

**ELVIRA F. VALENZONA, PETITIONER, VS. HON. COURT OF APPEALS,
TWELFTH DIVISION, HON. TEOFILO R. REDUBLA, IN HIS CAPACITY
AS THE PRESIDING JUDGE, BRANCH 14, REGIONAL TRIAL COURT, 8...**

G.R. No. 106895. September 10, 1993

Ponente: PADILLA J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-106895/>

PADILLA J.:

This is a petition for review on certiorari of the decision* of the Court of Appeals in CA-G.R. SP No. 25747 dated 9 June 1992 as well as its resolution dated 21 August 1992.

The antecedents are as follows:

The private respondents filed with the RTC of Baybay, Leyte, Branch 14, a complaint for recovery of inheritance, real property with damages against Alexander Flores, Alicia Flores Chiong, Pedrito Valenzona and petitioner herein Elvira Flores Valenzona, docketed therein as Civil Case No. B-778.

After trial on the merits, the court a quo rendered on 30 June 1988 a decision[1] in favor of the private respondents, the dispositive part of which reads as follows:

"WHEREFORE, upon finding of a preponderance of evidence in favor of the plaintiffs, this Court renders judgment in their favor, to wit:

‘1) Declaring Lots 11070 and 11071 of the Baybay Cadastre, Province of Leyte, belonging to the conjugal partnership of the spouses Ricardo Tripoli and Josefa Dipay which, upon the latter's demise in 1963, became a co-ownership of Ricardo Tripoli and his ten (10) children, herein plaintiffs, namely: Vicente Tripoli, Dulcisima Tripoli Pilapil, Bonifacia Tripoli Basco, Presentacion Tripoli Monterde, Cornelio Tripoli, Elizabeth Tripoli Lopez, Julita Tripoli Casugay, Leonora Tripoli, Ricardo Tripoli, Jr., and Runico Tripoli;

‘2) Declaring Ricardo Tripoli's Deed of Sale of Two Parcels of Land to defendants Alexander Flores married to Dulcisima Flores and Alicia Flores married to Dominador L. Chiong executed on July 14, 1966 (Exhibit "1"), and thence to defendant Elvira Flores married to Pedrito Valenzona by Alexander Flores and Alicia Flores on September 6, 1978 (Exhibit "10"), valid and binding only as regards the ideal share(s) of Ricardo Tripoli which is 4.5222 hectares, more or less, in area;

‘3) Ordering the partition of Lots 11070 and 11071 which adjoin each other between the plaintiffs and the defendants at the rate of ten over twenty-two (10/22) to the plaintiffs, which in area is some 3.7689 hectares, more or less; and twelve over twenty-two (12/22) to the defendants-spouses Pedrito Valenzona and Elvira Flores, which is some 4.5222 hectares, more or less, with the costs and/or expenses of relocating the two (2) lots and the consequent division thereof payable fifty percent (50%) by the plaintiffs and fifty percent (50%) by the defendants, as (sic) commanding the latter to deliver to the plaintiffs their area/ share upon the termination of the survey-partition;

‘4) Cancelling Transfer Certificates of Title Nos. T-4225 and T-4266 in the name of Ricardo Tripoli, and ordering the Register of Deeds of the Province of Leyte upon the finality of the decision, to issue Transfer

Certificates of Title to the plaintiffs and to the defendants covering their respective areas as above-ordered;

'5) Ordering the defendants to render to the plaintiffs an accounting of the pecuniary value of the produce of the area herein adjudicated to the plaintiffs from January, 1979, the date of the filing of this case, up to the ultimate delivery of the plaintiffs' share as (sic) giving to the plaintiffs 60% thereof.'

No pronouncement as to costs.

SO ORDERED."[2]

The aforesaid judgment having become final and executory, the trial court, upon motion of the private respondents, issued on 9 January 1989 a writ of execution.[3]

Thereafter, the petitioner filed with the court a quo a "Motion for Approval of Defendants' Accounting And Proposal of Partition." The private respondents objected and filed a "Motion And Opposition To Accounting." Hence, the court in its order[4] dated 7 March 1989 appointed a Commissioner on Accounting.

