

**MARIA O. SARMIENTO, FELINO S. ACLAN, RODOLFO S. ACLAN AND
TING SING, PETITIONERS-APPELLANTS, VS. HON. VICTORIANO H.
ENDAYA AND/OR MUNICIPAL COURT OF BATANGAS, BATANGAS,
THE PROV...**

G.R. No. L-23270. October 29, 1968

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7e5f1ab625b0/>

FERNANDO, J.:

This suit for certiorari and prohibition, filed on April 3, 1964, with the Court of First Instance of Batangas, had its roots in a bitter, protracted struggle on the part of petitioners Maria O. Sarmiento, Felino S. Aclan and Rodolfo S. Aclan, who sought to establish their alleged right to co-ownership over a parcel of land held by the principal respondent, Roman O. Sarmiento, brother of the first-named petitioner and uncle of the other two, whose mother was likewise a daughter of the late Pedro Sarmiento, from whom it would appear in the petition, the property was inherited. The first-named respondent in this suit for certiorari and prohibition is the judge of the Municipal Court of Batangas, the Honorable Victoriano H. Endaya, it being alleged in the petition that the decision rendered by him in an ejectment case dated November 2, 1963, wherein the plaintiffs were respondents Roman O. Sarmiento and his wife, Trinidad Torres, ordering the defendant therein named to vacate the property as well as the writ of execution thereafter issued, and much more so, the order of demolition as a consequence thereof, dated March 18, 1964, could be impugned on jurisdictional grounds, there being a grave abuse of discretion. A writ of prohibition was likewise sought to prevent the carrying out of the order of demolition based on the same jurisdictional objection.

It was alleged in the petition that on August 8, 1963, respondents Roman O. Sarmiento and Trinidad Torres, as plaintiffs, filed with the Municipal Court presided over by respondent Judge, a complaint for ejectment seeking to eject the defendants named therein from the disputed parcel of land.[1] Then, mention was made of a motion for leave to intervene, dated October 1, 1963, filed by petitioners, respondent Judge issuing on October 7, 1963, an order allowing them to file an answer in intervention.[2] Such an answer was in fact filed on October 18, 1963, petitioners as defendants in intervention alleging that the property described in the complaint was owned by them in common with plaintiff, now respondent, Roman O. Sarmiento, they, having acquired the same jointly by inheritance from the aforesaid Pedro Sarmiento, it being contended further that the land being owned pro indiviso, respondent Roman O. Sarmiento could not, against the will of the majority of the co-owners, eject the defendants named therein from the said parcel of land.

The prayer was, therefore, for the dismissal of the ejectment suit.[3] Nonetheless, according to their petition, respondent Judge, "with grave abuse of discretion, totally brushed aside the afore-mentioned Answer in Intervention" and on November 2, 1963, rendered its decision ordering each and everyone of the defendants named therein to vacate the premises.[4] Then came the pivotal allegation in the petition for certiorari and prohibition: "That when the herein petitioners were informed of the rendition of said decision and the import thereof, the period for appeal had already expired and the corresponding writ of execution had already been

issued; hence, no appeal was taken from the said decision."[5]

The other allegations dealt with the motion for demolition having been filed by respondent spouses, as plaintiffs, on December 17, 1963, the denial thereof by respondent Judge on December 27, 1963, in view of a complaint for partition by the same parties with petitioners, as plaintiffs, filed with the Court of First Instance of Batangas.[6] There was a reiteration of such a move on the part of respondent spouses, as plaintiffs, in the aforesaid ejectment case with a second motion for demolition being filed on February 29, 1964, respondent judge this time, according to the petition, "with grave abuse of discretion" issuing on March 18, 1964, an order of demolition.

