

**CIPRIANO MARTINEZ, JOSE MIÑANO AND CECILIA M. VDA. DE MIÑANO, PETITIONERS, VS. HON. RAYMUNDO VILLACETE, JUDGE, COURT OF FIRST INSTANCE OF ROMBLON, CONSTANCIO L. MARQUEZ AND INES...**

*G.R. No. L-18695. August 31, 1962*

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ce46805a21fe/>

---

**BARRERA, J.:**

This is a special civil action of certiorari with petition for a writ of preliminary injunction filed by herein petitioners Cipriano Martinez, as ex-administrator, and his bondsmen Jose Miñano and Cecilia M. Vda. de Miñano (the latter in representation of her deceased husband Francisco Miñano), in Special Proceedings Nos. V-53 and V-841 of the Court of First Instance of Romblon, seeking to set aside respondent court's orders of January 18 and June 30, both of 1961, directing the respondent Clerk of Court and concurrently ex-officio provincial sheriff to issue a writ of execution against the petitioners bondsmen of ex-administrator Martinez, for the recovery of the amount of P3,015.11, proceeds of the sale of copra belonging to the estate under administration.

The records disclose that on June 24, 1954, the respondent court, Judge Pascual Santos then presiding, issued in the cases below, an order of this tenor:

"ORDER

When these cases were called for hearing, Atty. Democrito M. Castro filed a manifestation, and the undersigned, as presiding Judge, called the parties in chamber to settle amicably all differences between the parties, and they arrived at an agreement, but after it has been prepared, Atty. Democrito M. Castro and his clients did not come to sign. The Court laments this attitude, because it constitutes a manifest obstruction to terminate these proceedings and put an end to the estranged relation among the parties, who are brothers and sisters. The approval, therefore, of the Project of Partition is held in abeyance.

"Upon examination of the account of the administrator, the Court arrived at the conclusion that the amount he is charging for 180 days is excessive, as well as expensive, for appearing before the Court. Without obtaining any authority from the Court, he has delivered amounts to the heirs of Lorenzo Ramirez, in excess of the income that he received as proceeds from the products of the properties of these two special proceedings, and appearing in his report, as if he had advanced the same.

"The Court, therefore, disapproves his account, and discharges him as administrator, appointing the Clerk of Court Atty. Constancio L. Marquez as administrator of these two special proceedings with the bond of P1,000.00.

"The actual administrator Cipriano Martinez is hereby ordered that all proceeds from the sale of the products of the properties of these two special proceedings be deposited in the Office of the Clerk of Court immediately.

"IT IS SO ORDERED."

Notified of said order, petitioner Martinez, on July 10, 1954, filed a motion for reconsideration protesting against his relief without being given a day in court and claiming that the delivery of the amounts to the heirs of the deceased Lorenzo Ramirez was made in pursuance to the agreement mentioned in the above-quoted order of the court. No action on this motion for reconsideration appears in the records.

On August 6, 1954, respondent Ines Ramirez (one of the heirs) filed a motion (petition) asking the court to order petitioner Martinez to deposit in court the proceeds of the copra sold, on the ground that the sale took place after he was discharged as administrator of the estate on June 24, 1954. To this motion, petitioner Martinez filed an opposition (answer) claiming that he sold the copra in question on June 15, 1954 while he was still administrator of the estate, and not on June 24 as respondent Ramirez had claimed.

On October 18, 1954, respondent Ramirez filed another motion (petition) praying the court to order petitioner Martinez to render an account of the sale of the copra.

Without awaiting the court's action on said petition, petitioner Martinez, on May 10, 1955, filed in court an account corresponding to the months of April to June, 1954, including therein the amount of P3,015.11, proceeds of the sale of the copra in question.

On June 22, 1957 (or 2 years, 10 months, and 16 day<sup>3</sup> thereafter),<sup>[1]</sup> the court, this time presided by Judge Jose Evangelista, issued the following order:

"ORDER

"This is a petition, dated August 6, 1954, filed by the counsel for Inez Ramirez, asking that the former administrator, Cipriano Martinez, be ordered to deposit with the Clerk of this Court the proceeds of the sale of ten tons of copra.

"It appears that said former administrator sold ten (10) tons of copra belonging to these testate and intestate proceedings, after he was relieved as administrator and without authority of this Court. On the other hand, the account of said former administrator had been disapproved by this Court, and he is under obligation to file a new account, in accordance with the orders of this Court dated June 14, 1954 and June 20, 1956.

WHEREFORE, the former administrator, Cipriano Martinez, is hereby ordered to file a new account of his administration within ten (10) days from receipt of notice of this order. Said administrator is further ordered to deposit with the Clerk of Court the proceeds of the sale of the ten (10) tons of copra which he disposed of after he was dismissed by the Court as administrator.

"SO ORDERED."

On July 23, 1957, petitioner Martinez filed a manifestation reiterating that the copra in question was sold by him before his removal, without hearing, as administrator of the estate, and asking that the order to deposit be reconsidered as the proceeds of the sale had already been included in the new account submitted by him which he asked to be approved. Again, nothing appears in the records to show that action has been taken on this petition or on the new accounts submitted since May 10, 1955.

On January 16, 1960 (or 2 years, 6 months, and 25 days thereafter), respondent Ramirez filed an ex-parte motion for execution against petitioner Martinez, stating:

"1. That the ex-administrator, Cipriano Martinez, has sold ten (10) tons of copra, and said ex-administrator did not deposit the proceeds of the sale to the Clerk of Court, in spite of several orders issued to that effect by this Honorable Court.

