

**SPOUSES GUILLERMO AND ANDYLYNN HIZO, PETITIONERS, VS.  
COURT OF APPEALS AND SAMMIE BACORRO, REPRESENTED BY  
ATTORNEY-IN-FACT BENILDA BACORRO, RESPONDENTS.**

*G.R. NO. 155478. April 29, 2005*

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-155478/>

---

**CALLEJO, SR., J.:**

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 64612 and its resolution denying the motion for reconsideration thereof.

**The Antecedents**

Maria Tabayoyong acquired from the People's Homesite and Housing Corporation (PHHC) (now the National Housing Authority), a parcel of residential land located at Roxas District in Quezon City, with an area of 200 square meters, covered by Transfer Certificate of Title (TCT) No. RT-120464. The property, identified as Lot 6, Block LCH-28, Subdivision Plan No. Psd-10783, is bounded on the northeast by a road lot, Lot 16 (now Jasmin Street), and by Lot 13 on the southwest. She then had her house constructed on a portion of the property. In 1966, she also allowed her sister, the grandmother of petitioner Andylynn Hizo, to build a house on a portion of the property. There, Linda Noble resided together with her daughter Andylynn and the latter's husband, Guillermo Hizo. In time, Tabayoyong left the Philippines and resided in the United States of America (U.S.A). The grandparents of petitioner Andylynn Hizo also left for the U.S.A., leaving the house in the care of the spouses Hizo, who, in turn, leased a portion of the house to tenants from whom they received rentals.

On March 9, 1999, Tabayoyong sold the property to her nephew, private respondent Sammie T. Bacorro, a Filipino citizen, who later became a naturalized U.S. citizen. Based on the said sale, Bacorro was issued TCT No. N-205447 over the property in his name on April 30, 1999.[2] He then prepared a contract of lease over a portion occupied by the spouses Hizo for a monthly rental of P2,000.00. The contract was then sent to them for their consideration and approval, but the latter rejected the same. In a Letter dated August 30, 1999, Bacorro wrote to the spouses Hizo and demanded that they vacate the property, but the latter refused to do so.

Bacorro filed a complaint for unlawful detainer against the spouses Hizo in the Metropolitan Trial Court (MTC) of Quezon City. He prayed that, after due proceedings, judgment be rendered in his favor, thus:

WHEREFORE, it is respectfully prayed that this Honorable Court render judgment ordering the defendants, including any and all persons claiming right under it, to vacate the subject premises and to pay the plaintiff the rentals thereon from June 1999 up to and including those that may accrue hereafter, plus the sum of P75,000.00 as attorney's fees.

The plaintiff also prays for such other measures of relief which are just and equitable under the premises.[3]

In their Answer to the complaint, the spouses Hizo alleged that Bacorro had no cause of action against them because it was their parents who built their house in 1966 on the property which was owned by the PHHC.[4]

Moreover, a criminal complaint was filed against Tabayoyong and Bacorro for falsification of a public document based on the latter's allegation in the deed of absolute sale that he was a Filipino citizen (when in fact he was a naturalized American citizen).

On March 6, 2000, the trial court rendered judgment in favor of Bacorro, ordering the spouses Hizo and all persons claiming rights under them:

- a) to immediately vacate the subject premises located at No. 92 Jasmin Street, Roxas District, Quezon City, and restore peaceful possession thereof to herein plaintiff;
- b) to pay the plaintiff the amount of TWO THOUSAND PESOS (P2,000.00) as monthly rental, to be computed from June 1999 and every month thereafter, until subject premises shall have been finally vacated;
- c) to pay the plaintiff the sum of TWENTY THOUSAND PESOS (P20,000.00) for and as attorney's fees; and
- d) to pay the costs of suit.

SO ORDERED.[5]

The spouses Hizo received a copy of the decision on March 27, 2000 and appealed the same on April 4, 2000. The case was docketed as Civil Case No. 00-41612 in the Regional Trial Court (RTC). However, on March 31, 2000, Bacorro filed an Urgent Motion for a Writ of Execution Pending Appeal. The trial court granted the motion in an Order dated April 12, 2000. Apparently unaware of the same, Bacorro filed another motion for the issuance of a writ of execution on April 12, 2000 and set it for hearing on April 24, 2000. The spouses Hizo filed an Omnibus Motion for the recall of the April 12, 2000 Order, with an alternative plea for a stay thereof after the approval of their supersedeas bond.[6] They also prayed for the elevation of the records of the case to the RTC. On May 29, 2000, the MTC denied the Omnibus Motion filed by the spouses Hizo and authorized the sheriff to enforce its decision.[7]

