

**JOSE CARANDANG, PETITIONER, VS. HON. JOSE R. CABATUANDO,
JUDGE OF THE COURT OF AGRARIAN RELATIONS, SEVENTH
REGIONAL DISTRICT, BRANCH II, THE PROVINCIAL SHERIFF OF
BATANGAS, AND ...**

G.R. No. L-25384. October 26, 1973

Ponente: ZALDIVAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f7ab991cc052/>

ZALDIVAR, J.:

Petitioner Jose Carandang was the caretaker of private respondent Consuelo D. Pandy's 1.5 hectare of coconut land situated at Puting-Buhangin, San Juan, Batangas. He had a house inside the landholding. He also owned a parcel of land adjoining it. On February 21, 1963 respondent Pandy filed a verified petition (CAR Case No. 866) for ejectment and damages in the Court of Agrarian Relations of San Pablo City alleging that petitioner, in gross violation of the terms and conditions agreed upon between him and the landowner, had stubbornly refused and failed to clear the land of bushes and grasses, to take proper care of the coconut land and improvements thereon, and to perform the necessary work in accordance with the customs and proven practices in the locality; that petitioner had been feeding his hogs and chickens with coconuts from the landholding; that he gathered nuts and sold copra without notifying the respondent; and praying that petitioner be dismissed as caretaker of the landholding and be ordered to pay as damages the sum of P370.00, plus attorney's fees.

Petitioner, having been served, on March 8, 1963, with the summons and a copy of the complaint, and having failed to file his answer, the agrarian court, acting on the motion filed by respondent, declared petitioner in default and set the reception of respondent's evidence on July 2, 1963 before the commissioner of the court.

On March 13, 1964, petitioner filed, through the Office of the Agrarian Counsel, a verified motion to set aside the order of default, alleging that the failure of petitioner to file an answer was due to mistake or excusable neglect, and that petitioner had a valid and meritorious defense, and praying that petitioner be allowed to file his answer. The court, on April 17, 1964, denied the motion for failure of movant "to allege either in his motion to set aside order of default or in his supporting affidavit the facts constituting his alleged valid and meritorious defense."

After respondent had presented ex parte her evidence, the court rendered its decision dated October 28, 1964, the dispositive portion of which reads as follows:

"In view of all the foregoing, judgment is hereby rendered:

- Ordering defendant Jose Carandang to vacate forthwith the landholding of 1.5 hectares owned by plaintiff hereinbefore described subject to the provisions of Section 22 of Republic Act 1199, as amended;
- Ordering the defendant to pay plaintiff the sum of P148.00 as damages, with interest at 6% per annum from the filing of the complaint on February 21, 1963, until fully paid; and
- Ordering defendant to pay plaintiff the sum of P250.00 as attorney's fees, plus the costs of this action."

Petitioner filed on December 24, 1964 a motion for reconsideration of the decision upon the grounds that the court erred in not lifting the order of default, and in not determining the value of the labor and expenses in the cultivation in accordance with the provisions of Section 22 of Republic Act 1199, as amended.

The agrarian court issued, upon motion, an order of execution dated February 26, 1965, but the court later set it aside for the reason that it was first necessary to determine the indemnification that the defendant was entitled to pursuant to Section 22 of Republic Act No. 1199, and the court set for hearing the motion for execution for March 25, 1965.

Petitioner submitted to the court a "bill of accounting", dated March 25, 1965, for the value of his labor and plantings such as coconut, banana, black pepper, jackfruit, mango, santol and star apple trees, in the total amount of P9,000.00.

Subsequently, the court ordered an ocular inspection of the landholding involved to determine the number of coconut trees that were one year, two years, and five years old. The report of said inspection, dated April 5, 1965, was submitted to the court.

The court, in its order dated August 4, 1965, acting on the report of the ocular inspection, written and oral manifestations of respondent, and petitioner's affidavit regarding the compensation claimed by him for the planting of the coconuts, considered paragraphs 2 and 3 of the decision satisfied, and directed the Clerk of Court to issue a writ of execution ordering petitioner to vacate the landholding.

The writ of execution was served on September 4, 1965 upon herein petitioner by the Provincial Sheriff.