On 5 July 1989, the Court-appointed commissioner submitted his Report.[5] In view of the private respondents' opposition to the approval of the commissioner's Report, the trial court in an order dated 20 September 1989 required the petitioner's counsel to comment thereon within three (3) days from receipt thereof, and thereafter, the incident would be deemed submitted for resolution with or without the said comment.[6]

On 30 March 1990, the trial court issued an order[7] the pertinent part of which reads:

"x x x the Court Commissioner's Report on the accounting of the produce of the land as x x x decreed in the decision has been subject to vehement objections. In this regard the September 20, 1989 Order of this Court directing the defendants' counsel to file comment on the order considering the plaintiffs' opposition to the approval of the Commissioner's Report has not been complied with.

WHEREFORE, opposing counsels are invited to the amended Commissioner's Summary of Annual Sharing of Plaintiffs And Defendants whereat concludingly from the years 1979 to 1987, inclusive, plaintiffs are entitled to P79,409.41 to the defendants share of P52,941.61. This incident is hereby considered closed."

On 4 May 1990, the court a quo issued an order granting the private respondents' Ex-parte Motion for The Issuance of an Alias Writ of Execution.[8] On 7 June 1990, it issued the Alias Writ of Execution.[9]

On 3 July 1990, the petitioner filed with the trial court a Petition for Relief[10] from the orders dated 30 March 1990 and 4 May 1990, docketed therein as Civil Case No. B-1139. The court, however, dismissed the petition on 11 January 1991.[11]

In the meantime, the Alias Writ of Execution dated 7 June 1990 was implemented by the Sheriff by "levying (on) the parcels of land of the defendants with the Register of Deeds, Government Center, Candahug, Palo, Leyte last July 19, 1990." The writ was returned "partially satisfied." [12]

Hence, the private respondents filed another motion for the issuance of a Second Alias Writ of Execution, which the court a quo granted in its order[13] dated 7 December 1990, and issued the writ on 19 December 1990.[14]

The petitioner moved to set aside the second alias writ of execution. The trial court in an order dated 11 February 1991 denied the said motion and directed the issuance of a third alias writ of execution,[15] and issued the writ on 21 February 1991.[16] The writ, however, was returned unsatisfied.[17]

Again, the petitioner moved to quash the third alias writ of execution with a prayer to stay the order of 11 February 1991,[18] on the grounds that the writ of execution varies the terms of the judgment and that there has been a change in the situation of the parties which renders the execution inequitable. On 12 July 1991, the court a

quo issued an order[19] denying the motion and again directed the issuance of a third alias writ of execution.

The petitioner filed a motion to stay the order dated 12 July 1991[20] but the motion was denied by the court in its order[21] dated 2 August 1991.

Whereupon, the petitioner filed with the Court of Appeals, a petition for certiorari with prayer for preliminary injunction and/or temporary restraining order against Judge Teofilo R. Redubla and the private respondents herein, to annul and set aside the order dated 12 July 1991 denying the petitioner's motion to quash the third alias writ of execution, the order dated 2 August 1991 denying petitioner's motion to stay execution of the order of 12 July 1991 and other orders prior thereto, alleging that the said orders were issued with grave abuse of discretion, docketed therein as CA-G.R. SP NO. 25747.

On 9 June 1992, the Court of Appeals, as earlier stated, promulgated a decision[22] dismissing the petition, the dispositive part of which reads as follows:

"WHEREFORE, petitioner having failed to prove that the orders complained of are tainted with grave abuse of discretion, petition for certiorari is hereby DISMISSED."

The petitioner's motion for reconsideration[23] having been denied[24] the petitioner filed the present petition.

As already stated, the Court of Appeals dismissed the petition for certiorari because the petitioner failed to prove that the orders complained of were tainted with grave abuse of discretion. Corollarily, the issue to be resolved in this petition for review on certiorari is whether or not the Court of Appeals correctly held that the respondent Judge did not act with grave abuse of discretion in issuing the disputed orders.

The rule is settled that once a judgment has become final and executory, the prevailing party is entitled as a matter of right to a writ of execution, and the issuance thereof is the court's ministerial duty, compellable by mandamus.[25] This rule, however, is subject to exceptions, as for instance, where there has been a change in the situation of the parties making execution inequitable or unjust.[26]

The petitioner claims that the present case falls within the exception to the general rule governing the execution of judgments. Hence, she contends that the Court of Appeals erred in not holding that the respondent Judge acted with grave abuse of discretion in denying her motion to quash the third alias writ of execution.