The dispositive portion of such order, however, contained the following: "The Clerk of Court is instructed, however, that it should not be delivered to the plaintiffs or their counsel until said Clerk of Court shall have received indubitable proof that counsel for the defendants and intervenors has been given at least forty-eight (48) hours notice of this Order; so that said counsel may have a chance to secure whatever remedy he may deem wise to seek in Civil Case No. 979 of Branch I of the Court of First Instance of Batangas."[7] In view of the fact that petitioners, as plaintiffs in the partition case, were able to obtain a writ of preliminary injunction, and that the issuance of the order of demolition would, according to them, render it nugatory, this petition for certiorari and prohibition was filed as already noted, on April 3, 1964.

On April 6, 1964, the Honorable Lorenzo Relova, as Judge of the Court of First Instance of Batangas, gave due course to the petition requiring respondents, including among whom was the Provincial Sheriff of Batangas, to file an answer within ten days. An answer was filed by respondents Roman O. Sarmiento and Trinidad Torres with an express admission of the material allegations to the petition, taking exception, however, to the conclusion set forth in the petition as well as matters not consistent with the affirmative defenses raised by them, namely, lack of a cause of action, bar by a prior judgment, and pendency of another action between the same parties. The prayer was for a dismissal of the petition. On the same day, the answer was filed. On April 11, 1964, there was likewise a motion for judgment on the pleadings.

Then came the order of April 28, 1964, subject of this appeal, by the Honorable Lorenzo Relova where reference was made to the admission "that in Civil Case No. 1058, defendants Ting Sing, Apion and Chua Bun Tiong, as well as herein petitioners Maria O. Sarmiento, et al., were represented by only one counsel and upon receipt of the decision referred to, they did not appeal therefrom and instead filed instant petition for certiorari with preliminary injunction." On the above decisive fact, according to such order, the only question was whether certiorari with preliminary injunction or appeal is the proper remedy. What the answer should be was set forth in the order. Thus: "As in the above-cited case, petitioners, who are intervenors in said Civil Case No. 1058, should have appealed from the decision of respondent judge because it was the proper and adequate remedy."

Accordingly, for lack of merit, the petition for preliminary injunction was denied. On May 11, 1964, a notice of appeal to this Court from the above order was filed by petitioners. The appeal is without merit; the order of April 28, 1964 is in accordance with law.

Nothing set forth in the petition, considering the facts as admitted by both parties, would, in any wise, betray the presence of any jurisdictional defect calling for correction through the writs of certiorari and prohibition. Appeal would thus be the proper remedy, as held in the order of April 28, 1964.

Apparently, petitioners were not unaware of the inherent weakness of their petition for certiorari and prohibition. Accordingly, they sought to impart a possible due process question when they alleged that they could not have taken the proper step of appeal, as when they were informed of the promulgation of the decision in the ejectment case, "the period for appeal had already expired and the corresponding writ of execution had already been issued; * * *." [8]

That no semblance of plausibility could be imparted to such an allegation of denial of due process, was made evident in the aforesaid portion of the order to the effect that petitioners as well as the defendants in the ejectment case were represented by one counsel who evidently was furnished a copy of the aforesaid decision. Since there is no denial that such in fact was the case, then the claim, that there was no notice of such decision and that, therefore, petitioners could not be bound, was without factual support, and hence, not persuasive at all.

Assume however, that they were represented by a different counsel and, therefore, they could not be held to have been served with a copy of such a decision, they could not have lost the period to appeal as in so far as they were concerned as defendants in intervention, the period did not start as to them, until after the date of actual receipt. In either case, therefore, the due process allegation is clearly devoid of merit.

WHEREFORE, the order of April 28, 1964, is affirmed. Costs against petitioners.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, and Capistrano, JJ., concur.
Zaldivar, J., on official leave.

[1] Petition, paragraph 2, the ejectment case being docketed as Civil Case No. 1058 of the Municipal Court of Batangas.

[2] Ibid, paragraph 3.

[3] Ibid, paragraph 5.

[4] Ibid, paragraph 6.

[5] Ibid, paragraph 7.

[6] Ibid, paragraphs 8 to 10.

[7] Ibid, paragraph 13.

[8] Ibid, paragraph 7.

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.