

**ANNIE FERMIN, A.K.A. ANITA SAGACO, AND AURELIO
LEO; KIGIS, PETITIONERS, VS. HON. ANTONIO M.
ESTEVEZ, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 5,
REGIONAL TRIAL COURT, BAGUIO...**

G.R. No. 147977. March 26, 2008

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-147977/>

CARPIO, J.:

The Case

Before the Court is a petition for review[1] with prayer for a writ of preliminary injunction or the issuance of a temporary restraining order, assailing the 28 April 2000 Decision[2] and 24 April 2001 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 48373.

The Antecedent Facts

On 15 October 1986, Mariano Tanenglian (respondent) filed an action for quieting of title and damages against Anselmo Arizo, Fred Balusdan, Gregorio Carreon, Teodita Ceril, Corazon Dapnisan, Mario Dapnisan, Rogel Estrada, Aida Fermin, Marilou Fernandez, Michael Fernandez, Teofilo Fulmana, Andrew Herrero, Simeon Jastan, Rogelio (Rodolfo) Lachica, Naty Lachica, Manuel Lagartera, Julian Landisen, Maximino Lapid, Silvestre Lorenzo, Timoteo Lubusan (Dapnisan), Helen Matale, Soledad Nabunat, Damian Peñera, Eliseo Pidazo, Pablito Sacpa, Ananao Santos, Esteban Santos, Juanito Santos, and Samson Santos (Arizo, et al.). The case was docketed as Civil Case No. 925-R.

In a Decision[4] dated 28 June 1991, the Regional Trial Court of Baguio City, Branch 5 (trial court) ruled:

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

- (a) Ordering the defendants to respect and recognize plaintiff's ownership of the two (2) parcels of land in question;
- (b) Ordering the defendants to remove their houses/structures/constructions/improvements from the subject parcels of land and surrender the possession of the premises they are respectively occupying to the plaintiff; and
- (c) Ordering the defendants to pay, jointly and severally, the plaintiff the amount of P10,000.00 for and as attorney's fees plus the costs of the suit.

SO ORDERED.[5]

On appeal, the Court of Appeals affirmed the trial court's ruling in its Decision dated 18 February 1994. Arizo, et al. filed a petition for review before this Court, but it was denied in a Resolution dated 2 August 1995. This Court denied Arizo, et al.'s first and second motions for reconsideration in its Resolutions dated 15 January 1996 and 4 March 1996, respectively. An Entry of Judgment was issued on 8 April 1996.

On 16 December 1996, the trial court granted respondent's motion for execution. In a Special Order of Demolition[6] dated 30 April 1998, the trial court ordered:

WHEREFORE, Defendants, their agents, assigns, representatives and/or successors-in-interest are hereby given a period of fifteen (15) days from notice within which to remove their improvements from the premises subject of this case.

The Deputy Sheriff assigned to this Court is likewise hereby ordered to cause the demolition of all improvements which he may find within the premises immediately after the expiration of the abovesaid period with the survey report of the committee to be made as a parameter in compliance with this Order; and to simultaneously place Plaintiff in possession thereof.

Expenses of the demolition shall be borne by the Plaintiff.

SO ORDERED.[7]

The trial court issued an Alias Writ of Execution[8] on even date.

Annie Fermin, a.k.a. Anita Sagaco, and Aurelio "Leo" Kigis (petitioners) filed a petition for certiorari and prohibition with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction before the Court of Appeals. They alleged that the deputy sheriff was poised to implement the Special Order of Demolition not only against Arizo, et al. but also against them. Petitioners alleged that they were deprived of their right to due process because they were never made defendants in Civil Case No. 925-R. Petitioners alleged that they entered into the possession and occupancy of the lands as members of an indigenous cultural community in the honest perception and belief that the lands formed part of their ancestral lands. Petitioners further alleged that their occupancy of the lands was not pursuant to any agreement entered into with anyone of the defendants in Civil Case No. 925-R or any of the defendants' predecessors-in-interest. Further, they alleged that it was not even established that their residential structures were within the area subject of Civil Case No. 925-R.

The Ruling of the Court of Appeals

In its 28 April 2000 Decision, the Court of Appeals denied the petition and affirmed the Special Order of Demolition.

The Court of Appeals ruled that respondent's right to the subject parcels of land had already been settled with finality. The Court of Appeals ruled that had petitioners been in good faith regarding their possession of the land, they could have intervened in Civil Case No. 925-R under Rule 19 of the 1997 Rules of Civil Procedure. The Court of Appeals further ruled that had petitioners been really unaware of the proceedings or aggrieved because of the damage posed by the Special Order of Demolition, they could just have apprised the trial court of their adverse claim and move for the issuance of the necessary *terceria* under Section 43, Rule 39 of the 1997 Rules of Civil Procedure. The Court of Appeals ruled that since petitioners failed to avail of these remedies or any other possible remedies in law, they could no longer prevent respondent's exercise of his rights of ownership by belatedly complaining about their supposed property rights.

Petitioners filed a motion for reconsideration.

In its 24 April 2001 Resolution, the Court of Appeals denied the motion.

Hence, the petition before this Court.

The Issue

The issue in this case is whether the Special Order of Demolition may be enforced against petitioners who were not party-defendants in Civil Case No. 925-R.

The Ruling of this Court

The petition has merit.

