

TERAS CARGO TRANSPORT PTE, LTD, PETITIONER, VS. HON. GEORGE E. OMELIO IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, 11TH JUDICIAL REGION, BRANCH 14, DAVAO CITY...

Ponente: FRANCISCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/92f1fdf44a13/>

FRANCISCO, J.:

This is a Motion for Reconsideration[1] of this Court's Decision[2] promulgated on August 12, 2013 which granted petitioner's Petition for Certiorari, Prohibition, and Mandamus, and annulled and set aside, the Orders dated March 12, 2010[3] and March 25, 2010[4] of the Regional Trial Court of Davao City. The RTC's Order dated March 12, 2010 released the subject cargo unto private respondent's full and absolute control and possession while the second assailed Order dated March 25, 2010 declared that the amended complaint is one for damages and no longer for replevin.

Private respondent invites Our attention to this Court's August 12, 2013 Decision, viz:

“xxx

The law is clear. Only upon the filing of the affidavit of merit and approval of the bond posted may the court issue an order and the corresponding writ of replevin.

Contrary to the afore-quoted rule, however, the court a quo in its March 8, 2010 Order directed the subject properties to be placed in custodia legis without demanding the filing of the affidavit and posting of a bond in complete disregard of the mandatory requirements of Rule 60. Respondent Judge has no legal basis whatsoever in placing the subject properties in custodia legis.

Worse, in its assailed March 12, 2009 Order, the court a quo never directed private respondent to post a bond before awarding unto him the absolute possession and control of the subject cargo pendente lite. There was, therefore, a patent abuse of discretion on the part of the court a quo in issuing the questioned March 12, 2009 Order granting unto private respondent the possession and control of the subject cargo without complying first with the mandatory requirements set forth by Rule 60.

xxx”[5]

In this recourse, private respondent posits, thus:

“With all due respect, the reason the properties were first placed under custodia legis was that the parties agreed so.

But then again, as soon as these properties were placed under custodia legis, they were thus removed from the reach of a writ of replevin. There was thus no reason in law to require private respondent to comply with the provisions of Rule 60 of the Rules of Court and have him post a replevin bond.

Settled is the rule, after all, that a writ of replevin issues only in cases where personal property is wrongfully taken or detained. A replevin action is not maintainable if the property is taken from the possession of the

defendant by process of the law. It has been generally held that an action in replevin will not lie for property in the custody of the law.

xxx

What prompted the filing of the amended complaint, with the prayer for the immediate release of properties in custodia legis to private respondent's possession, were the petitioner's clear, voluntary, and unequivocal judicial admissions in its 2 March 2010 Extremely Urgent Omnibus Motion (to Dismiss Complaint and Applied Prayers for Provisional Remedies and to Set Case for Summary Hearing on the Application for Injunctive Relief) (referred to as the Carag Motion, as it was filed by counsel Carag Jamora Somera & Villareal Law Office), that private respondent was, in fact, entitled to the rightful possession and absolute control of the properties, and that petitioner was ready and willing to deliver those properties to him forthwith.

xxx"[6]

Private respondent further contends that it cannot be held liable for petitioner's possessory lien.

Private respondent's position is misplaced.

A perusal of Our Decision[7] dated August 12, 2013 reveals that the issue raised by the private respondent was already passed upon, viz:

The contention is without merit. The case is not removed from the operation of Rule 60 by the purported judicial admissions made by petitioner in his Carag Motion. The supposed "judicial admissions" did not alter the prescribed procedure that must be followed and the mandatory requirements that must be complied with under Rule 60 of the Rules of Court.

The court a quo declared that there was no genuine issue of possession. However, it can be gleaned from the records that indeed petitioner has raised as issue his possessory lien over the subject properties both in his Motion for Reconsideration dated March 15, 2010 and in his answer dated April 26, 2010. These issues are yet too be joined and resolved by the court a quo when it issued assailed Orders dated March 12, 2009 and March 25, 2010.

xxx

In his memorandum, private respondent countered that he cannot be required to comply with Rule 60 of the Rules of Court considering that he has already amended his complaint of replevin into an action for damages. He reasoned that to require him to still comply with Rule 60 of the Rules of Court despite the amendment of the complaint and the abandonment of the action for replevin would have rendered nugatory his absolute right to amend his complaint.

We are not convinced. Basic is the rule that the cause of action is determined from the allegations of a complaint, not from its caption. For what determines the nature of the action are the allegations in the complaint and the character of the relief sought.

A careful reading of the amended complaint for damages shows that the amended complaint, although captioned as one for damages, still seeks out the provisional remedy of replevin in so far as it prays for the issuance of an order directing the immediate release of the subject properties to private respondent's absolute possession and control."

As regards the issue of possessory lien, We reiterate the ruling held in *Overseas Factors, Inc. vs. South Sea Shipping, Co., Ltd.* that for as long as the carrier has not been paid the full amount of the freight fees, a possessory lien is attached to the subject cargo for the unpaid balance.

Nonetheless, We find that the grounds relied upon by the private respondent in its motion for reconsideration have

already been carefully considered, evaluated and passed upon by this Court in the assailed Decision. Consequently, the private respondent not having raised new or substantial matters, We find no compelling reason to warrant the reversal of Our decision.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.

Borja, J., Ch., and Badelles, JJ., concur.

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.