

HEIRS OF BERTULDO HINOG: BERTULDO HINOG II, BERTULDO HINOG III, BERTULDO HINOG, JR., JOCELYN HINOG, BERTOLDO HINOG IV, BERTOLDO HINOG V, EDGARDO HINOG, MILAGROS H. PABATAO, LILI...

G.R. NO. 140954. April 12, 2005

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140954/>

AUSTRIA-MARTINEZ, J.:

Before us is a petition for certiorari and prohibition under Rule 65 of the Rules of Court which assails the Orders dated March 22, 1999, August 13, 1999 and October 15, 1999 of the Regional Trial Court, Branch 4, of Tagbilaran City, Bohol in Civil Case No. 4923.

The factual background of the case is as follows:

On May 21, 1991, private respondents Custodio, Rufo, Tomas and Honorio, all surnamed Balane, filed a complaint for "Recovery of Ownership and Possession, Removal of Construction and Damages" against Bertuldo Hinog (Bertuldo for brevity). They alleged that: they own a 1,399- square meter parcel of land situated in Malayo Norte, Cortes, Bohol, designated as Lot No. 1714; sometime in March 1980, they allowed Bertuldo to use a portion of the said property for a period of ten years and construct thereon a small house of light materials at a nominal annual rental of P100.00 only, considering the close relations of the parties; after the expiration of the ten-year period, they demanded the return of the occupied portion and removal of the house constructed thereon but Bertuldo refused and instead claimed ownership of the entire property.

Accordingly, private respondents sought to oust Bertuldo from the premises of the subject property and restore upon themselves the ownership and possession thereof, as well as the payment of moral and exemplary damages, attorney's fees and litigation expenses "in amounts justified by the evidence." [2]

On July 2, 1991, Bertuldo filed his Answer. He alleged ownership of the disputed property by virtue of a Deed of Absolute Sale dated July 2, 1980, executed by one Tomas Pahac with the knowledge and conformity of private respondents.[3]

After the pre-trial, trial on the merits ensued. On November 18, 1997, private respondents rested their case. Thereupon, Bertuldo started his direct examination. However, on June 24, 1998, Bertuldo died without completing his evidence.

On August 4, 1998, Atty. Sulpicio A. Tinampay withdrew as counsel for Bertuldo as his services were terminated by petitioner Bertuldo Hinog III. Atty. Veronico G. Petalcorin then entered his appearance as new counsel for Bertuldo.[4]

On September 22, 1998, Atty. Petalcorin filed a motion to expunge the complaint from the record and nullify all court proceedings on the ground that private respondents failed to specify in the complaint the amount of damages

claimed so as to pay the correct docket fees; and that under *Manchester Development Corporation vs. Court of Appeals*,^[5] non-payment of the correct docket fee is jurisdictional.^[6]

In an amended motion, filed on October 2, 1998, Atty. Petalcorin further alleged that the private respondents failed to pay the correct docket fee since the main subject matter of the case cannot be estimated as it is for recovery of ownership, possession and removal of construction.^[7]

Private respondents opposed the motion to expunge on the following grounds: (a) said motion was filed more than seven years from the institution of the case; (b) Atty. Petalcorin has not complied with Section 16, Rule 3 of the Rules of Court which provides that the death of the original defendant requires a substitution of parties before a lawyer can have legal personality to represent a litigant and the motion to expunge does not mention of any specific party whom he is representing; (c) collectible fees due the court can be charged as lien on the judgment; and (d) considering the lapse of time, the motion is merely a dilatory scheme employed by petitioners.^[8]

In their Rejoinder, petitioners manifested that the lapse of time does not vest the court with jurisdiction over the case due to failure to pay the correct docket fees. As to the contention that deficiency in payment of docket fees can be made as a lien on the judgment, petitioners argued that the payment of filing fees cannot be made dependent on the result of the action taken.^[9]

On January 21, 1999, the trial court, while ordering the complaint to be expunged from the records and the nullification of all court proceedings taken for failure to pay the correct docket fees, nonetheless, held:

