt of a copy of the judgment. On 13 June 1959 a copy of the judgment was served on each and all defendants. The defendants having failed to pay the amount of the judgment, on 5 November 1959 the plaintiff filed a motion praying that the mortgaged properties be sold at public auction in the way prescribed by law, which was granted on 14 December 1959. Following the usual publication and notices required by law, on 20 July 1960 the Deputy Provincial Sheriff of Pangasinan sold the lands described as parcel 5 (lot 1) and parcel 7 (lot 3) in original certificate of title No. 25585, and one-half of the parcel of land described in transfer certificate of title No. 9214, issued by the Registrar of Deeds in and for the province of Pangasinan, for P1,550, P37,000 and P1,350 to Arcadio C. Judan and herein petitioners Servillano de la Cruz y Lichauco, Jr. and Crisanto de la Ortiz y Lichauco, and to the latter, respectively, as the highest bidders, and issued on the same day a certificate of sale.

Although Atty. Jose A. Ungson, representing the estate and all the heirs of the late Luis C. Domingo, Sr., appeared for the first time on 1 August 1960 giving in advance his objection to the confirmation of the sale on the ground of unconscionably low price (Annex B), it was on 4 August 1960 when the petitioners filed formally a motion praying for the confirmation of the auction sale. (Annex A). The trial court set for hearing the motion for confirmation of the sale on 24 August 1960 at 8:00 o'clock in the morning (Annex B-1). In their objection to the confirmation of the sale dated 26 August 1960, the individual respondents and heirs of the late Gertrudes Non assailed the legality of the sale on the ground (1) that said parcels of land do not belong exclusively to the late Luis C. Domingo, Sr. but to the conjugal partnership of the latter and his third wife Gertrudes Non who predeceased him by more than 25 years and had other heirs; (2) that the prices bid and accepted at the auction sale are unconscionably low: P450 per hectare for the first parcel, P1,500 for the second and P275 for the third; the current market value ranging from P4,000 to P5,000 per hectare; and (3) that the sale was anomalous in that parcels of land belonging to the late spouses were sold, whereas no bids were asked for another parcel of land belonging exclusively to Luis C. Domingo, Sr. and mortgaged by him to Tiu Kian Hem (T.C.T. No. 9735), and

that the certificate of sale fully described said parcels of land but the numbers of the Torrens certificates of title and the names of the registered owners were not stated. They pray that the auction sale on 20 July, 1960 be vacated and another public auction sale be held at the expense of the estate of the late Luis C. Domingo, Sr. (Annex C). On 12 October 1960 the trial court issued an order confirming the sale, the dispositive part of which reads, as follows:

IN VIEW OF THE FOREGOING, the sale done by the Sheriff on said 20th of July 1960 whereby the parcel of land (parcel 5, lot 1 and parcel 7, lot 3, covered, by Original Certificate of Title No. 25585, and the parcel of land (one-half) covered by Transfer Certificate of Title No. 9214, were duly sold to the movants are hereby approved by tile Court for all legal purposes (Annex D).

The order reiterated what it had held in its judgment of 29 May 1959 that the parcels of land described in original certificate of title No. 25585 belonged exclusively to Luis C. Domingo, Sr., mortgagor, and half of that described in certificate of title No. 9214, registered in the names of liuis C. Domingo and Gertrudes Non, which might be conjugal, one-half of it only was mortgaged to the plaintiff; that the reason the parcel of land described in transfer certificate of title No. 9735 containing an area of 76,866 square meters mortgaged by Luis C. Domingo to the plaintiff in the foreclosure suit was not sold was because by the sale of the three parcels of land the sum of the judgment was fully satisfied; and that the interest of both mortgagor and mortgagee "having been taken care of" and "amply protected" the sale was in accordance, with law (Annex D).

