

MIGUEL CUENCO, PETITIONER, VS. THE COURT OF APPEALS AND BISAYA LAND TRANSPORTATION CO., INC., RESPONDENTS.

G.R. No. L-23012. January 29, 1968

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f45fdb24a5f/>

CONCEPCION, C.J.:

Original petition for certiorari to annul a writ of preliminary injunction issued by the Court of Appeals in CA-G. R. No. 33266-R, entitled "Bisaya Land Transportation Co., Inc. vs. Hon. Francisco Geronimo, et al." In a supplemental petition subsequently filed, petitioner, likewise, prayed that the decision therein rendered by the Court of Appeals, two (2) days after the commencement of the present action, be, likewise, nullified.

Soon after the filing of this suit, we issued a writ of preliminary injunction to restrain the enforcement of that of the Court of Appeals.

The factual background is this: On April 1, 1959, the Republic of the Philippines, through the Solicitor General, filed, with the Court of First Instance of Manila, a petition for quo warranto – which was docketed as Civil Case No. 39766 of said Court – against the Bisaya Land Transportation Co., Inc. – hereinafter referred to as Bisaya – and its directors, namely, Miguel Cuenco, Manuel Cuenco, Lourdes Cuenca, Jose P. Velez, Federico A. Reyes and Jesus P. Velez. The petition was based upon nine (9) alleged causes of action, which, in substance, were:

1. That to conceal its illegal transactions, Bisaya falsely reconstituted its articles of incorporation in July, 1948, by adding new purposes not originally included, namely: Lumber concessions, cattle ranch, agriculture, and general merchandising. (Bisaya was organized allegedly to engage solely in water and land transportation.)
2. That on May 25, 1948, its Board of Directors adopted a resolution authorizing it to acquire 1,024 hectares of public land in Zamboanga and 10,000 hectares of timber concessions in Mindanao, in violation of Sec. 6, Act 1459.
3. That in May, 1949, the Board adopted another resolution to lease 2,000 hectares of pasture land and 1,333 hectares of cattle ranch in Negros Occidental.
4. That from August, 1946 to 1952, the Corporation operated a general merchandise store, a business neither necessary nor incidental to the operation of land and water transportation business.
5. That it allowed Mariano Cuenco and Manuel Cuenco to act as President in 1945 to 1948 and 1953 to 1954, respectively, when at the time they did not own a single stock.
6. That in violation of its charter, its articles of incorporation and the statutes, it has engaged in mining by organizing the Jose P. Velez Coal mines, allowing said company to use the facilities and assets of Bisaya.
7. That it imported and sold at black market prices to third persons, truck spare parts, the proceeds of which sale were appropriated by respondent directors.
8. That it paid its laborers salaries below the minimum wage.

9. That it does not keep accurate stock and transfer books and records of dividend distribution.

all of which acts were allegedly committed by Bisaya through its co-respondents, in their capacity as officers and controlling stockholders of the corporation.

On April 17, 1959, Bisaya and its co-respondents – hereinafter referred to as respondents-directors – excluding Miguel Cuenco, filed a motion to dismiss the petition upon the ground of lack of cause of action, prescription and failure of the Solicitor General to secure the Court's permission, as required in Section 4 of Rule 68, Rules of Court.[1]

Upon the other hand, Miguel Cuenco filed an answer praying that the Solicitor General's petition be granted,[2] not only for the causes therein alleged, in which he denied having participated in any manner whatsoever, but, also, for additional causes alleged in said answer, namely: 1) that stock dividends were issued to respondents Manuel Cuenco and Jose P. Velez, without giving the same benefit to other stockholders; 2) that, thru respondents-directors, Bisaya had destroyed company payrolls, books of accounts and other records; 4) that Bisaya had allowed Manuel Cuenco to use corporate funds, facilities[3] and stocks[4] for his personal benefit; and 5) that, to cover up these irregularities, said directors had manipulated the corporate books and accounts. Moreover, Miguel Cuenco had set up a cross-claim against Respondents-Directors to recover from them, for the benefit of Bisaya, under several causes of action, the aggregate sum of P4,336,701.19.