The Court can acquire jurisdiction over this case only upon the payment of the exact prescribed docket/filing fees for the main cause of action, plus additional docket fee for the amount of damages being prayed for in the complaint, which amount should be specified so that the same can be considered in assessing the amount of the filing fees. Upon the complete payment of such fees, the Court may take appropriate action in the light of the ruling in the case of *Manchester Development Corporation vs. Court of Appeals*, supra.^[10]

Accordingly, on January 28, 1999, upon payment of deficiency docket fee, private respondents filed a manifestation with prayer to reinstate the case.^[11] Petitioners opposed the reinstatement^[12] but on March 22, 1999, the trial court issued the first assailed Order reinstating the case.^[13]

On May 24, 1999, petitioners, upon prior leave of court,^[14] filed their supplemental pleading, appending therein a Deed of Sale dated November 15, 1982.^[15] Following the submission of private respondents' opposition thereto,^[16] the trial court, in its Order dated July 7, 1999, denied the supplemental pleading on the ground that the Deed of Absolute Sale is a new matter which was never mentioned in the original answer dated July 2, 1991, prepared by Bertuldo's original counsel and which Bertuldo verified; and that such new document is deemed waived in the light of Section 1, Rule 9^[17] of the Rules of Court. The trial court also noted that no formal substitution of the parties was made because of the failure of defendant's counsel to give the names and addresses of the legal representatives of Bertuldo, so much so that the supposed heirs of Bertuldo are not specified in any pleading in the case. ^[18]

On July 14, 1999, petitioners manifested that the trial court having expunged the complaint and nullified all court proceedings, there is no valid case and the complaint should not be admitted for failure to pay the correct docket fees; that there should be no case to be reinstated and no case to proceed as there is no complaint filed.^[19]

After the submission of private respondents' opposition^[20] and petitioners' rejoinder,^[21] the trial court issued the second assailed Order on August 13, 1999, essentially denying petitioners' manifestation/rejoinder. The trial court held that the issues raised in such manifestation/rejoinder are practically the same as those raised in the amended motion to expunge which had already been passed upon in the Order dated January 21, 1999. Moreover, the trial

court observed that the Order dated March 22, 1999 which reinstated the case was not objected to by petitioners within the reglementary period or even thereafter via a motion for reconsideration despite receipt thereof on March 26, 1999.[22]

On August 25, 1999, petitioners filed a motion for reconsideration[23] but the same was denied by the trial court in its third assailed Order dated October 15, 1999. The trial court held that the Manchester rule was relaxed in *Sun Insurance Office, Ltd. vs. Asuncion*. [24] Noting that there has been no substitution of parties following the death of Bertuldo, the trial court directed Atty. Petalcorin to comply with the provisions of Section 16, Rule 3 of the Rules of Court. The trial court also reiterated that the Order dated March 22, 1999 reinstating the case was not assailed by petitioners within the reglementary period, despite receipt thereof on March 26, 1999.[25]

On November 19, 1999, Atty. Petalcorin complied with the directive of the trial court to submit the names and addresses of the heirs of Bertuldo.[26]

On November 24, 1999, petitioners filed before us the present petition for certiorari and prohibition.[27] They allege that the public respondent committed grave abuse of discretion in allowing the case to be reinstated after private respondents paid the docket fee deficiency since the trial court had earlier expunged the complaint from the record and nullified all proceedings of the case and such ruling was not contested by the private respondents. Moreover, they argue that the public respondent committed grave abuse of discretion in allowing the case to be filed and denying the manifestation with motion to dismiss, despite the defect in the complaint which prayed for damages without specifying the amounts, in violation of SC Circular No. 7, dated March 24, 1988.