The generally accepted principle is that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by a judgment rendered by the court.[9] Execution of a judgment can only be issued against one who is a party to the action, and not against one who, not being a party in the case, did not have his day in court.[10] Due process requires that a court decision can only bind a party to the litigation and not against one who did not have his day in court.[11]

In this case, petitioners were not parties in Civil Case No. 925-R. Petitioners' allegation that their possession did not arise from an agreement with the defendants or the predecessors-in-interest of the defendants in Civil Case No. 925-R remains unrebutted by respondent. The Special Order of Demolition only binds the defendants in Civil Case No. 925-R as well as their agents, assigns, representatives, or successors-in-interest. In the absence of proof that petitioners are agents, assigns, representatives, or successors-in-interest of the defendants in Civil Case No. 925-R, the Special Order of Demolition may not be enforced against them.

The Court of Appeals ruled that petitioners could have intervened in Civil Case No. 925-R. Yet, there was no evidence that petitioners were aware of the pendency of Civil Case No. 925-R. We cannot accept respondent's assertion that the pendency of Civil Case No. 925-R could not have escaped petitioners' notice because it was frequently talked about in the community.

The Court of Appeals also ruled that petitioners could have availed themselves of the remedy under Section 43, Rule 39 of the 1997 Rules of Civil Procedure, thus:

Sec. 43. Proceedings when indebtedness denied or another person claims the property. - If it appears that a person or corporation, alleged to have property of the judgment obligor or to be indebted to him, claims an interest in the property adverse to him or denies the debt, the court may authorize, by an order made to that effect, the judgment obligee to institute an action against such person or corporation for the recovery of such interest or debt, forbid a transfer or other disposition of such interest or debt within one hundred twenty (120) days from notice of the order, and may punish disobedience of such order as for contempt. Such order may be modified or vacated at any time by the court which issued it, or by the court in which the action is brought, upon such terms as may be just.

In this case, Arizo, et al. are not judgment obligors as contemplated in Section 43, Rule 39 of the 1997 Rules of Civil Procedure. Neither are petitioners indebted to Arizo, et al. It was not even established that petitioners are in possession of the property of Arizo, et al. In fact, petitioners alleged that it was not established that their residential structures are within the area subject of Civil Case No. 925-R. In other words, Section 43, Rule 39 of the 1997 Rules of Civil Procedure, which would allow the judgment obligee to recover indebtedness due to the judgment obligor, does not apply in this case.

When the Court of Appeals referred to the remedy of *terceria*, it must be referring to Section 16, Rule 39, not Section 43, Rule 39 of the 1997 Rules of Civil Procedure,[12] which provides:

Sec. 16. Proceedings where property claimed by third person. - If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action

therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

X X X X

The remedy of *terceria* is available to a third person other than the judgment obligor or his agent who claims a property levied on. In this case, the property was not levied on and put on auction. The implementation of the Special Order of Demolition would result in the destruction of petitioners' property. Further, *terceria* is not a speedy and adequate remedy insofar as petitioners are concerned considering that the Special Order of Demolition ordered the Deputy Sheriff to cause the demolition of all the improvements immediately after the expiration of the 15-day period granted upon the defendants, their agents, assigns, representatives, or successors-in-interest to remove their improvements on the premises.

The Court recognizes the finality of the trial court's Decision in Civil Case No. 925-R. However, petitioners are contesting whether their residential structures are within the area subject of Civil Case No. 925-R. Since petitioners are not parties to Civil Case No. 925-R, respondent has to file the proper action against petitioners to enforce his property rights within the bounds of the law and our rules.^[13] Petitioners' right to possession, if any, should be threshed out in a proper court proceeding.

WHEREFORE, we SET ASIDE the 28 April 2000 Decision and 24 April 2001 Resolution of the Court of Appeals in CA-G.R. SP No. 48373. We make permanent the temporary restraining order issued by this Court on 25 June 2001 enjoining the enforcement of the Special Order of Demolition dated 30 April 1998 against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure. Denominated as Petition for Certiorari and Prohibition.

[2] Rollo, pp. 23-31. Penned by Associate Justice Fermin A. Martin, Jr., with Associate Justices Romeo A. Brawner and Andres B. Reyes, Jr., concurring.

[3] Id. at 38.

[4] Id. at 40-45. Penned by Judge Salvador J. Valdez, Jr.

[5] Id. at 45.

[6] Id. at 48-49. Penned by Judge Antonio M. Esteves.

[7] Id. at 49.

[8] Id. at 50-51. Through Clerk of Court V Nelia A. Amansec.

[9] *Matuguina Integrated Wood Products, Inc. v. Court of Appeals*, G.R. No. 98310, 24 October 1996, 263 SCRA 490.

[10] *Panotes v. City Townhouse Development Corporation*, G.R. No. 154739, 23 January 2007, 512 SCRA 269;

St. Dominic Corp. v. Intermediate Appellate Court, No. L-70623, 30 June 1987, 151 SCRA 577.

[11] Mariculum Mining Corporation v. Brion, G.R. Nos. 157696-97, 9 February 2006, 482 SCRA 87.

[12] See Sy v. Discaya, G.R. No. 86301, 23 January 1990, 181 SCRA 378.

[13] See Pineda v. Santiago, G.R. No. 143482, 13 April 2007, 521 SCRA 47.

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.