Upon motion of respondent, dated October 5, 1965, the court, on October 28, 1965, issued an order of demolition, ordering petitioner to remove at his own expense his house from the landholding in question not later than November 15, 1965, and that should he fail to do so, the Provincial Sheriff of Batangas was authorized to demolish said house. This order was received by petitioner on November 24, 1965.

Alleging that the execution of the order of demolition "would work unwarranted hardship and irreparable damage and injustice upon petitioner who have not been accorded his day in court and has not been paid the indemnification due him, and not having any adequate, plain and speedy remedy," the instant petition was filed on December 2, 1965 praying that a writ of certiorari, prohibition and injunction be issued, ordering respondent court to desist from further proceedings in the execution of the decision in CAR case No. 866, enjoining the Provincial Sheriff from enforcing the writ of execution and order of demolition, and, after hearing the petition, to declare null and void the proceedings in said case.

In its resolution dated September 6, 1965, this Court ordered respondent to file their answer to the petition, and upon the posting of a bond, this Court, on December 16, 1965, restrained the Sheriff from enforcing the writ of execution and order of demolition.

Respondent Consuelo D. Panday, in her answer, alleged that the order of default was regularly issued on June 10, 1963 by the trial court; that it was only on March 13, 1964 that petitioner filed a motion to have it set aside; that said motion to set aside was denied on April 17, 1964, and the motion for reconsideration dated May 4, 1964 was also denied; that the decision dated October 28, 1964 was rendered in the valid exercise of the court's jurisdiction; that the motion to reconsider the same, after having been heard, was denied on February 1, 1965; that after the denial no action or step was taken by petitioner despite the availability of remedies provided by law; that the filing by petitioner of the "Bill of Accounting" indicated unerringly his conformity to the decision insofar as the same ordered him to vacate the landholding, for in said Bill, he only claimed indemnification under Section 22 of Republic Act No. 1199; that an ocular inspection of the landholding was ordered to determine the indemnification

due to petitioner; that petitioner presented no opposition to the report dated April 5, 1965; that petitioner, having been served with the writ of execution on September 4, 1965, made no step to question it; that the court set for hearing the motion for the order of demolition but petitioner did not appear in said hearing in spite of having received notice thereof; that the writ of execution had been served on petitioner and complied with on December 3, 1965, i.e., ten days before respondent received copy of the petition in the instant case; and that petitioner has not been deprived of his day in court or of the indemnification due him. As affirmative defense, respondent alleged that petitioner had no cause of action, for there was no averment of any irregularity in the proceedings or that the respondent judge had acted without jurisdiction.

The Provincial Sheriff of Batangas, in his answer, alleged that petitioner's house had already been demolished on December 4, 1965 by virtue of the trial court's order dated October 28, 1965.

In his memorandum, counsel for petitioner argued that this is a special civil action under Rule 65 of the Rules of Court for the purpose of annulling the proceeding in CAR Case No. 866; that there is a cause of action, as is evident from this Court's resolution requiring respondents to answer; that petitioner was denied his day in court when the proper motion to lift the order of default was denied by the trial court; that the decision was based on incompetent self-serving testimony of respondent Consuelo D. Panday, so that the decision of ejectment was a grave abuse of discretion; that the execution of the decision and the demolition of petitioner's house on December 4, 1965, even after the instant petition had been filed and shown to the Sheriff and respondent Panday, was a violation of the restraining order issued by this Court; that the trial court abused its discretion when it refused to adjudicate in whole the indemnification petitioner was entitled to; that there being palpable excess of authority in depriving petitioner of his rights and property without due process of law, and the decision dated October 18, 1964 and the order of October 28, 1965, being in their nature interlocutory, certiorari is the proper remedy.