In their Comment, private respondents aver that no grave abuse of discretion was committed by the trial court in reinstating the complaint upon the payment of deficiency docket fees because petitioners did not object thereto within the reglementary period. Besides, Atty. Petalcorin possessed no legal personality to appear as counsel for the heirs of Bertuldo until he complies with Section 16, Rule 3 of the Rules of Court.[28]

At the outset, we note the procedural error committed by petitioners in directly filing the instant petition before this Court for it violates the established policy of strict observance of the judicial hierarchy of courts.

Although the Supreme Court, Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum.[29] As we stated in *People vs. Cuaresma*: [30]

This Court's original jurisdiction to issue writs of certiorari is not exclusive. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.[31]

The rationale for this rule is two-fold: (a) it would be an imposition upon the precious time of this Court; and (b) it would cause an inevitable and resultant delay, intended or otherwise, in the adjudication of cases, which in some

instances had to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as better equipped to resolve the issues because this Court is not a trier of facts.[32]

Thus, this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances, such as cases of national interest and of serious implications, justify the availment of the extraordinary remedy of writ of certiorari, calling for the exercise of its primary jurisdiction. Exceptional and compelling circumstances were held present in the following cases: (a) Chavez vs. Romulo[33] on citizens' right to bear arms; (b) Government of the United States of America vs. Purganan[34] on bail in extradition proceedings; (c) Commission on Elections vs. Quijano-Padilla[35] on government contract involving modernization and computerization of voters' registration list; (d) Buklod ng Kawaning EIIB vs. Zamora[36] on status and existence of a public office; and (e) Fortich vs. Corona[37] on the so-called "Win-Win Resolution" of the Office of the President which modified the approval of the conversion to agro-industrial area.

In this case, no special and important reason or exceptional and compelling circumstance analogous to any of the above cases has been adduced by the petitioners so as to justify direct recourse to this Court. The present petition should have been initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts. Failure to do so is sufficient cause for the dismissal of the petition at bar.

In any event, even if the Court disregards such procedural flaw, the petitioners' contentions on the substantive aspect of the case fail to invite judgment in their favor.

The unavailability of the writ of certiorari and prohibition in this case is borne out of the fact that petitioners principally assail the Order dated March 22, 1999 which they never sought reconsideration of, in due time, despite receipt thereof on March 26, 1999. Instead, petitioners went through the motion of filing a supplemental pleading and only when the latter was denied, or after more than three months have passed, did they raise the issue that the complaint should not have been reinstated in the first place because the trial court had no jurisdiction to do so, having already ruled that the complaint shall be expunged.

After recognizing the jurisdiction of the trial court by seeking affirmative relief in their motion to serve supplemental pleading upon private respondents, petitioners are effectively barred by estoppel from challenging the trial court's jurisdiction.[38] If a party invokes the jurisdiction of a court, he cannot thereafter challenge the court's jurisdiction in the same case.[39] To rule otherwise would amount to speculating on the fortune of litigation, which is against the policy of the Court.[40]

Nevertheless, there is a need to correct the erroneous impression of the trial court as well as the private respondents that petitioners are barred from assailing the Order dated March 22, 1999 which reinstated the case because it was not objected to within the reglementary period or even thereafter via a motion for reconsideration despite receipt thereof on March 26, 1999.

It must be clarified that the said order is but a resolution on an incidental matter which does not touch on the merits of the case or put an end to the proceedings.[41] It is an interlocutory order since there leaves something else to be done by the trial court with respect to the merits of the case.[42] As such, it is not subject to a reglementary period. Reglementary period refers to the period set by the rules for appeal or further review of a final judgment or order, i.e., one that ends the litigation in the trial court.

Moreover, the remedy against an interlocutory order is generally not to resort forthwith to certiorari, but to continue with the case in due course and, when an unfavorable verdict is handed down, to take an appeal in the manner authorized by law.[43] Only when the court issued such order without or in excess of jurisdiction or with

grave abuse of discretion and when the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief will certiorari be considered an appropriate remedy to assail an interlocutory order.[44] Such special circumstances are absolutely wanting in the present case.