The spouses Hizo filed a motion for the reconsideration[8] of the Order, appending thereto the Sketch Plan of Geodetic Engineer Monico Macalindol. It was indicated therein that a 2/3 portion of the house was located in Lot 13, Blk. LCH-28, Psd-10783. Upon the denial of the motion, the spouses Hizo filed a petition for certiorari with the RTC, assailing the April 12, 2000 and May 29, 2000 Orders of the MTC. The case was docketed as Civil Case No. 00-41094. The spouses Hizo adduced in evidence a copy of a Relocation Survey prepared and signed by Renato Obra and Rommel A. Perez, showing that 1/3 portion of their house occupied 18 square meters of Bacorro's property, while a 2/3 portion thereof occupied a portion of the lot between Lot 6 and Lot 13.

The petition was later dismissed.

In the meantime, the spouses Hizo filed their Memorandum on Appeal with the RTC in Civil Case No. 00-41612, and appended a copy of the Relocation Survey Plan of Obra and Perez. They maintained that the 2/3 portion of their house, which was outside Bacorro's property, should not be demolished; the MTC should have dismissed the complaint on the ground that the bigger portion of their house was outside the perimeter of Bacorro's property.

For his part, Bacorro averred in his Memorandum on Appeal that the 2/3 portion of the spouses Hizo's house occupied a portion of Lot 13 – a public alley – and, as such, the same was a nuisance which should be demolished.

In the meantime, Bacorro filed an urgent motion to direct the sheriff to enforce the writ of execution issued by the MTC. The spouses Hizo opposed the motion, contending that the enforcement of the writ on the 2/3 portion of their house located on Lot 13 was illegal. On October 10, 2000, the court issued an Order[9] granting Bacorro's

motion, finding irrelevant the spouses Hizo's contention that only a 1/3 portion of their house occupied the property owned by Bacorro.

On January 29, 2001, the RTC rendered judgment affirming the appealed decision with modification. It ruled that Bacorro's right of possession was limited to only an 18-square-meter area where the house of the spouses Hizo stood.[10] The RTC further declared that the 2/3 portion of the said house located on a portion of Lot 13 was a public alley, as shown by the Report of Land Registration Authority Surveyor Jonathan Limpiada, appended as Annex H of Bacorro's Memorandum.[11] The spouses Hizo received a copy of the decision on February 7, 2001.

Upon Bacorro's receipt of the decision on February 28, 2001, he filed a Motion to Clarify the Decision on March 14, 2001[12] and prayed for the demolition of the entire house owned by the spouses Hizo. The said motion contained the following prayer:

WHEREFORE, plaintiff respectfully prays that the court clarifies to defendants that:

- Defendants have no right whatsoever to re-occupy the house or any portion thereof as the land on which the house is situated partly on plaintiff's property and on a public alley; and
- Defendants have no right-of-way over plaintiff's property that will enable them to re-occupy wholly or partly the house in dispute;
- Plaintiff further moves and prays that he be allowed to demolish the whole house, it being an integral whole and by its very construction and location cannot be partly demolished without causing the total destruction of the whole house.

Plaintiff further prays for such other relief as the Honorable Court may deem just and equitable in the premises.[13]

The spouses Hizo opposed the motion on the ground that the decision was clear and unambiguous. They also manifested that they would file a motion with the MTC for the execution of the decision as affirmed by the RTC upon the remand of the case records. They also averred that a motion for clarification of the decision was not a motion for reconsideration thereof; hence, did not stop the period for appeal via a petition for review with the CA under Rule 42 of the Rules of Court.[14] As such, they claimed that the decision of the court had become final and executory.

On April 19, 2001, the RTC issued an Order[15] granting the motion filed by Bacorro. The fallo of the Order reads:

WHEREFORE, premises considered, the Court finds plaintiff's motion to clarify the decision and cause the demolition of the entire house in order and holds as follows:

- (1) That defendants have no right whatsoever over the subject property, the house and the adjoining public alley;
- (2) That since defendants have no right over the subject property, the house and the public alley, the court finds that there is no basis for them to move for the execution of the decision in their favor; and
- (3) That since defendants have no right over the house, the court will not direct them to demolish any portion of the house that rests on plaintiff's property; and
- (4) That plaintiff is authorized to demolish that portion of the house which rests on his property as well as the part which rests on the public alley.

