

CENON MEDELO, PETITIONER, VS. THE HON. NATHANAEL M. GOROSPE, JUDGE OF THE COURT OF FIRST INSTANCE OF LANA DEL NORTE, BRANCH II, CITY OF ILIGAN, PEDRO ERMAC, AND HIS CHILDREN EL...

G.R. No. L-41970. March 25, 1988

Ponente: GANCAYCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ec7465852795/>

GANCAYCO, J.:

This is a petition for mandamus with damages seeking the issuance of an order directing the respondent judge to immediately order the execution of the lower court's order dated June 25, 1970.

The deceased spouses Potenciano Ermac and Anastacia Mariquit left as the only property to be inherited by their heirs a parcel of land, Lot No. 1327, Iligan Cadastre No. 292, covered by OCT No. RP-355 (262) of the Register of Deeds of Iligan, with an assessed value of P590.00. Herein petitioner Cenon Medelo, one of the grandchildren of the said spouses (being one of the children of their pre-deceased daughter Digna Ermac), filed on September 18, 1969 a petition for summary settlement of the said estate. Since no opposition thereto was filed and all requirements were complied with, the Honorable Judge Hernando Pineda, then the presiding judge of the Court of First Instance of Lanao del Norte, Branch II, City of Iligan, issued on January 21, 1970 an order summarily settling the estate of the deceased spouses, enumerating all the heirs entitled to participate in the inheritance and ordering petitioner to present the project of partition of said lot.

Consequently, petitioner submitted on February 5, 1970 a project of partition. After the filing of the said project of partition, private respondent Pedro Ermac, one of the children of the deceased spouses filed a motion for reconsideration of the order of settlement, asking that an order be issued eliminating Lot 1327 from the estate on the ground that it belonged to him and his wife. The lower court denied the motion and ruled that the proper remedy was a separate suit. Thus, Pedro Ermac, together with his children, filed Civil Case No. 1564 for Quieting of Title with the Court of First Instance (CFI) of Lanao del Norte involving the same Lot 1327, Cad. 292.

On June 25, 1970, the above-mentioned project of partition was approved. The private respondents Ermac family members (the other private respondents), filed a motion for reconsideration of the order approving the project of partition. The said motion was, however, denied on July 15, 1970.

On July 20, 1970, the private respondents filed before this Court a Petition for Review alleging excess of jurisdiction or grave abuse of discretion on the part of the lower court in approving the project of partition notwithstanding the fact that it was being claimed by the respondents in a separate civil action.

On June 19, 1975, this Court rendered a decision which in part states:

"The policy of the law is to terminate proceedings for the settlement of the estate of deceased persons with the least loss of time. This is specially true with small estates for which the rules provide precisely a summary procedure dispensing with the appointment of an administrator together with the other involved and

cumbersome steps ordinarily required in the determination of the assets of the deceased and the persons entitled to inherit therefrom and the payment of his obligations. Definitely, the probate court is not the best forum for the resolution of adverse claims of ownership of any property ostensibly belonging to the decedent's estate. While there are settled exceptions to this rule as applied to regular administration proceedings, it is not proper to delay the summary settlement of the estate of a deceased person just because an heir or a third person claims that certain properties do not belong to the estate but to him. Such claim must be ventilated in an independent action, and the probate court should proceed to the distribution of the estate, if there are no other legal obstacles to it, for after all, such distribution must always be subject to the results of the suit. For the protection of the claimant, the appropriate step is to have the proper annotation of *lis pendens* entered.

"Accordingly, the instant petition is dismissed, without prejudice to petitioner having the proper annotation of *lis pendens* regarding Civil Case No. 1564 made on the title covering Lot 1327.

Costs against petitioner."[1]

On August 20, 1975, petitioner Cenon Medelo filed a motion for execution of the lower court's order approving the project of partition dated June 25, 1970 based upon this Court's decision of June 19, 1975. The private respondents filed their opposition to said motion on August 28, 1975.

On October 7, 1975, the respondent judge denied the said motion, stating in an order the following:

"Acting on the Motion for Execution filed by Atty. Irene Jurado, representing the petitioner and the Opposition filed by Atty. Teddy Rodriguez on behalf of the Oppositors, and considering that the decision of the Supreme Court itself referred to in the Motion for Execution states that the distribution of the estate involved in this instant case is 'subject to the results of the suit' (referring to Civil Case No. 1564 which is still pending trial before this Court), in the meantime, therefore, that the said Civil Case has not been terminated and decided, the Motion for Execution is hereby DENIED."[2]

Petitioner Cenon Medelo filed a motion for reconsideration of said order to which the private respondents also filed their opposition. Respondent judge denied the said motion for reconsideration. Hence, the present petition for mandamus with damages.

Petitioner Cenon Medelo argues in his memorandum that this Court's decision dismissing the petition for review filed by respondents has long become final and executory by operation of law and as such it is the lower court's ministerial duty to issue a writ of execution.