Time and again, the Court has held that the Manchester rule has been modified in *Sun Insurance Office, Ltd. (SIOL) vs. Asuncion*[45] which defined the following guidelines involving the payment of docket fees:

- It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee, that vests a trial court with jurisdiction over the subject-matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fees within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.
- The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.
- Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee.

Plainly, while the payment of the prescribed docket fee is a jurisdictional requirement, even its non-payment at the time of filing does not automatically cause the dismissal of the case, as long as the fee is paid within the applicable prescriptive or reglementary period, more so when the party involved demonstrates a willingness to abide by the rules prescribing such payment.[46] Thus, when insufficient filing fees were initially paid by the plaintiffs and there was no intention to defraud the government, the Manchester rule does not apply.[47]

Under the peculiar circumstances of this case, the reinstatement of the complaint was just and proper considering that the cause of action of private respondents, being a real action, prescribes in thirty years,[48] and private respondents did not really intend to evade the payment of the prescribed docket fee but simply contend that they could not be faulted for inadequate assessment because the clerk of court made no notice of demand or reassessment.[49] They were in good faith and simply relied on the assessment of the clerk of court.

Furthermore, the fact that private respondents prayed for payment of damages "in amounts justified by the evidence" does not call for the dismissal of the complaint for violation of SC Circular No. 7, dated March 24, 1988 which required that all complaints must specify the amount of damages sought not only in the body of the pleadings but also in the prayer in order to be accepted and admitted for filing. *Sun Insurance* effectively modified SC Circular No. 7 by providing that filing fees for damages and awards that cannot be estimated constitute liens on the awards finally granted by the trial court.[50]

Thus, while the docket fees were based only on the real property valuation, the trial court acquired jurisdiction over the action, and judgment awards which were left for determination by the court or as may be proven during trial would still be subject to additional filing fees which shall constitute a lien on the judgment. It would then be the responsibility of the Clerk of Court of the trial court or his duly authorized deputy to enforce said lien and assess and collect the additional fees.[51]

It is worth noting that when Bertuldo filed his Answer on July 2, 1991, he did not raise the issue of lack of jurisdiction for non-payment of correct docket fees. Instead, he based his defense on a claim of ownership and

participated in the proceedings before the trial court. It was only in September 22, 1998 or more than seven years after filing the answer, and under the auspices of a new counsel, that the issue of jurisdiction was raised for the first time in the motion to expunge by Bertuldo's heirs.

After Bertuldo vigorously participated in all stages of the case before the trial court and even invoked the trial court's authority in order to ask for affirmative relief, petitioners, considering that they merely stepped into the shoes of their predecessor, are effectively barred by estoppel from challenging the trial court's jurisdiction. Although the issue of jurisdiction may be raised at any stage of the proceedings as the same is conferred by law, it is nonetheless settled that a party may be barred from raising it on ground of laches or estoppel.[52]

Moreover, no formal substitution of the parties was effected within thirty days from date of death of Bertuldo, as required by Section 16, Rule 3[53] of the Rules of Court. Needless to stress, the purpose behind the rule on substitution is the protection of the right of every party to due process. It is to ensure that the deceased party would continue to be properly represented in the suit through the duly appointed legal representative of his estate.[54] Non-compliance with the rule on substitution would render the proceedings and judgment of the trial court infirm because the court acquires no jurisdiction over the persons of the legal representatives or of the heirs on whom the trial and the judgment would be binding.[55] Thus, proper substitution of heirs must be effected for the trial court to acquire jurisdiction over their persons and to obviate any future claim by any heir that he was not apprised of the litigation against Bertuldo or that he did not authorize Atty. Petalcorin to represent him.

The list of names and addresses of the heirs was submitted sixteen months after the death of Bertuldo and only when the trial court directed Atty. Petalcorin to comply with the provisions of Section 16, Rule 3 of the Rules of Court. Strictly speaking therefore, before said compliance, Atty. Petalcorin had no standing in the court a quo when he filed his pleadings. Be that as it may, the matter has been duly corrected by the Order of the trial court dated October 15, 1999.