Further, let the records of this case be remanded to the lower court for the implementation of the decision as

modified and the order of demolition.

SO ORDERED.[16]

The RTC declared that Bacorro had sought a partial reconsideration of its decision when he prayed for the demolition of the spouses Hizo's house on the ground that it partly rested on both Bacorro's property and a public alley immediately adjoining the latter's property. It is also declared that it was established that the public alley was an alternative access through which Bacorro could enter or exit from his property, and as such, the non-demolition of the subject house would block the latter's access; moreover, such structure constituted a fire hazard which endangered the life and property of Bacorro. The RTC went on to declare that Bacorro's actual possession or right to possession would not be fully and sufficiently protected and restored as long as the house or any part of it remained where it was.[17]

The spouses Hizo filed a petition for review of the April 19, 2001 Order of the RTC before the CA. They alleged that for Bacorro's failure to file a motion for the reconsideration of the RTC decision or to appeal therefrom via a petition for review, such decision had become final and executory under Rule 42 of the Rules of Court. They further averred that the respondent's motion for clarification of the said decision did not toll the period for appeal; hence, the decision of the RTC could no longer be amended or modified. The spouses Hizo claimed that, as such, the RTC erred in issuing the assailed order modifying its decision. They further averred that even if the motion filed by Bacorro is considered as a motion for reconsideration of the RTC decision, the April 19, 2001 Order was, in effect, an Amended Decision. Moreover, the 2/3 portion of the house located in an alienable public land could not be demolished at the instance of Bacorro.

On July 29, 2002, the CA rendered judgment dismissing the petition, holding that the assailed order of the RTC was an interlocutory one, and that the spouses Hizo should have filed a petition for certiorari under Rule 65 of the Rules of Court for the nullification of said order. The CA also held that the RTC treated Bacorro's motion for clarification as a motion for the reconsideration of its decision and, in fact, modified its decision and ordered the spouses Hizo to vacate the subject property. The CA concluded that Bacorro's motion suspended the running of the period for him to appeal the decision. Besides, even if its decision had become final and executory, the RTC had the authority to clarify its decision.

The spouses Hizo filed a motion for a reconsideration of the decision, insisting that:

I

THERE IS NO ANY (SIC) EVIDENCE TO SUPPORT RESPONDENT'S POSITION THAT THE 2/3 PORTION OF THE LAND UPON WHICH PETITIONERS' RESIDENTIAL HOUSE IS ERECTED IS A PUBLIC ALLEY; IF AT ALL, WHAT WAS PRESENTED BY THE RESPONDENT IS A MERE SKETCH PLAN, ALLEGEDLY PREPARED BY A PERSON WHO IS NOT AN ENGINEER, NOR A COMPETENT PERSON; ON THE CONTRARY, SAID 2/3 PORTION IS AN OPEN SPACE IDENTIFIED AS LOT NO. 13, BLK. LCH. 28, PSD. 10723 PER THE APPROVED SURVEY/VERIFICATION PLAN, CONDUCTED BY THE LRA, AS COMMISSIONED BY THE COURT, THROUGH ITS LICENSED GEODETIC ENGINEER.

II

GRANTING ARGUENDO (WITHOUT HOWEVER ADMITTING), SUBJECT 2/3 PORTION OF LAND IS A PUBLIC ALLEY (THE TRUTH [IS] IT WAS NOT), HAS (sic) PRIVATE RESPONDENT SAMMIE BACORRO, THE REQUIRED PERSONALITY TO FILE AN EJECTMENT SUIT AGAINST THE PETITIONER, INsofar AS THE 2/3 PORTION OF THE LOT OCCUPIED BY THE PLAINTIFF IS CONCERNED?

## III

PRIVATE RESPONDENT'S MOTION FOR DEMOLITION CANNOT TAKE THE PLACE OF A MOTION FOR RECONSIDERATION, AND FOR FAILURE TO [DO] SO FILE THE REQUIRED MOTION FOR RECONSIDERATION, THE TRIAL COURT NOT ONLY SERIOUSLY ERRED BUT EVEN COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT SAID: Anent plaintiff's motion to demolish the whole house, it is apparent that plaintiff is seeking for a partial reconsideration of the decision which this court can entertain as the same was filed within the reglementary period. (2nd to the last par. of the April 19, 2001 Order)[18]

However, on September 30, 2002, the CA issued a Resolution denying the motion for reconsideration filed by the spouses Hizo.