Petitioner claims that the instant action is a special civil action under Rule 65 of the Rules of Court. In a certiorari proceeding under section 1, Rule 65, of the Rules of Court, the court is confined to questions of jurisdiction. The reason is that the function of the writ of certiorari is to keep an inferior court within its jurisdiction, to relieve persons from arbitrary acts - that is, of acts which they have no authority or power in law to perform - of courts and judges, and not to correct errors of procedure or mistakes in the judge's findings or conclusions (*Bustos vs. Moir and Fajardo*, 35 Phil. 415, 417-418; *Pacis vs. Averia*, L-22526, November 29, 1966, 18 SCRA 907, 914-915; *Albert vs. Court of First Instance of Manila (Br. VI)*, L-26364, May 29, 1968, 23 SCRA 948, 965; *Estrada vs. Sto. Domingo*, L-30570, July 29, 1969, 28 SCRA 890, 915). For a writ of certiorari to issue, it must not only be shown that the board, tribunal or officer acted without or in excess of jurisdiction, or in grave abuse of jurisdiction, but also that there is no appeal or other plain, speedy, and adequate remedy in the course of law (*Jose vs. Zulueta*, L-16598, May 31, 1961, 2 SCRA 574, 578; *Atlas Development and Acceptance Corporation vs. Gozon*, L-21588, July 31, 1967, 20 SCRA 886, 891).

Do the above-mentioned requisites for certiorari obtain in the instant case?

It cannot be seriously contended that the trial court had no jurisdiction over the subject-matter and the parties in CAR Case No. 866. Petitioner has never claimed such want of jurisdiction either in the court below or in the instant petition. It cannot be gainsaid that the Court of Agrarian Relations had authority to try and hear, decide and determine, the aforesaid case and to issue and enforce all its lawful orders relative to the case.

The question, therefore, to be determined is whether the respondent Court of Agrarian Relations exceeded its jurisdiction or gravely abused its discretion, and whether there was no appeal or any plain, speedy and adequate remedy in the ordinary course of law.

Was there an abuse of discretion on the part of the court when it declared petitioner in default, and did not lift,

upon proper motion, said order? Petitioner claims there was, when he alleged that he "was not heard, even upon proper motion to lift the order of default, all had been denied by the respondent judge, in short he (petitioner) had not been afforded his right to due process of law." The record belies said claim. The record shows that petitioner had not been deprived of his right to be heard. The summons and copy of the complaint in CAR Case No. 866 were served upon petitioner on March 8, 1963. No answer or responsive pleading had been filed within the reglementary period. The answer should have been filed within 5 days after service of summons, pursuant to Rule 7 of the rules of the Court of Agrarian Relations promulgated under the provisions of Section 10 of Republic Act No. 1267, as amended by Section 6 of Republic Act No. 1409. Having failed to answer, the trial judge, upon motion filed by respondent Pandy, declared, on June 10, 1963, petitioner in default. The action of the CAR judge was perfectly legal. Under Rule 20 of the rules of the Court of Agrarian Relations, the provisions of the rules of court relating to courts of first instance which are not inconsistent with the rules of the Court of Agrarian Relations are applicable to cases pending before the agrarian court. Even section 155 of the Agricultural Land Reform Code (Republic Act No. 3844) provides that the Court of Agrarian Relations shall have all the powers and prerogatives inherent in, or belonging to, the Court of First Instance, and it shall be governed by the Rules of Court, provided that in the hearing, investigation, and determination of any question or controversy pending before them, the courts, without impairing substantial rights, shall not be bound strictly by the technical rules of evidence and procedure, except in expropriation cases.

It cannot be seriously urged that the trial court abused its discretion when after having declared petitioner in default, it proceeded to receive respondent's evidence and render judgment granting him such relief as the complaint and the facts proven warranted. The trial court simply acted in accordance with the provisions of the rules of court.

The trial court cannot be said to have abused its discretion when it denied on April 17, 1964, the motion dated March 13, 1964 to lift the order of default, for neither said motion nor the affidavit supporting it stated facts constituting a valid and meritorious defense. Section 3, Rule 18, of the new Rules of Court, already in force as of that date, provided that the motion to set aside the order of default must show that the failure to answer was due to fraud, accident, mistake, or excusable neglect and that the movant has a meritorious defense. Anent this matter it has been held that when a motion to lift the order of default does not show that the defendant has a meritorious defense and that his failure to answer the complaint on time is legally excusable, or that anything would be gained by having the order of default set aside, the denial by the court of the motion to lift the order of default does not constitute abuse of discretion (*Manzanillo vs. Jaramilla*, 84 Phil. 809, 811).