Thereupon Bisaya and Respondents-Directors moved to dismiss the cross-claim. This motion and the motion to dismiss the petition for quo warranto were denied by the trial court. Then, Bisaya and Respondents-Directors filed their answer to the petition for quo warranto and to the cross-claim. Subsequently, or on February 8, 1960, they, likewise, commenced, in the Supreme Court, Civil Case G. R. No. L-16593 thereof,[5] for certiorari, to annul the orders denying Bisaya's motion to dismiss the petition for quo warranto and the cross-claim. The petition for certiorari was, however, dismissed by this Court[6] "the questioned orders being interlocutory."

Soon thereafter, or on February 23, 1960, the hearings on the petition for quo warranto began before a commissioner. Almost two (2) years later, or on February 5, 1962, Bisaya moved for a "judgment on consent:" (1) ordering the dissolution of Bisaya; and (2) commanding the Board of Directors of Bisaya to proceed with the liquidation of its assets, in accordance with law. The Solicitor General agreed to the rendition of said judgment, subject, however, to the qualification that its implementation "be submitted to the discretion of the lower court." Miguel Cuenco, similarly, agreed to the rendition of said judgment; but, he urged that a receiver be appointed to wind up the affairs of Bisaya, and that judgment be, likewise, rendered on his cross-claim. Thereupon, Bisaya moved to withdraw its motion for judgment on consent, upon the ground that the conditions to which the motion was subject had not been accepted. Miguel Cuenco opposed said withdrawal and pressed for the appointment of a receiver, which was, in turn, objected to by Bisaya.

Later, or on November 4, 1963, Bisaya reiterated its motion to dismiss the petition for quo warranto, alleging that the Court of First Instance of Manila has no jurisdiction over the case, because Bisaya is domicile in Cebu. Upon denial of this motion, Bisaya brought the matter, once again, to the Supreme Court,[7] on a petition for prohibition, docketed as G. R. No. L-22097,[8] which we dismissed on November 15, 1963. Two weeks later, or on December 3, 1963, the lower court granted Miguel Cuenco's petition for the appointment of a receiver and directed the parties to submit their nominees therefor, which they did. At the same time Bisaya announced that it would take "steps to annul the order of receivership." In fact, on January 9, 1964, Bisaya filed, with the Court of Appeals, a petition for certiorari with preliminary injunction, docketed as CA-G. R. No. 33266-R, upon the theory that the trial court had acted with grave abuse of discretion in issuing said order of December 3, 1963. On January 15, 1964, the Court of Appeals issued an ex parte writ of preliminary injunction enjoining the trial court from

enforcing said order.

Answering the petition in said case CA-G. R. No. 33266-R, Miguel Cuenco alleged that the same is premature, that Bisaya is estopped from questioning the order complained of, and that the same is legally justified. When the case was argued orally, on March 13, 1963, Miguel Cuenco, likewise, moved to dismiss the case for lack of jurisdiction a the appellate court, in view of his cross-claim for over P4,000,000.00. On March 18, 1964, Miguel Cuenco filed a memorandum in support of his aforementioned motion to dismiss, and on April 29, 1964, he moved to dissolve the writ of preliminary junction issued, on January 15, 1963, by the appellate court, which denied said motion[9]. Hence, Miguel Cuenco, commenced,[10] in the Supreme Court, the present action for certiorari, with prohibition and preliminary injunction, against the Court of Appeals and the petitioners in CA-G. R. No. 33266-R, alleging that the Court of Appeals had no jurisdiction to issue said writ of preliminary injunction, dated January 15, 1964, and had gravely abused its discretion in denying petitioner's motion for the dissolution of said writ.

Two (2) days later, or on June 6, 1964, the Court of Appeals promulgated its decision in CA-G.R. No. 33266-R, 1) declaring that it has jurisdiction over the subject-matter thereof; 2) annulling the order of the trial court of December 3, 1963, granting petitioner's motion for receivership; 3) directing said trial court to proceed with the hearing on the merits of the quo warranto case; and 4) maintaining, in the interim, the writ of preliminary injunction issued on January 15, 1964. Accordingly, on June 17, 1964, Miguel Cuenco filed with the Supreme Court a supplemental petition for the annulment of said decision of the Court of Appeals.

