

FEDERICO PALLADA, PACIFICO PALLADA, LOURDES PALLADA AND CONSOLACION PALLADA DELGADO, ASSISTED BY HER HUSBAND, RIZAL DELGADO, PURIFICACION PALLADA, LOVELLA DELA CRUZ, DIOCESS PAL...

G.R. No. 129442. March 10, 1999

Ponente: PURISIMA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-129442/>

PURISIMA, J.:

At bar is a Petition for Certiorari, Prohibition and Injunction assailing the validity, and seeking non-implementation of the Writ of Execution issued on May 2, 1997 in Civil Case No. 2519 before Branch 1 of the Regional Trial Court in Kalibo, Aklan.

The facts that matter are as follows:

On September 29, 1976, private respondents commenced Civil Case No. 2519 for recovery of possession and ownership of land with damages before Branch 1 of the Regional Trial Court in Kalibo, Aklan ("RTC-Aklan").

On January 31, 1991, RTC-Aklan declared the defendants, petitioners herein, as the absolute and lawful owners and possessors of subject land; disposing, thus:

"WHEREFORE, judgment is hereby rendered declaring defendants the absolute and lawful owners and possessors of the lot in question as against the plaintiffs.

No pronouncement as to costs.

SO ORDERED."[1]

Private respondents appealed the said decision to the Court of Appeals which reversed and set aside the same; disposing as follows:

"WHEREFORE, in view of all the foregoing, the appeal is GRANTED, the judgment appealed from is hereby REVERSED AND SET ASIDE and a new decision rendered in favor of herein appellants declaring them as the possessors and lawful owners of the remaining portion of the unsold land (1,0391 hectares more or less) covered by Tax Declaration No. 10336 (Exh. "G").

Defendants-appellees are hereby ordered to restore possession of said land to plaintiffs-appellants herein.

Defendants-appellees are likewise ordered to pay jointly and severally plaintiffs-appellants the value of the produce of the land, the same to be computed from 1976, at the time of the filing of the complaint until fully paid.

Costs is charged against defendants-appellees.

SO ORDERED."[2]

Petitioners' Motion for Reconsideration was to no avail. It was denied in the Resolution[3] dated July 18, 1996 of the Court of Appeals.

Undaunted, petitioners found their way to this court via the Petition for Review on Certiorari under consideration, docketed as G.R. No. 126112. But the same was denied in the Resolution[4] of November 18, 1996, which disposition became final and executory[5] on January 22, 1997.

On May 13, 1997, the private respondents filed an Ex Parte Motion for Execution[6] with RTC-Aklan, which granted the said motion.

The respondent court then issued the Writ of Execution[7] dated May 2, 1997 (private respondents claim that the same is erroneous as its date should have been June 2, 1997) directing the Sheriff of the Province of Aklan or any of his deputies to implement subject Decision, thus:

"NOW, THEREFORE, upon payment of your lawful fees, you are hereby ordered to enforce, implement and/or execute the aforesaid decision of the Court of Appeals promulgated on March 29, 1996, which REVERSED and SET ASIDE the decision appealed from and a new decision rendered in favor of herein plaintiffs-appellants having been DISMISSED by the Supreme Court in its Resolution dated November 18, 1996.

You are further commanded to collect from the defendants jointly and severally, the value of the produce of the land, the same to be computed from 1976, at the time of the filing of the complaint until fully paid, and tender the same to the plaintiffs.

In case you fail to collect the amount in cash, then you may levy upon the chattels and other personal properties of the defendants. But if sufficient personal properties cannot be found to satisfy this execution, and your lawful fees thereon, then you are commanded that of the lands and buildings of said defendants, you make the said sum of money in the manner required by law and the Rules of Court and return this writ unto this Court within SIXTY (60) days from receipt with your corresponding report of the proceedings undertaken thereon. "

Execution was partially satisfied, as shown in the Officer's Return of Service[8] of June 20, 1997.

With the issuance of the Writ of Execution under attack, petitioners have come to this Court for relief, theorizing that:

I

PETITIONERS ARE NOT BOUND BY THE NEGLIGENCE OF THEIR COUNSEL WHO LEFT THE COUNTRY WITHOUT INFORMING THEM THEREOF, NOR BRIEFING THEM OF THE STATUS OF THEIR CASE.

II

THE WRIT OF EXECUTION IS INVALID FOR PRIVATE RESPONDENTS' EX-PARTE MOTION FOR EXECUTION WAS GRANTED WITHOUT NOTICE TO PETITIONERS.

III

THE PETITIONERS' CASE IS MERITORIOUS.

On the first issue, petitioners maintain that before their petition for review on certiorari, docketed as G.R. No. 126112, was resolved by this Court, their lawyer went abroad without informing them and without briefing them on the status of the petition. According to petitioners, it was only on June 16, 1997 that they learned that their petition was dismissed. It is therefore petitioners' stance that they lost the said case before this Court due to the

negligence of their lawyer which should not bind them.