"2. That this Honorable Court, on October 23, 1959, ordered the said ex-administrator, Cipriano Martinez "to

appear and explain during the next hearing of this special proceedings why until now he has not deposited the sale of ten (10) tons of copra.

"3. That this special proceedings are set for hearing today, January 16, 1960, but the said ex-administrator, Cipriano Martinez did not appear, and did not-deposit the product of the sale of ten (10) tons of copra.

"WHEREFORE, it is respectfully requested, to avoid further delay, that the Clerk of Court be ordered to issue the order of execution against said Cipriano Martinez and his bondsmen. This petition is aside from whatever action and relief this Honorable Court may deem proper, said ex-administrator Cipriano Martinez, having defied and disobeyed the orders of this Honorable Court."

On January 18, 1960, the court, this time presided by respondent Judge Raymundo Villacete issued an order, to wit:

"ORDER

"Considering the written ex-parte petition for issuance of an order of execution filed by counsel for Ines Ramirez, the Court finding the same legally in order, hereby grants the said petition.

"The Clerk of Court is hereby ordered to issue an order of execution against the bondsmen of ex-administrator Cipriano Martinez, for the collection of the amount of P3,015.11 (proceeds of the) sale of 10,836 kilos of copra, which he has not deposited with the office of the Clerk of Court, in spite of several orders issued to that effect.

"SO ORDERED."

Petitioner Martinez filed a motion for reconsideration of said order, but respondent Judge denied the same, in an order dated June 30, 1960, which states:

"ORDER

"The telegraphic request of Atty. Democrito M. Castro for the transfer of the date of the hearing of his motion is hereby denied.

"Considering the manifestation and motion for reconsideration, the order of this Court dated January 18, 1960 in the above-entitled special proceedings filed by Atty. Democrito M. Castro, the same is hereby denied for lack of merit.

"The Court hereby reiterates its order dated January 19, 1960, ordering the Clerk of Court to issue a Writ of Execution against the bondsmen of ex-administrator Cipriano Martinez, for the recovery of the amount of P3,015.11.

"SO ORDERED."

Pursuant to said order, the Clerk of Court issued a writ of execution on January 18, 1961 and an alias writ on February 3, 1961, but both were returned unsatisfied.

On August 9, 1961, petitioners Martinez,, Jose Miñano and Cecilia M. Vda. de Miñano filed with us the present petition for certiorari with preliminary injunction against respondents Judge Villacete, Clerk of Court and ex-officio provincial sheriff Constancio L. Marquez, and Ines Ramirez. In due time, we issued a writ of preliminary injunction restraining respondents or their representatives from enforcing the writ of execution, upon petitioners' filing a bond of P1,000.00.

The only question to be determined in this case is whether respondent Judge acted with grave abuse of discretion amounting to lack of jurisdiction, in issuing the order of execution in question.

Section 1, Rule 39, of the Rules of Court, provides that "Execution shall issue upon a final judgment or order upon the expiration of the time to appeal when no appeal has been perfected". Stated otherwise, only a final, not interlocutory, judgment or order may be executed (*Mendoza vs. Parungao*, 49 Phil. 271; *Perkins vs. Perkins*, 57 Phil. 223; *Yulo vs. Powell*, 36 Phil. 743; *Philippine Trust Co., vs. Santamaria*, 53 Phil. 463).

In the instant case, there is no showing that a final judgment or order had been issued against petitioners, as to justify the issuance of a writ of execution against them. If at all, what appears on record is an order of the trial court dated June 22, 1957 stating that petitioner Martinez "sold ten (10) tons of copra belonging to these testate and intestate proceedings, after he was relieved as administrator, and without authority of this Court", and ordering him, therefore, to "file a new account of his administration within ten (10) days from receipt of notice" of the order, as well as "to deposit with the Clerk of Court the proceeds of the sale of the ten (10) tons of copra which he disposed of after he was dismissed by the Court as administrator".

But this can hardly be considered a final judgment or order which could serve as the basis of the order of execution in question. Note that it merely requires petitioner Martinez to render an account of his administration, and to deposit the proceeds of the copra sold by him in 1954 with the Clerk of Court, the non-compliance of which, could at most render him (Martinez) liable only for contempt of court under Section 3(b), Rule 64, of the Rules of court, under Section 3(b), Rule 64, of the Rules of Court,[2] for refusal to obey its lawful order. And this order has not become final because petitioner Martinez' motion for its reconsideration explaining that the copra was sold before his removal without notice and its proceeds duly accounted for in his accounts submitted on May 10, 1953 and, consequently, could not be deposited in court, has remained unacted upon up to the time of the issuance of the writ of execution. The order of execution has, therefore, no legal basis.

\* \* \* \* \*

"(b) Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or judge."

But what is worse, the order of execution was issued, not against the ex-administrator, but directly against the petitioners-bondsmen who, for all that appears in the records, were never given any opportunity to be heard. (*Evans vs. Workmen's Compensation Commission*, 111 Phil., 1002).

Wherefore, the writ of certiorari prayed for by petitioners is granted. Respondent Judge's orders (of June 18 and 30, 1960) complained of, are set aside, and the injunction heretofore issued by this Court is made permanent, without prejudice to further proceedings in accordance with law. No costs. So ordered.

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

---

[1] The delay was apparently due to the retirement of Judge Pascual Santos and the intermittent sessions of the Court in Romblon which was at the time attached to the Court of First Instance of Capiz.

[2] "SEC. 3. Contempt punished after charge and hearing.—After charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel, a person guilty of any of the following acts may be punished for contempt:

**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.