MARIA G. BALUYUT, BEATRIZ G. DAVID, CONSOLACION G. ZAMORA, PURITA G. TONGOL, LUZ G. VIRAY, JOSE S. GUIAO AND JESUS GUIAO, PETITIONERS, VS. RODOLFO GUIAO, TRINIDAD G. MANDAL, SPO...

G.R. No. 136294. September 28, 1999

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-136294/

KAPUNAN, J.:

At bar is a petition for review on certiorari seeking to set aside and reverse the Decision, dated March 30, 1998; and, the Resolution, dated November 9, 1998 of the Court of Appeals which dismissed petitioner's petition to set aside the orders issued by the Regional Trial Court of Guagua, Pampanga, Branch 50 in Civil Case No. G-1972, to wit: the Order, dated May 24, 1996 denying the Motion to Quash the Writ of Possession; Order, dated August 28, 1996 denying the Motion for Reconsideration thereof; Order, dated November 18, 1996 denying petitioner's Notice of Appeal; and Order, dated March 7, 1997, denying their Motion for Reconsideration thereof.

The antecedent facts are undisputed:

On July 7, 1988, plaintiffs (herein petitioners) filed before the Regional Trial Court of Guagua, Pampanga, a complaint against defendants (herein respondents) seeking to declare null and void the donation of a 245.42 square meter portion of the property covered by Original Certificate of Title No. 4528, executed by plaintiff Rosario S. Vda. De Guiao in favor of defendants Rodolfo Guiao and Trinidad G. Mandal, as well as the separate sale of said portion by the defendants in favor of their co-defendants spouses Nicolas Tubil and Iluminada Canlas likewise, as null and void.[1]

After trial on the merits, the Regional Trial Court rendered a decision in favor of the plaintiffs (herein petitioners) and against the defendants (herein respondents), the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, as follows:

1.

Declaring the 'Donation of Real Property Inter Vivos' (Exh. 'B') supposedly executed by plaintiff Rosario S. Vda. De Guiao in favor of defendants Trinidad Mandal and Rodolfo Guiao null and void and without force and effect;

2.

Ordering defendant spouses Nicolas Tubil and Iluminada Canlas to reconvey to plaintiffs, particularly to Rosario S. Vda. De Guiao, the 245.42 square meter lot subject of the repudiated deed of donation;

3.

> Ordering defendant Rodolfo Guiao to return the amount of P125,000.00 to defendant spouses Nicolas Tubil and Iluminada Canlas, representing the purchase price of one-half of the 245.42 square meter lot sold by Rodolfo Guiao to the spouses Tubil, as shown by Exhibit 'D';
>
> 4.
>
> Ordering defendant Trinidad Mandal to return the amount of P16,500.00 to defendant spouses Nicolas Tubil and Iluminada Canlas, representing the purchase price of the other half of the 245.42 square meter lot sold by Trinidad Mandal to the spouses Tubil, as shown by Exhibit 'E';
>
> 5.
>
> Ordering all defendants to pay jointly and severally plaintiffs' counsel, Atty. Wilfredo G. Laxamana, the sum of P5,000.00 representing attorney's fees; and
>
> 6.
>
> Ordering all defendants to pay jointly and severally the costs of suit.
>
> SO ORDERED.[2]
>
> On appeal, the above decision was reversed by the Court of Appeals, to wit:
>
> WHEREFORE, the judgment appealed from is hereby reversed, and the complaint dismissed. Costs against appellees.
>
> SO ORDERED.[3]

The record of the case was then returned to the court of origin on September 23, 1992, together with the entry of judgment which had become final and executory.

On April 27, 1995, respondent spouses Nicolas Tubil and Iluminada Canlas, in order to take possession of their property, filed a motion with the trial court praying therein that a writ of possession be issued in their favor over the 245.42 square meter portion of the subject property.

On May 23, 1995, the trial court issued an Order granting the aforesaid Motion for Issuance of a Writ of Possession; and, on May 26, 1995, a Writ of Possession was issued.

On June 9, 1995, petitioners filed a Motion to Quash the Writ of Possession alleging therein that, "(T)he dismissal of the complaint did not give rise to a right to take possession of the property involved. If ever, the only portion that may be executed from the said decision would be the costs of suit."

On May 24, 1996, the trial court issued an Order denying the Motion to Quash the Writ of Possession. Said Order reads in part: "xxx in ruling that there is a valid donation in favor of the defendants-appellants (herein respondents), the Court of Appeals impliedly ruled that the defendants-appellants has (sic) the right to possess the land which they brought (sic) from the plaintiff-appellee Rosario Guiao."[4]

Petitioners filed a Motion for Reconsideration which the trial court denied anew on August 28, 1996.

