

ROSALINDA MAYUGA, SPOUSES ARNEL BUGAYONG AND NENA BUGAYONG, LITA CHUA, SPOUSES BENJAMIN SANTOS AND PURITA SANTOS, SPOUSES SANTIAGO AND GLORIA REYES, SOLEDAD LABRADOR, EMILIA CE...

G.R. No. 123899. August 30, 1996

Ponente: PUNO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-123899/>

PUNO, J.:

Petitioners seek to annul and set aside the decision of the Court of Appeals[1] affirming the decision of the Regional Trial Court[2] which ordered their eviction and demolition of their houses on a parcel of land located at Granate Street, Sta. Ana, Manila.

This petition originated from an action for recovery of possession filed in January 1993 by private respondent RPN Realty, Inc. against petitioners before the Regional Trial Court, Branch 12, Manila. Private respondent alleged it purchased that parcel of land in Granate Street, Sta. Ana, Manila for which Transfer Certificates of Title Nos. 207569 and 207570 were issued in its name in 1992; that the land was then occupied by petitioners who constructed houses thereon without authority from its predecessors-in-interest; and that petitioners refused to vacate the property despite its demands.

On March 22, 1993, petitioners filed their Answer which denied private respondent's ownership of the land. They claimed that they and their predecessors-in-interest, who were bona-fide tenants of the former owner, have been in possession of the land for sixty (60) years and have been paying monthly rent since then; that the land has been declared by the National Housing Authority (NHA) as within the Urban Land Reform Zone of the government; and that a census had already been conducted and they have been given their NHA tag identification numbers.

Pre-trial was held on May 17, 1993 where private respondent submitted and marked its documentary evidence.

On August 3, 1993, private respondent amended its Complaint to correct the names of some of the occupants of the land. Petitioners adopted their previous Answer as their Answer to the amended Complaint.

Trial ensued and private respondent presented its evidence consisting of documents earlier marked at the pre-trial. Petitioners presented one witness, Restituto Bantay, who testified as to the fact of their possession of the property.

In a Decision dated January 10, 1995, the trial court ordered petitioners to vacate the land, turn over its possession to private respondent and pay attorney's fees, thus:

"WHEREFORE, judgment is rendered in favor of the plaintiff and against the defendants, ordering each of the latter to vacate, at their expense, the premises of the properties covered by Transfer Certificates of Title Nos. 207569 and 207570; to remove their houses therefrom and clean the premises of all construction and debris; or to reimburse the plaintiff the costs of demolition of their improvements, eviction and the evacuation of the defendants from the premises should this be necessary; to pay plaintiff attorney's fees in the sum of P10,000.00 and to pay the costs of the suit.

SO ORDERED."[3]

No appeal was taken from this Decision which became final and executory. On March 21, 1993, the trial court issued a writ of execution.

On April 27, 1995, petitioners, represented by new counsel, filed a "Motion for Relief from Judgment" alleging that they had no knowledge of the court's decision because their former counsel transferred his law office and neglected to inform them thereof; that they learned of the decision only on March 30, 1995 after receiving notices to vacate the property. Private respondents opposed the motion.

On August 9, 1995, private respondents moved for the issuance of a special order of demolition.

On November 16, 1995, the trial court denied petitioners' "Motion for Relief from Judgment." On December 1, 1995, petitioners filed a notice of appeal from the order denying the motion.

On December 1, 1995, private respondent also filed a "Motion for the Declaration of Defendants as Non-Underprivileged and Homeless Citizens in Connection with Pending Motion for Demolition, with Advance Offer of Testimony and Exhibits, and Issuance of Alias Writ of Execution." [4] Private respondent alleged that petitioners were squatters with sufficient income for legitimate housing, hence, the demolition of their houses on the land need not comply with the procedure in Republic Act No. 7279, the Urban Development and Housing Act of 1992. In support of this motion, private respondent submitted documents consisting of affidavits, certificates and photographs of petitioners' houses on the subject property. In the same motion, private respondent prayed for the issuance of an alias writ of execution and order of demolition. Petitioners opposed the motion.

In an order dated January 3, 1996, the trial court granted private respondent's motion, declared petitioners as professional squatters and exempted private respondent from complying with the eviction procedure in R.A. No. 7279. The court also issued an alias writ of execution and demolition, to wit:

WHEREFORE, this court having found that defendants are not under-privileged and homeless citizens but rather professional squatters who occupy the premises without the express consent of the owner, with enough income for legitimate housing, plaintiff is not duty-bound to strictly comply with the procedure for their eviction and the demolition of their houses as outlined under Section 28 (c) of R.A. 7279.

Let an alias Writ of Execution issue directing all defendants as well as any and other persons claiming rights under them to vacate and surrender possession of the premises to plaintiff. Further, all defendants as well as all other persons claiming rights under them are hereby ordered to remove their respective houses and other improvements from the subject property within fifteen (15) days from notice. Upon their failure to do as ordered after said 15-day period, the sheriff of this court is hereby directed to cause the removal/demolition of all such houses, buildings, improvements introduced on the subject property and place plaintiff in possession thereof. In the implementation of this order, the sheriff is hereby authorized to secure adequate police assistance to ensure peaceful and orderly enforcement of the decision.