The spouses Hizo, now the petitioners, came to the Court for relief under Rule 45 of the Rules of Court. They contend that their petition in the CA was, in fact, a petition for review under Rule 42 of the Rules of Court, from the April 19, 2001 Order of the RTC, which was in fact and in effect an amended decision of Civil Case No. 41612. The petitioners assert that the period to file their petition for review of the said amended decision is to be reckoned from their receipt of the April 19, 2001 Order (amended decision) on April 25, 2001. Since they filed their petition for review with the CA on May 8, 2001, their petition was filed within the fifteen-day period therefor.

The petitioners further aver that Lot 13, the property on which a 2/3 portion of their house is located, is an empty space and not a public alley. They allege that the said house is not a nuisance, and could not be ordered demolished by the RTC. The petitioners further argue that even if the finding of the RTC that the property on which the 2/3 portion of their house is constructed on a public alley were true, the respondent has no cause of action against them for unlawful detainer and the demolition of said portion of their house. The petitioners insist that, in its original decision, the RTC ruled that the government (not the respondent) had the right to cause their eviction from the property and the demolition of the said portion of their house, and in an action for abatement of nuisance, not one for unlawful detainer. The petitioners maintain that the Survey Plan Reports of Geodetic Engineers Rommel Perez and Renato Obra stating that Lot 13 is an open space and not a public alley should prevail over the Survey Report of Jonathan Limpiada (which states that Lot 13 is a public alley).

In his comment on the petition, the respondent averred that since it is the contention of the petitioners that the decision of the RTC had become final and executory when he filed his motion for clarification thereof, then the April 19, 2001 Order of the RTC must be an interlocutory order. Hence, the remedy of the petitioners was to file a petition for certiorari under Rule 65 of the Rules of Court, and not a petition for review under Rule 42. He further contends that an appeal under Rule 42 of the Rules is proper only if the order or resolution subject of the appeal is a final order or resolution. The respondent asserts that the April 19, 2001 Order of the RTC merely clarified its decision, and did not make any substantive modification thereof. The respondent asserts that, whether Lot 13 (the property on which the 2/3 portion of the house of the petitioners stands) is a public alley or an open space is a question of fact which cannot be raised in this Court in a petition for review on certiorari under Rule 45; so is the issue of which survey plan should prevail, whether that of Obra and Perez, or that of Limpiada. The respondent posits that the petitioners have no right to stay in the public alley and are obliged to vacate the same.

The issues for resolution are the following: (1) whether or not the petition for review filed with the CA was the proper remedy of the petitioners, and whether it was filed on time; (2) whether the Court may delve into and resolve the factual issues raised by the petitioners; and (3) whether the CA erred in affirming the April 19, 2001 Order of the RTC and dismissing the petition for review filed by the petitioners.

#### The Ruling of the Court

On the first issue, the CA ruled that the petitioners appealed the Decision of the RTC, dated January 29, 2001, via petition for review on May 8, 2001, a copy of which was received by them on February 7, 2001; hence, the petition was filed beyond the 15-day reglementary period. The ruling of the appellate court is incorrect. Even a cursory reading of the petition for review filed by the petitioners will readily show that they appealed the April 19, 2001 Order of the RTC. Indeed, in their petition, the petitioners prayed that the court set aside the said order, and that the Decision dated January 29, 2001 be reinstated, thus:

WHEREFORE, it is most respectfully requested of this Honorable Court that this petition be favorably GRANTED, and the assailed 19 April 2001 Order be SET ASIDE, and the 29 January 2001 decision be REINSTATED it being already final, and it be categorically pronounced that the 2/3 portion of the land, as well as the house built thereon, which petitioners actually owned, occupied/possessed be declared as free and/or excluded from the respondent court's order of ejectment/demolition. And even on the 1/3 portion of the house which extend to plaintiff's title, that the law on demolition such as Sec. 10(d), Rule 39 in relation to Art. 546 – Civil Code be OBSERVED. And finally, that petitioners be ordered RESTORED/REINSTATED to their subject house/land – at least up to the 2/3 portion of the land/house they occupied being outside plaintiff's title.