The private respondents contend that this Court's previous decision was subject to a condition as stated in the phrase "x x x Such claim must be ventilated in an independent action, and the probate court should proceed to the distribution of the estate, if there are no legal obstacles to it x x x." (Underscoring supplied.) Respondents further allege that the filing of the separate civil case (Civil Case No. 1564) is the condition or legal obstacle to the outcome of which the distribution of the estate is subject to. Furthermore, since the decision sought to be executed is conditional, respondents argue that mandamus will not prosper to enforce a right which is conditional or incomplete.[3]

Respondents also state that "justice and equality" can best be served by the stay of the execution until Civil Case No. 1564 is terminated since the land in question had already been titled in the name of respondents since 1956 and that they had introduced improvements, paid taxes and exercised dominion thereto.

The present petition is impressed with merit.

Rule 39, Section 1 of the Rules of Court states:

"Execution upon final judgment or orders. - Execution shall issue only upon a judgment or order that finally

disposes of the action or proceeding. Such execution shall issue as a matter of right upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the judgment has been duly appealed, execution may issue as a matter of right from the date of the service of the notice provided in Sec. 11 of Rule 51."

This Court's decision of June 19, 1975 has long become final and executory due to the fact that respondents did not seasonably question said decision. A judgment becomes final and executory by operation of law and not by judicial declaration.[4] Furthermore, the prevailing party is entitled to have the judgment executed as a matter of right when the defeated party has not availed of his right to appeal.[5] The issuance of an order of execution is, therefore, in order and is compellable by mandamus.

The private respondents also maintain that this Court's previous ruling is conditional and will stay execution as embodied in the phrase "if there are no legal obstacles to it." They allege that the pending civil suit is sufficient to stay execution.

The previous statement of this Court as appearing in the body of the decision is not controlling since:

"The only portion of the decision that becomes the subject of execution is that ordained or decreed in the dispositive part. Whatever may be found in the body of the decision can only be considered as part of the reasons or conclusion of the court and while they may serve as guide or enlightenment to determine the ratio decidendi, what is controlling is what appears in the dispositive part of the decision." [6]

The dispositive portion of this Court's previous decision states:

"Accordingly, the instant petition is dismissed, without prejudice to petitioner having the proper annotation of lis pendens regarding Civil Case No. 1564 made on the title covering Lot 1327.

"Costs against petitioners."

It is, therefore, clear that it is the dispositive portion that is subject to execution and not the body of the decision. Furthermore, said dispositive portion is unequivocal as to what is to be performed leaving no further doubt as to the nature of its execution. The doctrine that the final judgment as rendered is the judgment of the court irrespective of all seemingly contrary statements in the decision is well-recognized in this jurisdiction.[7]

"x x x At the root of the doctrine that the premises must yield to the conclusion is perhaps, side by side with the needs of writing finis to litigations, the recognition of the truth that 'the trained intuition of the judge continually leads him to right results for which he is puzzled to give unimpeachable legal reasons.' x x x." [8]

We previously held in this case that the appropriate remedy was to have the proper annotation of lis pendens entered. The annotation of lis pendens is sufficient to protect the rights of the private respondents for once a notice of lis pendens has been duly entered, any cancellation or issuance of title of the land involved as well as any subsequent transaction affecting the same, would have to be subject to the outcome of the litigation. The rights of the private respondents are sufficiently protected since upon the termination of the litigation there can be no risk of losing the property or any part of it as a result of any conveyance of the land or any encumbrance that may be made thereon posterior to the filing of the notice of lis pendens.[9]

Petitioner requests for P1,000.00 as actual damages. Unfortunately, this Court cannot award it in the absence of proof of the amount thereof.[10]

Petitioner likewise requests the award of P20,000.00 as exemplary damages to "set as an example and warning that decisions of the Supreme Court, final and executory, cannot be trifled with." The award cannot be granted. It has been held that exemplary damages are not generally recoverable in a special civil action for mandamus unless

the defendant patently acted with vindictiveness or wantonness and not in the exercise of honest judgment.[11] The preceding elements do not exist in the present case. Furthermore, the following requisites for award of exemplary damages are not satisfied.

First: They may be imposed by way of example or correction only in addition to compensatory damages and cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant.

Second: The claimant must first establish his right to moral, temperate, liquidated or compensatory damages.

Third: The wrongful act must be accompanied by bad faith, and the award would be allowed only if the guilty party acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.[12]

WHEREFORE, the instant petition for mandamus is hereby GRANTED and the respondent judge is directed to issue a writ of execution of the lower court's order of June 25, 1970 approving the project of partition. The orders of the respondent judge of October 4, 1975 and October 7, 1975 denying the motion for execution are reversed and set aside. No pronouncement as to costs. This decision is immediately executory.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Grino-Aquino, JJ., concur.

[1] Ermac vs. Medelo, 64 SCRA 358.

[2] Rollo, p. 42.

[3] Memorandum for Respondents, pp. 3-5.

[4] Sawit vs. Rodas, 73 Phil. 310.

[5] De Fiesta vs. Llorente, 25 Phil. 554.

[6] Neri Eduards, et al. vs. Arce, et al., 52 O.G, 2537.

[7] Contreras & Gingco vs. Felix and China Banking Corp., 78 Phil. 570.

[8] See Supra.

[9] Juan P. Pellicer & Co. Inc. vs. Phil. Realty Corp., 87 Phil. 302.

[10] Lichauco vs. Guash, 76 Phil. 5.

[11] Octot vs. Ybanez, 111 SCRA 79.

[12] Ibid.

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.