On September 12, 1996, petitioners filed a Notice of Appeal from the Order, dated May 24, 1996, denying the Motion to Quash the Writ of Possession.

On November 18, 1996, the trial court denied the Notice of Appeal.

Not satisfied, petitioners filed a Motion for Reconsideration which the trial court denied on March 7, 1997.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Petitioners then filed a petition for certiorari with the Court of Appeals assigning therein the following errors:

> 1) THAT THE PUBLIC RESPONDENT HAS ACTED IN EXCESS OF ITS JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ISSUING THE WRIT OF POSSESSION, DESPITE THE EVIDENT VARIANCE BETWEEN THE SAID WRIT AND THE DECISIONS TO WHICH THE LATTER WAS ANCHORED; AND
>
> 2) THAT THE PUBLIC RESPONDENT HAS ACTED IN EXCESS OF ITS JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DENYING THE NOTICE OF APPEAL FILED BY HEREIN PETITIONERS, DESPITE THE FACT THAT SAID APPEAL IS ALLOWED BY LAW AS AN EXCEPTION TO THE RULE.[5]

Anent the second issue, the Court of Appeals said that while the lower court erred in denying petitioners' notice of appeal, it (the appellate court) was taking cognizance of the petition for certiorari which is allowed under Section 1(f), Rule 41 of the 1997 Rules of Civil Procedure.[6] The appellate court expounded on its reasoning, thus:

> Under the Revised Rules of Court, only final judgments or orders shall be subject to appeal. No interlocutory or incidental judgment or order shall stay the progress of an action, nor shall it be the subject of appeal until final judgment or order is rendered for one party or the other (vide Rule 41, Sec. 2). But as correctly pointed out by the petitioners, the Supreme Court has allowed an exception to said rule. Thus, in the case of Paulino vs. Court of Appeals, the Supreme Court had the occasion to state:
> "Ordinarily, an order of execution of a final and executory judgment is not appealable because otherwise, there would be no end to a case. However, if in the opinion of the defeated party, such order of execution varies the terms of the judgment and does not conform to the essence thereof, or the terms of the judgment does not allow room for interpretation and the interpretation given by the trial court as contained in its order of execution is wrong, the latter may appeal the order so that the Appellate tribunal may pass upon its legality and correctness." (G.R. No. 110271, February 28, 1994, 230 SCRA 475)

The respondent court therefore erred when it denied the notice of appeal filed by petitioners below.

Be that as it may, the case is now before us in a petition for certiorari which is likewise allowable not only under the old Rules (Limpin, Jr. vs. Intermediate Appellate Court, 147 SCRA 516) but also under Section 1, paragraph (f), Rule 41 of the 1997 Rules of Civil Procedure (Annotated by Justice Jose Y. Feria, p. 163).[7]

The appellate court dismissed the petition for certiorari upon the rationale that the trial court did not commit grave abuse of discretion in issuing the writ of possession in favor of respondents. The appellate court ratiocinated, thus:

> While it is true that the Decision of the then Twelfth Division of the Court of Appeals was silent with regard to the issuance of a writ of possession in favor of private respondents, we cannot deny the fact that by virtue of the valid donation in favor of private respondents, ownership over the subject property had been transferred to private respondents Rodolfo Guiao and Trinidad Mandal. In the same vein, by virtue of the valid sales made by Rodolfo Guiao and Trinidad Mandal in favor of respondent spouses Nicolas Tubil and Iluminada Canlas of the donated property, said private respondents are now the owners of the same. It would be defeating the ends of justice should we require that for private respondents to obtain possession of the property duly adjudged to be theirs, they must submit to court litigations anew and result in multiplicity of suits, which our judicial system abhors. The Supreme Court thus held that a judgment is not confined to what appears upon the face of the decision, but also those necessarily included therein or necessary thereto. (Perez vs. Evite, No. L-16003, March 29, 1961, 1 SCRA 949).
>
> xxx.
> Thus, the Supreme Court pronounced that, "xxx the adjudication of ownership would include the delivery of possession if the defeated party has not shown any right to possess the land independently of his claim of

> ownerhip which was rejected (Olego vs. Rebueno, No. L-39350, October 29, 1975, 67 SCRA 446). "When title to real or personal is adjudicated in favor of a party, the judgment will be enforced by giving the enjoyment of the property to the party in whose favor title to it has been decided." (Heirs of Caballero vs. Judge Solano, G.R. 112518, April 21, 1995, 243 SCRA 660; Ramos vs. Court of Appeals, G.R. No. 42108, May 10, 1995, 244 SCRA 72).[8]