Paragraph 5 of the dispositive part of the decision of the trial court in Civil Case No. B-778 dated 30 June 1988 reads as follows:

"5) Ordering the defendants to render to the plaintiffs an accounting of the pecuniary value of the produce of the area herein adjudicated to the plaintiffs from January, 1979, the date of the filing of this case, up to the ultimate delivery of the plaintiffs' share as (sic) giving to the plaintiffs 60% thereof."

For the implementation of the aforequoted decretal part of the decision, the trial court in its order of 7 March 1989 appointed a commissioner on accounting. On 5 July 1989, the commissioner on accounting submitted his Report, attaching thereto, the accounting of the produce of the lots in question, and made the following findings of fact, to wit:

"Elvira Valenzona possessed the land in question in 1979 till 1987, when even the court has not issued the writ of execution after the case over the land has been terminated, Vicente Tripoli wrested the possession of the land from defendants and forcibly occupied the same on May 15, 1987, cultivating and tilling the land until the present."

The commissioner's Summary of Annual Sharing of plaintiffs (private respondents) and defendants (petitioner herein) shows that from the years 1979 to 1987, inclusive, plaintiffs are entitled to P79,409.41 in relation to the

defendants' share of P52,941.61.

The petitioner now argues that the private respondents' act of forcibly taking possession of the land in question is a fact or circumstance that has changed the situation of the parties thereby making the execution of the judgment inequitable or unjust because she would be deprived of her legal share in the harvest of copra and lumber during the time that the private respondents have been in possession of the land.

We are not impressed with the petitioner's argument. While the rule is that a stay of execution of a final judgment may be authorized if necessary to accomplish the ends of justice, as for instance, where there has been a change in the situation of the parties which makes such execution inequitable,[27] nevertheless the said rule cannot be invoked when the supposed change in the circumstances of the parties took place while the case was pending, for the reason that there was then no excuse for not bringing to the attention of the court the fact or circumstance that affects the outcome of the case.[28] In the present case, the supposed change in the situation of the parties took place while Civil Case No. B-778 was still pending in the court below. Thus, as claimed by petitioner, the private respondents took possession of the property in question on 15 May 1987. The court a quo rendered its decision only on 30 June 1988. The petitioner, however, did not bring up the matter to the attention of the court.

Moreover, Section 4, Rule 39 of the Rules of Court provides, among others, that "Unless otherwise ordered by the court x x x a judgment or order directing an accounting in an action, shall not be stayed after its rendition and before an appeal is taken or during the pendency of an appeal." If a judgment or order directing an accounting is not stayed after its rendition and before an appeal is taken or during the pendency of the appeal, with more reason the judgment of the court in the present case directing an accounting cannot be stayed since it has already become final and executory.

In the light of the foregoing, we hold that the Court of Appeals did not err in ruling that the respondent Judge did not commit grave abuse of discretion in issuing the question-ed orders.

WHEREFORE, the decision appealed from is **AFFIRMED**. The petition is **DENIED** with costs against the petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Puno, JJ., concur.

* Twelfth Division, Justice Manuel C. Herrera, ponente with the concurrence of Justices Nicolas P. Lapena and Maria Alicia M. Austria

[1] Rollo, p. 57

[2] Ibid., pp. 67, 77-78

[3] Ibid., p. 77

[4] Ibid., p. 177

[5] Ibid., p. 68

[6] Ibid., p. 183

[7] Ibid., pp. 79, 184

[8] Ibid., p. 185

- [9] Ibid., p. 186
- [10] Ibid., pp. 87, 187
- [11] Ibid., p. 298
- [12] Ibid., pp. 84, 190
- [13] Ibid., p. 191
- [14] Ibid., p. 192
- [15] Ibid., p. 193
- [16] Ibid., p. 195
- [17] Ibid., p. 200
- [18] Ibid., p. 196
- [19] Ibid., p. 201
- [20] Ibid., p. 202
- [21] Ibid., p. 204
- [22] Rollo, p. 49
- [23] Ibid., p. 205
- [24] Ibid., p. 56
- [25] De Luna vs. Kayanan, G.R. No. L-29477, 13 November 1974, 61 SCRA 61
- [26] Limpin, Jr. vs. IAC, G.R. No. 70987, 30 January 1987, 147 SCRA 516
- [27] Albar vs. Carandang, G.R. No. L-18003, 29 September 1962, 6 SCRA 211
- [28] Ago vs. Court of Appeals, et al., G.R. No. L-19718, 31 January 1966, 16 SCRA 81

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.