The trial judge likewise legitimately exercised his jurisdiction, when he rendered the decision dated October 28, 1964, based on respondent's evidence, and when on February 1, 1965 he denied the motion for reconsideration in open court.

From all the foregoing, it is apparent that herein petitioner was given notice and opportunity to be heard before judgment was rendered. He was not denied of his right to due process of law. Due process contemplates notice and opportunity to be heard before judgment is rendered affecting one's person or property. (*Macabingkil v. Yatco*, L-23174, September 8, 1967, 21 SCRA 150, 157; *Batangas Laguna Tayabas Bus Co. v. Cadiao*, L-28725, March 12, 1968, 22 SCRA 987, 994; *Bermejo vs. Barrios*, 31 SCRA 764, 775).

Did the trial court commit a grave abuse of discretion when it rendered its decision based on respondent's evidence on the ground that said evidence was self-serving? The law itself provides that a party or any other person interested in the outcome of a case may testify (Section 18, Rule 130, Rules of Court). The testimony of an interested witness, this Court has said, should not be rejected on the ground of bias alone, and must be judged on its own merits, and if such testimony is clear and convincing and not destroyed by other evidence on record, it

may be believed (U. S. vs. Mante, 27 Phil. 134, 138). Neither can said testimony be said to be self-serving. This Court has said that self-serving evidence is an evidence made by a party out of court at one time; it does not include a party's testimony as a witness in court (National Development Co. vs. Workmen's Compensation Commission, L-21724, April 27, 1967, 19 SCRA 861, 865-866).

Even assuming, arguendo, that the trial judge committed an error in basing his decision on the testimony of herein respondent, the petitioner had a remedy by appeal and not by a petition for certiorari. Appeal from the decision of the Court of Agrarian Relations is provided in Section 156 of the Agricultural Land Reform Code (Republic Act No. 3844) and Rule 43 of the Rules of Court. Petitioner did not avail of this remedy. Instead, on December 2, 1965, after the period for appeal had lapsed, he filed the instant special civil action for certiorari. He cannot now avail of certiorari. Where petitioner had failed to file a timely appeal from the trial court's order, he can no longer avail of the remedy of the special civil action for certiorari in lieu of his lost right of appeal, if there is no error of jurisdiction committed by the trial court (Mabuhay Insurance & Guaranty, Inc. vs. Court of Appeals, L-28700, March 30, 1970, 32 SCRA, 245, 252).

Petitioner claims that the trial court abused its discretion by refusing to adjudicate in whole the indemnification petitioner was entitled to as provided in section 22 of Republic Act No. 1199. It is to be recalled that petitioner, having been declared in default, did not testify. It was to be expected that there was no evidence to show that petitioner was entitled to indemnification. Even then the trial judge, in the interest of justice, set aside the order of execution dated February 26, 1965, and granted to petitioner herein the benefits of section 22 of Republic Act No. 1199 providing for the payment of indemnification, as is shown by the order dated March 2, 1965, which recited:

"Wherefore, plaintiff's motion for execution is hereby set for hearing on March 25, 1965 at 9:00 o'clock in the morning x x x to determine the said indemnification."

Due hearing on the amount of indemnification was held and the court issued an order, dated April 2, 1965, directing the ocular inspection of the subject landholding. Petitioner was present at the ocular inspection. The Report, dated April 5, 1965, on the ocular inspection, determining the number of coconut trees and their ages, was submitted to the court. Petitioner did not file any objection to said report. The matter was set for hearing on July 12, 1965, as per notice of hearing dated June 28, 1965. Petitioner did not appear at the hearing. Another hearing on the report was set for August 4, 1965, but petitioner again did not appear. The respondent judge, therefore, issued the order of August 4, 1965 awarding to petitioner the amount of P173 as the "indemnification he is entitled to under section 22 of Republic Act No. 1199," and at the same time directed the Clerk of Court to issue a writ of execution covering paragraph 1 of the dispositive portion of the decision dated October 28, 1964 in the sense that petitioner herein was ordered to vacate the subject landholding. The order of the court further states that the plaintiff (respondent herein) waived her right to the damages awarded to her in the decision of October 28, 1964 in excess of P173.00. Copy of this order was received by petitioner's counsel on August 4, 1965. No step was taken to attack or assail this order of execution, or the sufficiency of the indemnification. No motion for reconsideration or for new trial to call the attention of the court to the insufficiency of the indemnification or to the illegality of the order was ever filed, until 3 months later when the instant petition for certiorari was filed on December 2, 1965. Such inaction could mean only that petitioner was completely satisfied with the order of August 4, 1965, otherwise he could have filed within the reglementary period the necessary motion for reconsideration or motion for new trial. The decision had become final; execution followed as a matter of course, and the court cannot be accused of having exceeded its jurisdiction or gravely abused its discretion in ordering the execution.