On 10 November 1960 Consuelo Domingo-Lopez, Pet ronila Domingo and Nieves Domingo, by their new counsel, filed a motion for reconsideration praying that the order of confirmation of the sale dated 12 October 1960 (Annex D), a copy of which counsel alleged to have received on 8 November 1960 only, be set aside and the movants as heirs of the mortgagor, the late Luis C. Domingo, Sr., be allowed to redeem the property sold at public auction before the order of confirmation should become final and executory (Annex E); On 2 December 1960 the respondent trial court reconsidered its order of confirmation of 12 October 1960 by granting the heirs and administratrix of the estate of the late Luis C. Domingo, St. a period -of ten days from 5 December 1960 within which to deposit with the Clerk of Court the necessary redemption price, deferring determination of claim for damages, attorney's fees and other sums to be still litigated by the parties, and further providing that should they fail to deposit the redemption price within said period, the confirmation oi the sale by the Court on 12 October 1960 would be effective immediately without further recourse and notice (Annex F). On 8 December 1960 the respondents deposited with the Clerk of Court and Provincial Sheriff Ex-Oficio of Pangasinan under receipt No. F-4614448 the sum of P41,735.40, redemption price of the three parcels of land (Annexes 1 and 2). On 9 December 1960 the petitioners filed a motion for reconsideration praying that the order of the court dated 2 December 1960 (Annex F) be set aside and the order of confirmation dated 12 October 1960 (Annex D) be declared final and irrevocable on the following grounds: (1) that the auction sale being valid, the court is not given a discretion to grant a grace period of ten days to the administratrix or heirs within which to redeem said properties while the confirmation order subsists; (2) that the heirs can exercise the right or equity of redemption only after the confirmation order is dissolved or set.aside; and (3) that the respondents failed to file any petition under Rule 37; Rules of Court, or a motion to dissolve said order of confirmation upon proper grounds such as fraud, collusion, accident, mutual mistake, breach of trust or misconduct by purchaser as held in the case of National Bank vs. Gonzales, 45 Phil. 693 (Annex G). The said motion was also adopted by Arcadio C. Judan a public auction purchaser of one of the parcels of land (Annex H). On 15 December 1960 the respondent court denied the petitioners' motion for reconsideration (Annex G) for lack of merit, the deposit of redemption price having been made by the administratrix and heirs of the late Luis C. Domingo on 8 December 1960 (Annex N).

On 16 December 1960 the petitioners De la Cruz moved the court to allow them harvest the produce in the parcels of land and offered to post a guaranty bond to answer for damages that the estate and heirs might suffer (Annex

3). On 4 January 1961 an objection to said motion was filed by the respondent administratrix alleging that since the properties were in custodia legis; that one per centum monthly interest of its purchase price already had been paid; and that the Torrens titles remained uncanceled, the petitioners should be held liable for damages for taking possession of the property (Annex 5). On the same date (4 January 1961) the respondent administratrix moved the respondent court, to require petitioners De la Cruz to explain or show cause why they should not be punished for contempt for taking possession of the parcels of land and harvesting their produce without the consent of the judicial administratrix or the court (Annex 5-A). Said motion, together with the motion to post guaranty bond and the objection thereto and counter motion was set for hearing on 26 January 1961 (Annex 6). In view, however, of the filing, of this petition (G. R. No. L-17928) on 11 January 1961 in this Court, the respondent court refrained from hearing said motions and passing upon the issues raised by the parties in spite of the objection of the herein respondents and absence of a writ of preliminary injunction (Order of 26 , January 1961; Annex 7).

On 3 February 1961 the respondents answered the petition with a counter-petition that it be dismissed with costs against the petitioners and that the respondent court be ordered to hear the evidence on the counter-motion (Annex 5) and the motion for contempt (Annex 5-A). On 20 February 1961 the petitioners filed a motion to strike out the respondents' counter-petition from their answer, on the ground that the subject matter of said counter-petition is foreign to those raised in the main petition for a writ of certiorari and should have been filed separately and that the resolution of this petition will ultimately decide the ownership of the land involved. On 3 and 25 April 1961 the respondents and petitioners filed their memoranda respectively and the case was submitted for judgment.

An order approving or confirming a public auction sale made by a sheriff pursuant to a decree entered in a foreclosure suit is appealable. In other words, it does not become final and executory until after the expiration of the reglementary time for appeal from final orders. As a general rule, a motion for reconsideration suspends such period. The order approving the public auction sale made by the Deputy Sheriff of Pangasinan was entered by the respondent court on 12 October 1960. The main objection by the individual respondents was inadequacy of price. The ground of the objection to the confirmation of the public auction sale as a result of a foreclosure suit goes into the very essence or assails the validity of such sale. Such being the case, the motion for reconsideration filed by the heirs of the late Luis C. Domingo, Sr., on 10 November 1960 was well within the reglementary period provided for by the Rules of Court (Section 1, Rule 37) for taking an appeal and suspended the running of such period for the perfection of an appeal. The order entered by the respondent court on 2 December 1960 that granted the heirs and administratrix of the estate of the late Luis C. Domingo, Sr., a period of ten days from 5 December 1960: within which to deposit with the Clerk of Court the necessary redemption price, which was deposited on 8 December 1960, is tantamount to setting aside the order of confirmation of the public auction sale entered on 12 October 1960. The order setting aside the order of confirmation of the sale and the order of 15 December 1960 denying the motion for reconsideration of the order setting aside the confirmation of the sale filed by the herein petitioners were all done or entered while the case was still within the jurisdiction of the respondent court and do not constitute a grave abuse of discretion amounting to excess of jurisdiction.[1] Such being the case, the extraordinary remedy of certiorari cannot be availed of and does not lie, because an appeal from such order is the plain, speedy and adequate remedy in the ordinary course of law.

The petition for a writ of certiorari is denied, with costs" against the petitioners.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Parades, Dizon, Regala and Makalintal, JJ., concur.

[1]Philippine Sugar Estates Development Company (Ltd.) vs. Armando Camps y Camps, 34 Phil. 426

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.