On December 23, 1998, petitioners filed the instant petition for review assailing the afore-quoted decision of the Court of Appeals. They make the following assignment of errors:

> 1.
>
> THAT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHICH AMOUNTS TO LACK OF JURISDICTION WHEN IT DISMISSED THE PETITION DESPITE THE FINDINGS THAT THE ORDER DENYING THE NOTICE OF APPEAL WAS ERRONEOUS;
>
> 2.
>
> THAT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT ORDERING THE HONORABLE REGIONAL TRIAL COURT TO FORWARD THE CASE ON APPEAL BUT RULED ON THE ISSUE WHICH SHOULD BE THE SUBJECT MATTER OF THE APPEAL.[9]

Petitioners allege that the appellate court erred in ruling on the issue of whether or not the writ of possession was validly issued as this may properly be decided on appeal and not in the petition for certiorari filed by petitioners before said court. Petitioners further contend that the appellate court should have ordered the trial court to forward the records of the case for review on appeal upon finding that the court a quo erred in denying petitioners' notice of appeal.

Petitioners' arguments are bereft of merit.

As discussed above, the Court of Appeals concluded that the trial court erred in denying the notice of appeal on the premise that the Supreme Court has allowed an exception to the rule that only final judgments or orders shall be subject to appeal when in the afore-cited case of Paulino vs. Court of Appeals, it ruled that when in the opinion of the defeated party, the order of execution varies the terms of the judgment and does not conform to the essence thereof, he may appeal the order.

However, a perusal of the records will show that the instant case does not fall under the above-stated exception. In this case, the writ of possession clearly does not vary the terms of the judgment which affirmed the validity of the donation as well as the subsequent sale. As the appellate court correctly observed, by virtue of a valid donation in favor of respondents Rodolfo Guiao and Trinidad Mandal, ownership over the subject property had been transferred to the latter. In the same vein, by virtue of the valid sale made by the afore-named respondents in favor of respondent spouses Nicolas Tubil and Iluminada Canlas, the latter became the owners of the same. One of the attributes of ownership is possession; it follows, that respondent spouses, being the owners of the subject property, are entitled to possession of the same.

Clearly, therefore, the writ of possession issued by the trial court does not vary the terms of the judgment attributing ownership of the subject property to respondent spouses. On the contrary, said writ of possession conforms to the essence of the judgment of ownership.

Judgment is not confined to what appears on the face of the decision, but also those necessarily included therein or necessary thereto; and, where the ownership of a parcel of land was decreed in the judgment, the delivery of the possession of the land should be considered included in the decision, it appearing that the defeated party's claim to the possession thereof is based on his claim of ownership.[10] Furthermore, adjudication of ownership would

include the delivery of possession if the defeated party has not shown any right to possess the land independently of his claim of ownership which was rejected. In such a case, a writ of execution would be required if the defeated party does not surrender the possession of the property.[11] Here, there is no allegation, much less proof, that petitioners have any right to possess the land independent of their claim of ownership.

This is in conformity with Section 47 (c), Rule 39 of the 1997 Rules of Civil Procedure which provides:

> Sec. 47. Effect of judgments or final orders. – The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
>
> xxx.
> (c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been adjudged, or which was actually and necessarily included therein or necessary thereto. (Italics supplied)

Anent the issue of propriety of the Court of Appeals' ruling on the issue of correctness of the issuance of the writ of possession in favor of respondents, the Court finds that it did so only because petitioners themselves made this one of the assigned errors in their petition for certiorari before said appellate court. Petitioners are now estopped from questioning the Court of Appeals' ruling on an issue which they themselves raised.

The Court of Appeals, in discussing the issue of propriety of the issuance of the writ of possession, only gave substance to its ruling that the lower court did not err in granting respondents' motion for the issuance of said writ.

Moreover, to order the lower court to forward the records of the case for review on appeal, as petitioners would have it, when the issue subject of the appeal can properly be (and in fact has already been) ruled on by the appellate court, will only result in protracted litigation which is inconsistent with the orderly administration of justice.

WHEREFORE, in view of the foregoing, the instant petition for review is DENIED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

---

[1] Rollo, p. 19-20.

[2] Id., at 20-21.

[3] Id., at 21.

[4] Id., at 22.

[5] Id., at 23.

[6] Section 1. Subject of appeal.-An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

xxx.

(f) An order of execution;

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

xxx.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65 (n).

[7] Rollo, pp. 23-24.

[8] Id., at 24-25.

[9] Id., at 12.

[10] Perez vs. Evite, 1 SCRA 949 (1961).

[11] Olego vs. Rebueno, 67 SCRA 446 (1975).

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.