In its answer to the original petition herein, the Bisaya maintained that a quo warranto proceeding is not susceptible of pecuniary estimation, for which reason the appellate Court had jurisdiction over CA-G.R. No. 33266-R; that directors or stockholders are not proper parties in such proceeding; that Miguel Cuenco was not, accordingly, a proper party in the trial court; and that, as a consequence, he was not entitled to file a cross-claim. As regards the subject-matter of the supplemental petition, Bisaya alleged that the proper remedy for petitioners herein is to appeal from the decision in CA-G.R. No. 33266-R, not this original action of certiorari.

Soon thereafter, we issued a writ of preliminary injunction commanding the Court of Appeals, until further orders, to desist from enforcing its writ of preliminary injunction against the trial Judge. Subsequently, Bisaya moved this Court to issue a writ of preliminary injunction prohibiting the enforcement of the trial court's order of December 3, 1959, for the appointment of a receiver. It, likewise, moved, in a separate motion, that the records of CA-G.R. No. 33266-R be ordered forwarded to this Court, "to obtain the early resolution of the petition for certiorari filed against the order of receivership issued in the quo warranto case x x x and, at least, to obtain a writ of preliminary injunction to restrain the enforcement of that order of receivership."

Miguel Cuenco objected to both motions, whereas this Court took note of the first motion and of the opposition thereto, and deferred action on the motion for the elevation of the records of CA-G.R. No. 33266-R, until the present case is taken up on the merits.

Still later Bisaya moved to dismiss the original petition and the supplemental petition in the case at bar upon the ground that the movant and the Republic had filed, with the trial court, a motion for judgment based on the following compromise:

"a. respondent corporation be ordered to amend within six (6) months its articles of incorporation so as to exclude from its purpose clause the operation of lumber concessions, cattle ranch, agricultural lands, and a general merchandise store;

"b. respondent corporation be ordered to sell or otherwise dispose of within six (6) months its cattle ranch;

"c. respondent corporation be authorized to continue serving the public in the field of public transportation only and to post such bond as the appropriate court may require to secure and protect whatever rights or claims any complaining stockholder, including Miguel Cuenco, may have against the corporation."

Petitioner objected to said motion to dismiss, which this Court decided to take up "when the case is considered on the merits." And, this is the question we now proceed to settle, namely, should the aforementioned motion to dismiss be granted or denied? The obvious answer is that it should be, as it is hereby, denied.

We do not see why the filing, with the trial court, of the aforementioned motion, of Bisaya and Republic, for a "judgment on compromise," should require the dismissal of present action of Miguel Cuenco against Bisaya and the Court of Appeals. To begin with, the trial court has not as yet granted said motion for a "judgment on compromise." We do not even know whether said court will regard the agreement between Bisaya and the Republic as a compromise, considering that Miguel Cuenco, a party in the case, has not joined said agreement and objects thereto. Secondly, we can not, and should not, declare in the present case, whether said "judgment on compromise", if rendered, would necessarily throw the cross-claim of Miguel Cuenco out of Court. The trial court would have to pass upon such question, should it render the aforementioned "judgment on compromise." Thirdly, as long and so long as the injunction and the decision in CA-G.R. No. 33266-R are there – and Bisaya does not allege that they have been wiped out by said motion for a judgment on compromise – Miguel Cuenco is entitled to maintain the present action to contest and annul said writ and decision.

The main question for determination by us is whether or not the appellate court had jurisdiction to hear and decide said case CA-G.R. No. 33266-R.

Petitioner maintains that the answer should be in the negative, because of the cross-claim for over P4 millions in the quo warranto proceedings.

Upon the other hand, respondents herein insist that the answer should be in the affirmative, upon the theory that the jurisdiction of the appellate court should be determined by the allegations of the petition for quo warranto, which is incapable of pecuniary estimation, and that a cross-claim is improper in quo warranto proceedings.