To be sure, certiorari under Rule 65[56] is a remedy narrow in scope and inflexible in character. It is not a general utility tool in the legal workshop.[57] It offers only a limited form of review. Its principal function is to keep an inferior tribunal within its jurisdiction.[58] It can be invoked only for an error of jurisdiction, that is, one where the act complained of was issued by the court, officer or a quasi-judicial body without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction,[59] not to be used for any other purpose,[60] such as to cure errors in proceedings or to correct erroneous conclusions of law or fact.[61] A contrary rule would lead to confusion, and seriously hamper the administration of justice.

Petitioners utterly failed to show that the trial court gravely abused its discretion in issuing the assailed resolutions. On the contrary, it acted prudently, in accordance with law and jurisprudence.

WHEREFORE, the instant petition for certiorari is DISMISSED for lack of merit.

No costs.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga and Chico-Nazario, JJ., concur.

[1] Also spelled as "Bertoldo" in the records.

[2] Original Records, p. 1.

[3] Id., p. 17.

[4] Id., p. 163.

[5] G. R. No. 101550, May 7, 1987, 149 SCRA 562; cited in SC Circular No. 7, dated March 24, 1988.

[6] Original Records, p. 169.

[7] Id., p. 182.

[8] Id., p. 197.

[9] Id., p. 200.

[10] Id., p. 207.

[11] Id., p. 210.

[12] Id., p. 218.

[13] Id., p. 225.

[14] Id., p. 238.

[15] Id., p. 241.

[16] Id., p. 250.

[17] SECTION 1. Defenses and objections not pleaded. - Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

[18] Id., p. 252.

[19] Id., p. 255.

[20] Id., p. 269.

[21] Id., p. 275.

[22] Id., p. 279.

[23] Id., p. 282.

[24] G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274, 285.

[25] Original Records, p. 294.

[26] Id., p. 299.

[27] SC Rollo, p. 4.

[28] SC Rollo, p. 38.

[29] Zamboanga Barter Goods Retailers Association, Inc. (ZAMBAGORA) vs. Lobregat, et al., G.R. No. 145466, July 7, 2004; Yared vs. Ilarde, G.R. No. 114732, August 1, 2000, 337 SCRA 53, 61; People vs. Court of Appeals, G.R. No. 128297, January 21, 1999, 301 SCRA 566, 569-570; Aleria, Jr. vs. Velez, G.R. No. 127400, November 16, 1998, 298 SCRA 611, 618-619; Tano vs. Socrates, G.R. No. 110249, August 21, 1997, 278 SCRA 154,

172-174.

[30] G.R. No. 67787, April 18, 1989, 172 SCRA 415.

[31] *Id.*, pp. 423-424.

[32] *Liga ng mga Barangay National vs. City Mayor of Manila*, G.R. No. 154599, January 21, 2004, 420 SCRA 562, 573; *Santiago vs. Vasquez*, G.R. Nos. 99289-90, January 27, 1993, 217 SCRA 633, 652.

[33] G.R. No. 157036, June 9, 2004, 431 SCRA 534.

[34] G.R. No. 148571, September 24, 2002, 389 SCRA 623.

[35] G.R. No. 151992, September 18, 2002, 389 SCRA 353.

[36] G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718.

[37] G.R. No. 131457, April 24, 1998, 289 SCRA 624.

[38] *Soliven vs. Fastforms Philippines, Inc.* G.R. No. 139031, October 18, 2004; *Sta. Lucia Realty and Development, Inc. vs. Cabrigas*, G.R. No. 134895, June 19, 2001, 358 SCRA 715, 732.

[39] *Ibid.*

[40] *Tomas Claudio Memorial College, Inc. vs. Court of Appeals*, G. R. No. 124262, October 12, 1999, 316 SCRA 502, 509.

[41] *Law Firm of Abrenica, Tungol and Tibayan vs. Court of Appeals*, G.R. No. 143706, April 5, 2002, 380 SCRA 285, 292; *Diesel Construction Company, Inc. vs. Jollibee Foods Corporation*, G.R. No. 136805, January 28, 2000, 323 SCRA 844, 854.

