

**FAUSTINA PUNCIA AND DOMINGO BALANTES, PETITIONERS, VS.
HON. ANTONIO N. GERONA, ACTING PRESIDING JUDGE OF THE
REGIONAL TRIAL COURT, BRANCH 27, NAGA CITY AND ROBERTO
ROCO, RESPOND...**

G.R. No. 107640. January 29, 1996

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-107640/>

VITUG, J.:

Petitioners Faustina Puncia and Domingo Balantes were the lessees of a 105-square-meter portion of a 215-square-meter lot in Zone 4, Mabini Interior, San Francisco, Naga City, registered in the name of private respondent Roberto Roco.

On 03 August 1977, private respondent filed a complaint for unlawful detainer against petitioners in the Municipal Trial Court ("MTC") of Naga City, Branch I, praying for the latter's eviction from the land for their continued failure to pay the agreed monthly rentals (Civil Case No. 8339). After more than 10 years, or on 30 March 1988, the court finally rendered a decision ordering petitioners to vacate the premises, to remove the residential houses they had constructed thereon, and to restore the possession of the land to private respondent. Petitioners were also ordered to pay unpaid due rentals, attorney's fees and costs of litigation.

Petitioners appealed the decision to the Regional Trial Court ("RTC") in Naga City. On 27 March 1990, the RTC affirmed in toto the MTC decision.

Displeased with the outcome of the case which remained pending for close to 13 years, petitioners took the RTC decision to the Court of Appeals alleging: (1) that private respondent violated the notice required under Sec. 5(c) of B.P. Blg. 25; (2) that there was a failure of compliance with Sec. 6 of P.D. No. 1508; and (3) that the Rule on Summary Procedure was misapplied since the issue of ownership was raised before the MTC. Finding no merit in the petition, the appellate court, in its decision of 06 July 1990, dismissed the appeal.

Petitioners elevated the case to this Court via a petition for review on certiorari (UDK-10039). On 05 September 1990, the Court dismissed the petition for non-compliance with requirements No. 1 and No. 4 of Circular No. 1-88 and for being insufficient in form. After an entry of judgment was made, the records were remanded to the court a quo.

In due time, writs of execution were issued by the MTC. After petitioners had failed to have their houses removed from the premises, private respondent filed a motion for demolition which, on 20 November 1991, the MTC granted. Petitioners filed a petition for certiorari before the RTC of Naga City, Branch 19, charging the MTC with grave abuse of discretion in issuing the writ of demolition and in denying their motion for reconsideration. On 30 March 1992, the RTC, through Judge Gregorio E. Manio, Jr., declared null and void the 20th November 1991 order of demolition and enjoined the MTC from issuing further writs of demolition. Private respondent filed a motion for reconsideration. In a resolution, dated 14 April 1992, Judge Manio reconsidered and set aside his own

decision of 30 March 1992 and ordered the dismissal of the petition for certiorari.

Undaunted, petitioners again went to this Court in a petition that alleged grave abuse of discretion on the part of Judge Manio (docketed G.R. No. 105386). The petition was denied on 15 June 1992 for non-compliance this time with requirement No. 2 of Revised Circular No. 1-88. Two months later, or on 19 August 1992, MTC Judge Ocampo III, upon motion of private respondent, opposed by petitioners, issued an order of demolition. Petitioners returned to the RTC of Naga City, Branch 27, via a petition for certiorari/prohibition assailing the order of demolition for allegedly having been issued in violation of due process. Apparently, on 02 September 1992, pursuant to the 19th August 1992 order of Judge Ocampo III, the residential house(s) involved were totally demolished and the questioned land ultimately surrendered to private respondent. On 16 September 1992, RTC Judge Antonio N. Gerona dismissed the petition for certiorari/prohibition. Petitioners, unbelievably, elevated anew the case to this Court (docketed G.R. No. 106589). In a Resolution, dated 12 October 1992, the Court held:

"In the ejectment case filed by private respondent(s) against herein petitioner(s), the trial court ruled in favor of private respondent(s). The lower court's decision was affirmed by the Regional Trial Court on appeal. When elevated to the Court of Appeals, the decisions of the two lower courts were sustained.

"A careful consideration of this petition indicated a failure of the petitioner(s) to show why the actions of the three courts which have passed upon the same issue should be reversed. Petitioner(s) failed to show that these courts' factual findings are not based on substantial evidence or that their decisions are contrary to applicable law and jurisprudence.

"CONSIDERING the failure of the petitioners to show any reversible error in the decisions of the three courts below and it appearing that this petition is purely dilatory, the Court Resolved to DENY the petition." [1]

Petitioners moved for a reconsideration but, on 13 January 1993, the motion was denied with finality. Entry of judgment was made on 29 January 1993 and the records of the case were, once again, transmitted below on 31 May 1993.