Respondents' contention is clearly untenable. It is conceded that the original jurisdiction of the appellate court to issue writs of certiorari is limited to those which are "in aid of its appellate jurisdiction."^[11] Excluding the cases provided for in the Constitution and criminal cases, said appellate jurisdiction is dependent upon "the value in controversy." If the same exceeds P200,000.00, exclusive of interests and costs, the case is within the appellate jurisdiction of the Supreme Court. Otherwise, the appellate jurisdiction is vested in the Court of Appeals.^[12]

The "value of the controversy" is determined, however, not only by the complaint or petition, but, also, by other pleadings which determine the issues in the case, such as the answer, the counter-claim, the cross-claim. Hence, in *Mialhe vs. Halili*,^[13] this Court took into consideration, in determining the appellate jurisdiction over the case, not only the amount sought to be recovered in the complaint, but, also, the amount claimed in the counter-claim. Indeed, the appeal may, and often does, require a review of the "entire" controversy.^[14] Thus, for instance, the appellate court declared, in its decision of June 6, 1964, that it was improper for petitioner to file in the quo warranto proceedings, his cross-claim for over P4 millions. Yet, such declaration entailed a determination of the propriety of said cross-claim which cannot be made without exercising jurisdiction over the same, despite the admitted fact that it is beyond the appellate jurisdiction of the Court of Appeals. This only goes to show that the latter can not assume jurisdiction over case CA-G.R. No. 33266-R without making a pronouncement on said cross-claim, and, hence, without exercising jurisdiction over the same.

The lack of jurisdiction of the Court of Appeals over said case becomes even more apparent when we consider that the trial court had denied the motion of respondents herein to dismiss said cross-claim. After due hearing on

the merits of the petition and the cross-claim, the trial court would have to render, therefore, a decision on both. In doing so, it may dismiss the cross-claim in its entirety, or render judgment for the cross-claimant; either for the full amount of the cross-claim, or for part thereof. In either case, the party adversely affected by the decision may appeal therefrom. There can be no doubt that such appeal would be within the exclusive jurisdiction, not of the Court of Appeals, but of the Supreme Court. And such would be the case, regardless of whether the cross-claim was properly filed in the trial court or not. Indeed, the jurisdiction based upon "the value in controversy" is not dependent upon the validity of the claim or its propriety, since neither can be passed upon without previous assumption and exercise of jurisdiction. What is more, the main respondents herein must have been aware of this fact, for, otherwise, Civil Cases L-16593 and L-22097 would not have been instituted by them in the Supreme Court, to secure relief against certain orders of the trial court.

It is thus clear that the subject-matter of CA-G.R. No. 33266-R is beyond the original jurisdiction of the Court of Appeals, and that the writ of preliminary injunction issued by the same, as well as its decision therein rendered, are null and void ab initio. The proceedings therein being a patent nullity, it would serve no useful purpose to order the records thereof elevated to this Court.

WHEREFORE, the motions of Bisaya for a writ of preliminary injunction, for dismissal of the present case and for the elevation to this Court of the records of the Court of Appeals in CA-G. R. No. 33266-R are hereby denied, and the writ of preliminary injunction and the aforementioned decision in said case are, accordingly, annulled. The writ of preliminary injunction issued by this Court is hereby made permanent, with costs against herein respondents, excluding the Court of Appeals.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.
Fernando, J., did not take part.

[1] Now Rule 66 of said Rules.

[2] That Bisaya be dissolved, its franchise forfeited and a receiver appointed.

[3] Like the repair shop.

[4] Such as gasoline, trucks, spare parts, and lubricants.

[5] Entitled "Bisaya Land Transportation Company, Inc., Manuel Cuenco, Lourdes Cuenco, Jose P. Velez, Federico A. Reyes and Jesus P. Velez vs. Hon. Bonifacio Ysip, as Judge of the Court of First Instance of Manila, Republic of the Philippines and Miguel Cuenco."

[6] On February 11, 1960.

[7] On November 11, 1963.

[8] Entitled "Bisaya Land Transportation Co., Inc., Manuel Cuenco, Lourdes Cuenco, Jose P. Velez, Federico A. Reyes, and Jesus P. Velez vs. Hon. Francisco Geronimo, Judge of the Court of First Instance of Manila, Branch XII, Republic of the Philippines and Miguel Cuenco."

[9] On May 12, 1964.

[10] On June 3, 1964.

[11] Section 30, Republic Act No. 296, as amended.

[12] Sections 17 and 19, Republic Act No. 296, as amended.

[13] 103 Phil., 639.

[14] Shappirio v. Goldberg, 4 L. ed. 419; Stimson v. Douson, 15 L. ed. 996.

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.