[42] *Ong vs. Mazo*, G.R. No. 145542, June 4, 2004, 431 SCRA 65, 63; *Tolentino vs. Natanauan*, G.R. No. 135441, November 20, 2003, 416 SCRA 273, 280.

[43] *Resoso vs. Sandiganbayan*, G.R. No. 124140, November 25, 1999, 319 SCRA 238, 244; *Quiñon vs. Sandiganbayan*, G.R. Nos. 113908 & 114819, April 18, 1997, 271 SCRA 575, 592.

[44] *Philippine American Life and General Insurance Company vs. Valencia-Bagalasca*, G.R. No. 139776, August 1, 2002, 386 SCRA 103, 109; *J.L. Bernardo Construction vs. Court of Appeals*, G.R. No. 105827, January 31, 2000, 324 SCRA 24, 34.

[45] *Supra*, Note No. 24.

[46] *Go vs. Tong*, G.R. No. 151942, November 27, 2003, 416 SCRA 557, 567.

[47] *Soriano vs. Court of Appeals*, G.R. No. 100633, August 28, 2001, 363 SCRA 725, 743.

[48] Article 1141 of the Civil Code provides: "Real actions over immovables prescribe after thirty years. xxx"

[49] Original Records, p. 210.

[50] *Supra*, Note No. 24.

[51] *Vlason Enterprises Corporation vs. Court of Appeals*, G.R. Nos. 121662-64, July 6, 1999, 310 SCRA 26, 63; *Ballatan vs. Court of Appeals*, G.R. No. 125683. March 2, 1999, 304 SCRA 34, 42; *Moskowsky vs. Court of Appeals*, G.R. No. 122860, April 30, 1999, 306 SCRA 516, 521-522; *Tacay vs. RTC of Tagum, Davao del Norte*, G.R. Nos. 880075-77, December 20, 1989, 180 SCRA 433, 444.

[52] Alday vs. FGU Insurance Corporation, G.R. No. 138822, January 23, 2001, 350 SCRA 113, 120; National Steel Corporation vs. Court of Appeals, G.R. No. 123215, February 2, 1999, 302 SCRA 522, 532.

[53] SECTION 16. Death of party; duty of counsel. - Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

[54] Imperial vs. Court of Appeals, G.R. No. 112483, October 8, 1999, 316 SCRA 393, 400; Torres, Jr. vs. Court of Appeals, G.R. No. 120138, September 5, 1997, 278 SCRA 793, 811.

[55] Brioso vs. Rili-Mariano, G.R. No. 132765, January 31, 2003, 396 SCRA 549, 557.

[56] Rules of Court.

[57] Land Bank of the Philippines vs. Court of Appeals, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 479; San Miguel Foods, Inc.-Cebu B-Meg Feed Plant vs. Laguesma, G.R. No. 116172, October 10, 1996, 263 SCRA 68, 84-85.

[58] Almuete vs. Andres, G.R. No. 122276, November 20, 2001, 369 SCRA 619, 628; Republic vs. Court of Appeals, G.R. No. 95533, 20 November 2000, 345 SCRA 63, 70.

[59] Toyota Motor Phils. Corporation Workers' Association (TMPCWA) vs. Court of Appeals, G.R. No. 148924, September 24, 2003, 412 SCRA 69; Land Bank of the Philippines vs. Court of Appeals, *supra*, p. 480.

[60] Commissioner of Internal Revenue vs. Court of Appeals, G.R. No. 119322, June 4, 1996, 257 SCRA 200, 232; Garcia vs. Ranada, G.R. No. 60935, September 27, 1988, 166 SCRA 9.

[61] Commissioner of Internal Revenue vs. Court of Appeals, *supra*; Gold City Integrated Ports Services, Inc. vs. Intermediate Appellate Court, G.R. Nos. 71771-73, March 31, 1989, 171 SCRA 579.

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.