SO ORDERED."[5]

Forthwith, petitioners filed a petition for mandamus and certiorari with the Court of Appeals questioning the January 3, 1996 order and the alleged denial of their appeal from the order denying relief from judgment.[6] The Court of Appeals issued a temporary restraining order enjoining the enforcement of the subject execution and demolition order.

On February 27, 1996, however, the Court of Appeals dismissed the petition and affirmed the trial court. Hence, this recourse.

Petitioners contend:

"I

THE COURT OF APPEALS PALPABLY ERRED IN HOLDING THAT RESPONDENT COURT DID NOT DISMISS THE APPEAL OF PETITIONERS FROM THE ORDER DATED NOVEMBER 16, 1995 DENYING THE MOTION FOR RELIEF FROM JUDGMENT.

II

THE COURT OF APPEALS PALPABLY ERRED IN AFFIRMING THE DECISION OF RESPONDENT COURT WHEN THE SAME WAS NOT BEFORE IT.

III

THE COURT OF APPEALS PALPABLY ERRED IN NOT HOLDING THAT MANDAMUS WILL LIE TO COMPEL RESPONDENT COURT TO GIVE DUE COURSE TO THE APPEAL FROM THE ORDER DATED NOVEMBER 16, 1995 DENYING THE MOTION FOR RELIEF FROM JUDGMENT.

IV

THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE RESPONDENT COURT IS ACTING WITHOUT OR IN EXCESS OF JURISDICTION IN ISSUING THE ORDER DATED JANUARY 3, 1996 AUTHORIZING THE ISSUANCE OF AN ALIAS WRIT OF EXECUTION AND SPECIAL ORDER OF DEMOLITION."^[7]

Petitioners claim that the Court of Appeals erred in ruling on the merits of the case when the action before it was not an appeal but a special civil action for mandamus and certiorari. They contend that the respondent court could not have affirmed the trial court's judgment on the merits because the records of the case were not elevated on appeal. The petition for mandamus was allegedly filed to compel the trial court to allow the appeal from the order denying relief from judgment, and for certiorari to annul the January 3, 1996 order issuing the alias writ of execution and demolition.^[8]

The Rules provide that if a petition for relief from judgment is filed and denied, the order of the trial court denying the same may be appealed to the Court of Appeals.^[9] The appeal is taken by the mere filing of a notice of appeal with the court that rendered the judgment or order within fifteen (15) days from notice of said judgment or order.^[10] The appeal is perfected upon the expiration of the last day to appeal by any party,^[11] after which the trial court shall order the elevation of the records of the case to the appellate court.^[12] Refusal to do so is remediable by mandamus.^[13]

In the case at bar, petitioners timely filed their notice of appeal on the third day after receipt of the order denying relief.^[14] They complain that their appeal was denied by the trial court in the order of January 3, 1996.

Petitioners' stance is incorrect.

Mandamus will lie to compel a judge or other public officer to perform a duty specifically enjoined by law once it is shown that the judge or public officer has unlawfully neglected the performance thereof.^[15] A court neglects the performance of its duties only when after demand has been made upon it, it refuses to perform the same.^[16] Petitioners have not shown that the trial court refused to accept the notice of appeal, much less denied said notice. The order of the trial court dated January 3, 1996 merely granted private respondent's "Motion for the Declaration of Defendants as Non-underprivileged x x x and for the Issuance of an alias Writ of Execution." There is nothing in it that expressly or impliedly denied petitioners' appeal from the Order denying relief from judgment. To be sure, the notice of appeal at bar is not even subject to the approval of the trial court because it was deemed perfected after the fifteenth day, i.e., the last day to appeal by both petitioners and private respondent. Likewise, petitioners have not alleged that the trial court neglected to order the transmittal of the records to the Court of Appeals. We hold that petitioners have failed to prove their cause of action for mandamus, hence, the petition was correctly dismissed by the Court of Appeals.^[17]

To abbreviate proceedings, the Court of Appeals treated the petition as the appeal itself from the order denying relief from judgment. It correctly found that the failure of petitioners' former counsel to notify them of the adverse decision to enable them to appeal therefrom constitutes inexcusable negligence and is not a ground for relief from judgment. This is in accord with our case law that notice sent to counsel of record is binding upon the client and the neglect or failure of counsel to inform them of an adverse judgment resulting in the loss of their right to appeal will not justify setting aside a judgment that is valid and regular on its face.[18] We have also held that relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence.[19]

Since petitioners' ground for relief is not well-taken, it follows that the trial court's judgment on the merits stands. Contrary to petitioners' allegations, the Court of Appeals did not rule on the merits of the case. The appellate court merely confirmed the existence of the judgment on the merits[20] and, in keeping with the Rules and jurisprudence, made the pronouncement that said judgment had long become final and executory.[21]