Petitioners' contention is untenable. The negligence of counsel binds the client[9] just as the latter is bound by the mistakes of his lawyer[10] Besides, petitioners are not entirely blameless for the dismissal of their petition. It was their duty as litigants to keep in constant touch with their counsel so as to be posted on the status of their case. As held in *Ramones v. National Labor Relations Commission*[11], "[a] prudent man would have taken steps to ensure that, if and when his counsel would leave for abroad xxx, any case that his counsel is handling would be handled by a collaborating counsel or by a new counsel."

Here, petitioners have no proof other than their bare allegation, that they were unaware of the departure of their lawyer for abroad.

Even assuming arguendo that petitioners' counsel was negligent, their Petition in G.R. No. 126112 would fail just the same, for as held by the Court in its Resolution of November 18, 1996, the Court of Appeals committed no reversible error in its questioned judgment:

"At any rate, even if the said requirement were complied with and the petition were filed on time, the same would nevertheless be dismissed for failure to sufficiently show that the Court of Appeals had committed any reversible error in the questioned judgment." [12]

Anent the second error, there is tenability in petitioners' contention that the Writ of Execution was irregularly issued insofar as the Ex-Parte Motion for Execution of private respondents did not contain a notice of hearing to petitioners. Sections 4 and 5 of Rule 15 of the Revised Rules of Court, read:

"SEC. 4. Notice. - Notice of a motion shall be served by the applicant to all parties concerned, at least three (3) days before the hearing thereof, together with a copy of the motion, and of any affidavits and other papers accompanying it. The court, however, for good cause may hear a motion on shorter notice, specially on matters which the court may dispose of on its own motion."

"SEC. 5. Contents of notice. - The notice shall be directed to the parties concerned, and shall state the time and place for the hearing of the motion."

The foregoing requirements -- that the notice shall be directed to the parties concerned, and shall state the time and place for the hearing of the motion -- are mandatory, and if not religiously complied with, the motion becomes pro forma.[13] A motion that does not comply with the requirements of Sections 4 and 5 of Rule 15 of the Rules of Court is a worthless piece of paper which the clerk of court has no right to receive and which the court has no authority to act upon[14]

Under Supreme Court Circular No. 24-94, a Motion for the Issuance of a Writ of Execution must contain a notice to the adverse party --

"Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, such execution may forthwith be applied for in the lower court from which the action originated, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or the final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution." (italics supplied)

It bears stressing that a similar provision is found in Section 1 of Rule 39 of the 1997 Revised Rules of Court.

The Court is not prepared, however, to invalidate the Writ of Execution issued below. The petition is obviously a dilatory move on the part of petitioners, designed to prevent the final disposition of the case. In *People v. Leviste*[15], it was held that:

"While it is true that any motion that does not comply with the requirements of Rule 15 should not be accepted for filing and, if filed, is not entitled to judicial cognizance, this Court has likewise held that where a rigid application of the rule will result in a manifest failure or miscarriage of justice, technicalities may be disregarded in order to resolve the case. Litigations should, as much as possible be decided on the merits and not on technicalities."

And in *Nasser v. Court of Appeals, et al.*:[16]

"Litigation must at some time be terminated, even at the risk of occasional errors, for public policy dictates that once a judgment becomes final, executory and unappealable, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. xxx"

The Court need not rule on the third issue, the same having been resolved with finality in G.R. No. 126112. "A decision that has become final and executory can no longer be disturbed." [17]

WHEREFORE, the petition is hereby DISMISSED, for want of merit. Costs against the petitioners.

SO ORDERED.

Romero (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] See Comment of Private Respondents, Rollo, pp. 32-33.

[2] Rollo, Annex "A", pp. 32-33.

[3] *Ibid.*, Annex "B", p. 48.

[4] *Ibid.*, Annex "C", p. 49.

[5] See Entry of Judgment, Annex "D", Rollo, p. 51.

[6] Rollo, Annex "G", p. 90.

[7] *Ibid.*, Annex "A", pp. 18-20.

[8] *Ibid.*, Annex "F", pp. 55-56.

[9] *B.R. Sebastian Enterprises, Inc. v. Court of Appeals*, 206 SCRA 28.

[10] *Manila Electric Company v. Court of Appeals*, 187 SCRA 200.

[11] 219 SCRA 62.

[12] *Supra*, footnote 3.

[13] *De la Pena v. De la Pena*, 258 SCRA 298; *Depamaylo v. Brotarlo*, 265 SCRA 151.

[14] *Manila Electric Company v. La Campana Food Products, Inc., et al.*, 247 SCRA 77.

[15] 255 SCRA 238, 247, citing *Goldloop Properties, Inc. vs. CA*, 212 SCRA 498 (August 11, 1992).

[16] 245 SCRA 20, 29.

[17] Garbo v. Court of Appeals, 226 SCRA 250.

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.