Petitioner further respectfully requests for such other reliefs that may be just and equitable under the premises.[19]

However, the Court agrees with the appellate court's ruling that the so-called motion for clarification filed by the respondent of the decision of the RTC is, in fact, a motion for partial reconsideration of the same, and not merely what it purported to be per its caption: "Motion for Clarification." Even the RTC itself considered the said motion as a motion for the partial reconsideration of its decision.[20]

The respondent was, thus, prompted to file his motion for reconsideration, as in its decision, the MTC ordered the petitioners, as the defendants therein, to immediately vacate the subject property located at No. 92 Jasmin Street, Roxas District, Quezon City, and surrender possession thereof to the respondent, the plaintiff therein.[21] The MTC was of the impression that the entire house of the petitioners was constructed on the respondent's property. But on appeal, it appeared that the petitioners relocated their house, and based on the Relocation Survey Plan of Obra and Perez, only 18 square meters of the subject property was occupied by 1/3 portion of the petitioners' house, and that the 2/3 portion thereof is located on open space, beyond the perimeter of the respondent's property. The report of Obra and Perez was confirmed by Jonathan Limpiada, a surveyor of the Land Registration Authority except that, contrary to the first report, the property on which the 2/3 portion of the petitioners' house stood on a public alley. Based on the said reports, the RTC rendered judgment affirming the decision of the MTC with the modification that the petitioners should vacate and return possession to the respondent only that portion of his property with an area of 18 square meters, occupied by 1/3 portion of the petitioners' house, since the complaint of the respondent for unlawful detainer did not allege factual circumstances of a complaint for abatement of a nuisance. Moreover, the MTC held that it is the local government that should act to clear the public alley and restore the same to its intended use:

The technical description of plaintiff's title which appears in the deed of sale plaintiff executed with Maria Tabayoyong sufficiently identify the property of the plaintiff and based on separate geodetic surveys conducted by LRA surveyors Oba and Limpiada commissioned by defendants and plaintiff, respectively, a portion of defendants' house encroached plaintiff's lot. Accordingly, defendants will be required to demolish only whatever is constructed within the boundaries of plaintiff's property.

There is no question that the part of defendants' house occupying the public alley is a nuisance. However, the complaint does not allege factual circumstances of a complaint for abatement of a nuisance, thus, this Court cannot make a pronouncement on this matter. Moreover, it is the local government that should act to clear the

public alley and restore it to its intended use.[22]

The respondent maintained that the entire house of the petitioners should be demolished based on the findings of the MTC that the petitioners were not the owners of the house; hence, had not established their right over the same. Also to be considered is the fact that the house is partly built on his property and partly on a public alley, which made the house a nuisance that can be abated. The respondent also maintained that the lack of means of ingress and egress of the petitioners, except through the gate to Jasmin Street, is due to the petitioners' act of constructing their house on his property and on a public alley. Moreover, according to the respondent, the demolition of a portion of the petitioners' house which occupied his property would necessarily result in the total demolition of the house.

In fine, the respondent's motion was not merely for the clarification of the decision of the RTC, but was, in effect, for the modification of some factual findings of the RTC, and the consequent complete affirmation of the MTC decision, including the demolition of the entire house of the petitioners.

The Order of the RTC dated April 19, 2001, granting the respondent's motion and affirming in toto the decision of the MTC and ordering the demolition of the entire house of the petitioners, was, in fine, an amendment of its January 29, 2001 Decision. As such, it was final, and appealable to the CA via a petition for review under Rule 42 of the Rules of Court within the period therefore to be reckoned from receipt, by the petitioner, of the April 19, 2001 Order of the court.[23] It must be stressed that the said Order finally disposed of the case. Nothing more remained to be done by the court except to await the parties' next move.[24]

We agree with the contention of the petitioners that the RTC erred in issuing its April 19, 2001 Order declaring that the petitioners had no right over their house, and authorizing the respondent to demolish the said structure, including that portion which occupied Lot 13, a public alley.