Can the trial court be accused of not having granted the whole indemnity to which petitioner was entitled? The indemnity to the tenant was governed by Section 22 of Republic Act No. 1199, as amended, which provides as

follows:

"(4) The tenant shall have the right to be indemnified for his labor and expenses in the cultivation, planting, or harvesting and other incidental expenses for the improvement of the crop raised in case he is dispossessed of his holdings, whether such dismissal is for a just cause or not, provided the crop still exists at the time of the disposition."

On the basis of said statutory provision, petitioner, in his "Bill of Accounting", dated March 25, 1965, which he submitted to the trial court, claimed a total indemnity of P4,000 for various trees, besides coconut trees, namely: coffee, banana, native atis, star apple, Persian atis, black pepper, tree, jackfruit, mango and santol, and P5,000 for his labor for 16 years, making a total of P9,000.00. It is noteworthy that the aforequoted Section 22 enumerated the indemnity to which the tenant is entitled -- "for his labor and expenses in the cultivation, planting or harvesting and other incidental expenses for the improvement of the crop raised." x x x The landholding under consideration is a coconut land. The crop raised is coconut. The tenant is entitled to indemnify for the labor and expenses in the cultivation, planting or harvesting of the crop raised on the land at the time of dispossession. The diverse fruit trees other than coconut which petitioner claimed to have planted were not for the improvement of the crop raised. The law does not provide indemnity therefor. Thus in *Paz vs. Court of Agrarian Relations*, L-12570, April 28, 1962, 4 SCRA 1160, 1162, this Court held that it was an error for the Court of Agrarian Relations to order a tenant to be indemnified for the value of fruit trees on the land, this Court saying that Section 22 "does not provide for indemnity for the value of permanent improvements existing on the land, x x x nor for the expenses in clearing the same upon taking possession thereof originally by the tenant. x x x Such being the case, any award that may be made with regard to the value of said permanent improvements, or the expenses of clearing the land, whether fruit land or talahib land, is improper and unauthorized, and so the court a quo erred in including in the award an indemnity for the items abovementioned."

From the above discussions it is evident that the trial court committed no abuse of discretion and it did not exceed its jurisdiction. The remedy of petitioner, if he was not satisfied with the trial court's decision, was appeal. This petition for certiorari must necessarily be denied.

In his prayer, petitioner prayed that pending the determination of the merits, the sheriff be enjoined from enforcing the writ of execution and order of demolition issued by the respondent judge. The record shows that the house of herein petitioner on the subject landholding was demolished on December 4, 1965, as per Sheriff's Return dated December 7, 1965. The order of this Court restraining the enforcement of the writ of execution and order of demolition was issued only on December 16, 1965. The demolition, therefore, could not have been made, as claimed by petitioner, in violation of the restraining order. The established principle is that when the event sought to be prevented by injunction or prohibition has already happened, nothing more could be enjoined or prohibited because nothing more could be done in reference thereto. (*Aragones vs. Subido*, L-24303, September 23, 1968, 25 SCRA 95, 101.)

PREMISES CONSIDERED, this action for certiorari with prohibition and injunction must be dismissed, and the restraining order issued by this Court on December 16, 1965 is ordered lifted. No pronouncement as to costs.

IT IS SO ORDERED.

Makalintal, C.J., Fernando, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.
Ruiz Castro and Teehankee, JJ., took no part.

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.