In the meantime, petitioners, on 23 October 1992 or a few days after the issuance of the 12 October 1992 resolution in G.R. No. 106589, sent by mail the instant "petition for certiorari" (docketed G.R. No. 107640) questioning the order, dated 16 September 1992, dismissing the petition for certiorari/prohibition before Judge Gerona, as well as the order of demolition issued on 19th August 1992 by Judge Ocampo III. The gist of the 5-page petition was encapsulized in paragraph 8 thereof which averred:

"8. That, further, the dismissal of herein petitioners' Petition for Certiorari in Special Civil Action No. RTC 92-2651 resulted in a tacit approval by respondent Honorable Judge Antonio N. Gerona of the censurable acts of Municipal Trial Judge Julian Ocampo III of grossly violating established rules of procedure - such as the 15-day period for finality of an order or judgment - and of wantonly violating the law itself, which is Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, that provides for a Moratorium on eviction and demolition of houses of program beneficiaries (petitioners herein) for a period of three (3) years from the effectivity of the Act and mandatorily requires that notice be given to affected persons or entities at least thirty (30) days prior to the date of eviction or demolition." [2]

Petitioners themselves state, however, that "the property in question has already been vacated by herein petitioners and the possession thereof already returned to respondent Roberto Roco as far back as the year 1989." [3] Private respondent, on his part, confirms that "the building of the petitioners subject of the order of demolition was demolished and the premises in question was delivered (to him), cleared of everything, on 02 September 1992." [4] Thus, the case, from all indications, appears to have truly and finally become moot and academic. Nevertheless, considering that this unlawful detainer case has tenaciously been shuttling back and forth

from the MTC, the RTC, the Court of Appeals and this Court, we deem it about time to write a conclusive finis to this protracted litigation by confronting the issue raised in the petition.

An immediate execution of the judgment in forcible entry and detainer action is governed by Rule 70 of the Rules of Court which reads:

"Sec. 8. Immediate execution of judgment. How to stay same.- If judgment is rendered against the defendant, execution shall issue immediately, unless an appeal has been perfected and the defendant to stay execution files a sufficient bond, approved by the municipal or city court and executed to the plaintiff to enter the action in the Court of First Instance and to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as found by the judgment of the municipal or city court to exist."

Thus, in order to avoid further injustice to a lawful possessor, an immediate execution of a judgment of eviction is mandated and the court's duty to order such execution is practically ministerial. A writ of execution, nevertheless, may be stayed -

"x x x by a) perfecting an appeal; b) filing a supersedeas bond; and c) periodically depositing with the appellate court the rentals falling due during the pendency of the appeal." [5]

It has been held that a stay may also be warranted once the writ is issued "(a) where a delay in the deposit is due to fraud, accident, mistake or excusable negligence, or (b) where supervening events occurring subsequent to the judgment bring about a material change in the situation of the parties which makes execution inequitable, or where there is no compelling urgency for the execution because it is not justified by the prevailing circumstances" [6] Not one of the exceptions hereinabove mentioned is here extant nor invoked by petitioners.

Relative to petitioners' contention (in their Reply) that the demolished portions of their houses were "situated outside the titled property of respondent Roberto Roco and therefore outside the scope of the trial court's decision sought to be enforced," [7] suffice it to say that petitioners, throughout the lengthy and repetitious proceedings on this simple unlawful detainer case, have failed to bring this factual matter up to the attention of the courts below. This Court is not just about disposed to resurrect this moribund ejectment case on an issue that has not heretofore been raised or ventilated.

Petitioners' insistence on the applicability of Republic Act No. 7279 or the "Urban Development and Housing Act of 1992" [8] is totally misplaced. Article XII thereof provides:

"Sec. 44. Moratorium on Eviction and Demolition. - There shall be a moratorium on the eviction of all program beneficiaries and on the demolition of their houses or dwelling units for a period of three (3) years from the effectivity of this Act: Provided, That the moratorium shall not apply to those persons who have constructed their structures after the effectivity of this Act and for cases enumerated in Section 28 hereof." (Italics supplied.)

Section 28(c) itself states that eviction or demolition may be allowed "when there is a court order for eviction and demolition."

WHEREFORE, the instant petition is DISMISSED. Double costs against petitioners.

SO ORDERED.

Padilla, Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 47.

[2] Rollo, pp. 5-6.

[3] Reply, p. 2; Rollo, p. 56.

[4] Comment, p. 2; Rollo, p. 46.

[5] *Felizardo v. Court of Appeals*, 233 SCRA 220, 227.

[6] *Hualam Construction and Development Corp. v. Court of Appeals*, 214 SCRA 612, 627.

[7] Reply, p. 4; Rollo, p. 58.

[8] 88 O.G. 2556.

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.