The Court of Appeals therefore committed no error in affirming the order granting the issuance of the alias writ of execution. We reject petitioners' contention that the filing of their petition for relief and the subsequent appeal from the order denying relief stayed the execution proceedings before the trial court.[22]

Execution proceedings are not automatically stayed by the filing of a petition for relief from judgment. To stay execution, a writ of preliminary injunction should be obtained in accordance with Section 5 of Rule 38 which reads as follows:

"Sec. 5. Preliminary injunction pending proceedings.-- The court in which the petition is filed, or a judge thereof, may grant such preliminary injunction as may be necessary for the preservation of the rights of the parties pending the proceedings, upon the filing by the petitioner of a bond to the adverse party, conditioned that if the petition is dismissed or the petitioner fails on the trial of the case upon its merits, he will pay the adverse party all damages and costs that may be awarded to him by reason of the issuance of such injunction or the other proceedings following the petition; but such injunction shall not operate to discharge or extinguish any lien which the adverse party may have acquired upon the property of the petitioner." [23]

Indeed, the filing of a petition for relief from judgment presupposes that the judgment sought to be set aside is already final and executory.[24] Unless restrained, it is the ministerial duty of the trial court to issue the writ of execution.[25]

Neither are execution proceedings stayed by the perfection of the appeal from the order denying relief from judgment. In ordinary appeals, perfection of an appeal under Section 9 of Rule 41 divests the trial court of jurisdiction over its judgment and execution proceedings because the judgment has not yet attained finality.[26] An appeal from an order denying relief from judgment under Rule 38 is different. Here, the judgment is already final and executory and as aforesaid, the only way by which execution could be suspended is by the issuance of a writ of preliminary injunction.[27] No injunction was secured by petitioners.

IN VIEW WHEREOF, the petition is denied and the decision of the Court of Appeals in CA-G.R. SP No. 39497 is affirmed. Costs against petitioners.

SO ORDERED.

Regalado (Chairman), Mendoza, and Torres, Jr., JJ., concur.
Romero, J., on leave.

[1] CA-G.R. SP No. 39497.

- [2] Civil Case No. 93-64246.
- [3] Rollo, pp. 99-100.
- [4] Court of Appeals Rollo, pp. 138-148.
- [5] Rollo, pp. 61-62.
- [6] CA-G.R. SP No. 39497.
- [7] Petition, pp. 6-7, Rollo, pp. 9-10.
- [8] Petition, p. 16, Rollo, p. 10.
- [9] Revised Rules of Court, Rule 41, section 2, paragraph 2.
- [10] Interim Rules Implementing B.P. 129, sections 18, 19 (a) and 20.
- [11] Interim Rules, section 23; *Aquino v. Santiago*, 161 SCRA 570 [1988]; *Associated Bank v. Gonong*, 152 SCRA 478 [1987]; *Belgado v. Intermediate Appellate Court*, 142 SCRA 258 [1987].
- [12] *Associated Bank v. Gonong*, *supra*, at 480; see *Mateo v. Court of Appeals*, 196 SCRA 280, 286 [1991].
- [13] *Mateo v. Court of Appeals*, *supra*, at 286.
- [14] Court of Appeals Petition, Annex "G," Court of Appeals Rollo, p. 127.
- [15] *Martin*, *Rules of Court in the Philippines*, vol. 3, p. 227 [1986] citing 55 C.J.S. 60.
- [16] *Motus v. Court of First Instance of Rizal*, 16 SCRA 788 [1966]; *Francisco*, *The Revised Rules of Court in the Philippines*, vol. 4, p. 185 [1972] citing 55 C.J.S. 65.
- [17] In *Mateo v. Court of Appeals*, *supra*, mandamus was granted because the trial court refused to accept the notice of appeal which was its ministerial duty.
- [18] *Tuason v. Court of Appeals*, G.R. No. 116607, April 10, 1996; *Palanca v. American Food Mfg. Co.*, 24 SCRA 819 [1968]; *Duran v. Pagarigan*, 106 Phil. 907 [1960].
- [19] *Tuason v. Court of Appeals*, *supra*, citing *Somoso v. Court of Appeals*, 178 SCRA 654 [1989]; *Ibabao v. Intermediate Appellate Court*, 150 SCRA 76 [1987].
- [20] *David v. Court of Appeals*, 214 SCRA 644, 651 [1992].
- [21] Court of Appeals Decision, pp. 8-11, Rollo, pp. 51-54.
- [22] Petition, pp. 27-33, Rollo, pp. 30-36.
- [23] Italics supplied.
- [24] Rule 38, Section 2.
- [25] *Servicewide Specialists, Inc. v. Sheriff of Manila*, 145 SCRA 139, 147, citing *Buenaventura v. Garcia*, 78 Phil. 759 and *Federal Films, Inc. v. Ocampo*, 78 Phil. 479.
- [26] *Associated Bank v. Gonong*, *supra*.
- [27] *Servicewide Specialists, Inc. v. Sheriff of Manila*, *supra*, at 147, citing *Sanchez v. Serrano and Rodas*, 83 Phil. 838.

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.