It was obviously imprudent, if not capricious, on the part of the RTC to authorize the respondent to demolish the house of the petitioners. The task of enforcing the writ of execution issued by the court is lodged on the sheriff.[25] Under Section 14, Rule 39 of the Rules of Court, the sheriff shall not destroy, demolish or remove any improvements on the property except upon special order of the court after due hearing and after the petitioners, as defendants, have failed to remove the same within the reasonable time fixed by the court. If the petitioners enter the property for the purpose of executing acts of possession or in any manner disturbing the possession of the respondent, the petitioners may be cited for contempt.[26]

Undeniably, the action of the respondent against the petitioners in the MTC is one for unlawful detainer. He sought to exercise his possessory rights over his property, Lot 6, Block LCH-28 covered by TCT No. RT-120464. The only issue in the said case is the physical and natural possession of the property subject of his complaint[27] and not that of any other property, including Lot 13. The respondent, as plaintiff, was burdened to prove prior physical possession of the property before 1966 when the petitioners' grandparents occupied a portion of his property and constructed a house thereon.[28] The respondent adduced evidence that, indeed, the petitioners occupied a portion of his property with an area of 18 square meters where the 1/3 portion of their house is located. Hence, as declared by the RTC in its January 29, 2001 Decision, the petitioners were obliged to vacate that portion of the property.

The respondent had no cause of action against the petitioners for unlawful detainer over a portion of Lot 13 on which the 2/3 portion of the house was constructed, for the reason that the respondent is not the owner, nor does he have any possessory rights over the said lot which is a public alley. Indeed, the respondent did not pray in his complaint for the eviction of the petitioners from Lot 13.

While it is true that the petitioners had not claimed ownership nor possessory rights over Lot 13, the RTC acted beyond its jurisdiction in allowing the respondent to cause the demolition of that portion located in Lot 13, which is beyond the perimeter of his property. The jurisdiction of the RTC is limited to evicting the petitioners from that portion of the respondent's property with an area of 18 square meters. That the demolition of 1/3 portion of the house of the petitioners may cause the destruction of the rest of the house does not constitute a justification for the court to order the demolition of the entire structure.

In *People v. Court of Appeals*,<sup>[29]</sup> this Court held that if a court is authorized by statute to entertain jurisdiction in a particular case only and undertakes to exercise the jurisdiction in a case to which the statute has no application, the judgment rendered is void. The lack of statutory authority to make a particular judgment is akin to lack of subject-matter jurisdiction.

The jurisdiction of the RTC on appeal is confined to determining whether the decision of the MTC ordering the eviction of the petitioners from the respondent's property is in accord with the evidence and the law. It does not include the jurisdiction to order the eviction of the petitioners and the demolition of their house located on Lot 13, which is a public alley. As the RTC declared in its Decision dated January 29, 2001, if the respondent believes that a portion of the petitioners' house on Lot 13 is a nuisance, or that the petitioners and their tenants should not be allowed to use his property (including the gate to Jasmin Street as a means of ingress and egress) then the remedy of the respondent is elsewhere, not in the MTC in an action for unlawful detainer.

IN LIGHT OF ALL THE FOREGOING, the April 19, 2001 Order of the Regional Trial Court in Civil Case No. 00-41612 is SET ASIDE. The March 6, 2000 Decision of the Municipal Trial Court, as affirmed by the Regional Trial Court with modification, is REINSTATED. No costs.

**SO ORDERED.**

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

---

[1] Penned by Associate Justice Delilah Vidallon-Magtolis, with Associate Justices Candido V. Rivera (retired) and Sergio L. Pestaño (retired), concurring.

[2] CA Rollo, pp. 44-45.

[3] Rollo, p. 93.

[4] Id. at 95

[5] Rollo, p. 142.

[6] CA Rollo, pp. 99-106.

[7] Id. at 124-125.

[8] Id. at 126-132.

[9] Rollo, pp. 263-265.

[10] Id. at 71-82.

[11] Id. at 77.

[12] Id. at 275-285.

[13] Rollo, pp. 284-285.

[14] Id. at 287-290.

[15] Id. at 83-86.

[16] Id. at 86.

[17] Rollo, p. 85.

[18] Rollo, pp. 57-58.

[19] Rollo, p. 310.

[20] Id. at 34.

[21] Id. at 142.

[22] Rollo, p. 78.

[23] See *Rosales v. Court of Appeals*, G.R. No. 137566, 28 February 2001, 353 SCRA 179.

[24] *De la Cruz v. Paras*, G.R. No. L-41053, 27 February 1976, 69 SCRA 556.

[25] Section 8, Rule 39, Rules of Court.

[26] *Moslem v. Soriano*, G.R. No. L-36837, 17 August 1983, 124 SCRA 190.

[27] *Co. v. Militar*, G.R. No. 149912, 29 January 2004, 421 SCRA 455.

[28] *Cansino v. Court of Appeals*, G.R. No. 125799, 21 August 2003; 409 SCRA 403.

[29] G.R. No. 144332, 10 June 2004; 431 SCRA 610.

**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.