

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE SPS. ANGELITO PEREZ AND JOCELYN PEREZ, RESPONDENTS.

G.R. No. 187640. June 15, 2011

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-187640/>

VELASCO JR., J.:

Before Us are two Petitions for Review on Certiorari under Rule 45 docketed as G.R. No. 187640 and G.R. No. 187687, seeking the review of the Decision and Resolution of the Court of Appeals (CA) dated October 23, 2008 and April 28, 2009, respectively, in CA-G.R. SP No. 96534. We consolidated the two cases as they involve identical parties, arose from the same facts, and raise interrelated issues.

The Facts

In 1988, spouses Angelito Perez and Jocelyn Perez (Spouses Perez) obtained a revolving credit line from Philippine National Bank's (PNB's) branch in Cauayan City, Province of Isabela. The credit line was secured by several chattel mortgages over palay stocks inventory and real estate mortgages over real properties.

Sometime in 2001, Spouses Perez defaulted on their financial obligations, prompting PNB to institute extra-judicial foreclosure proceedings over the aforementioned securities on November 13 of that year. On November 19, 2001, the sheriff instituted a Notice of Extra-Judicial Sale for the mortgaged properties by public auction on December 20, 2001.

Meanwhile, on November 26, 2001, Spouses Perez filed an Amended Complaint for Release or Discharge of Mortgaged Properties, Breach of Contract, Declaration of Correct Amount of Obligation, Injunction, Damages, Annulment of Sheriff's Notice of Extra-Judicial Sale, with a Prayer for the Issuance of a Preliminary Mandatory Injunctive Writ and a Temporary Restraining Order docketed as Civil Case No. 20-1155. [1]

At the hearing of the application for the issuance of a writ of preliminary mandatory injunction on April 19, 2002, Spouses Perez and their counsel failed to appear. As a result, the prayer for injunctive relief was denied.

Similarly, at the pre-trial conference scheduled on September 19, 2002, Spouses Perez and their counsel again failed to appear. Spouses Perez alleged that they previously filed a Motion for Postponement dated August 28, 2002. On the same date, the trial court issued an Order denying the Motion for Postponement and, accordingly, dismissed the case.

Spouses Perez then filed a Motion for Reconsideration which was subsequently denied. They also filed a Second Motion for Reconsideration dated January 16, 2003 which was also denied by the trial court.

After this, Spouses Perez filed a Notice of Appeal. It was also denied by the trial court in an Order dated April 11, 2003 for being filed out of time. Spouses Perez then filed a Motion for Reconsideration dated April 29, 2003 seeking the reconsideration of the Order dismissing the appeal.

The Motion for Reconsideration dated April 29, 2003 was originally set for hearing on July 30, 2003. However,

Spouses Perez filed five (5) motions to postpone the hearing. The trial court granted the first four (4) motions but denied the fifth one. Spouses Perez filed a Motion for Reconsideration of the Order denying the fifth Motion for Postponement which was also subsequently denied.

Consequently, Spouses Perez appealed the denial of their Motion for Reconsideration to the CA. The petition was docketed as CA-G.R. SP No. 85491. On January 25, 2005, the CA rendered a Decision denying the petition filed by Spouses Perez. It reasoned:

Neither did respondent court gravely abuse its discretion in resolving to dismiss Civil Case No. 20-1155 for failure of the plaintiffs and their time, allegedly because their counsel had to attend a pre-trial hearing in another case. True is it that procedural rules may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his noncompliance with the procedure required. But equally true is it that the law mandates that the appearance of parties at the pre-trial conference is mandatory. Here, as borne out by the records of this case, counsel for petitioners received the notice of pre-trial conference in another case a long while before they were notified of the pre-trial conference in the case at bench. As shown in the notice dated August 15, 2002, counsel already knew that the pre-trial conference in the present case was set for September 19, 2002. By the time he received the notice of pre-trial hearing in the case at bench on August 22, 2002, counsel thus must have seen and realized the obvious conflict in schedules between the two cases. However, instead of taking timely measures to prevent an impending snafu, it took counsel more than a week to file a motion for postponement of the pre-trial conference in Civil Case No. 20-1155. Worse, although received by respondent court on September 3, 2002, that motion did not contain any request that said motion be scheduled for hearing. Equally distressing, it is not clearly shown that the requirement on notice to the other party was likewise complied with. Counsel evidently failed to take into account the fact that, just like him, the court must need also to calendar its own cases. Further, as stressed by respondent court in its challenged order of September 19, 2002, petitioners' counsel works for a law firm staffed by several lawyers, and any of these lawyers could have represented petitioners at the pre-trial conference in this case. That counsel had to allegedly appear in another case (which purportedly explained his inability to appear in the present case) is a stale, banal, and prosaic excuse. Some such flimsy ratiocination, added to counsel's filing of an erroneous pleading (the second motion for reconsideration), which because it is a prohibited pleading, unfortunately did not toll the running of the prescriptive period for filing a notice of appeal, did prove fatal to petitioner's cause. Settled is the rule that parties are bound by the action or inaction of their counsel; this rule extends even to the mistakes and simple negligence committed by their counsel.

Simply put, petitioners trifled with the mandatory character of a pre-trial conference in the speedy disposition of cases. Petitioners should have known that pre-trial in civil actions has been peremptorily required these many years. It is a procedural device intended to clarify and limit the basic issues between the parties and paves the way for a less cluttered trial and resolution of the case. Its main objective is to simplify, abbreviate and expedite the trial, or, propitious circumstance permitting (as when the parties can compound or compromise their differences), even to totally dispense with it altogether. Thus, it should never be taken lightly - or for granted! A party trifles with it at his peril.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition at bench must be, as it hereby, is DENIED and consequently DISMISSED, for lack of merit. Costs shall be assessed against the petitioners.

SO ORDERED. [2]

Spouses Perez filed a Motion for Reconsideration of the aforementioned decision. Surprisingly, on April 14, 2005, the CA issued an Amended Decision [3] granting the Motion for Reconsideration citing that the higher interest of substantial justice should prevail and not mere technicality. The dispositive part of the Amended Decision reads:

WHEREFORE, finding merit in the motion for reconsideration, we hereby resolve, to wit:

(1)

To SET ASIDE and VACATE our Decision of January 25, 2005;

(2)

To GRANT this petition. Consequently we hereby direct the annulment or invalidation of the following orders issued by the respondent court, to wit:

1.

The April 11, 2003 order, denying petitioners' notice of appeal; and the March 17, 2004 order, denying petitioners' motion for reconsideration thereon;

2.

The September 19, 2002 order, denying petitioners' motion for postponement in Civil Case No. 20-1155 entitled "Sps. Angelito A. Perez v. Philippine National Bank, et al." thereby resulting in the dismissal of the said case;

3.

The January 6, 2003 order, denying petitioners' motion for reconsideration in the above mentioned case; and

4.

The February 7, 2003 order, denying petitioners' second motion for reconsideration in the above stated case.

(3)

To REINSTATE Civil Case No. 20-1155 in the docket of respondent court, the Regional Trial Court of Cauayan City, Branch 20, which is now hereby ordered to conduct the pre-trial therein, and thereafter to proceed to try the case on the merits.

Without costs.

SO ORDERED. [4]

Accordingly, the case was remanded to the trial court. On January 20, 2006, the trial court issued an Order setting the case for hearing on March 8, 2006. The said Order reads in full:

On October 20, 2005, [Spouses Perez] filed their motion to require [PNB] to submit [its] statement of account for the period beginning 1995 to 2000.

The motion was heard on November 7, 2005 but only the counsel for [Spouses Perez] appeared. On December 9, 2005, [PNB] also filed a motion for the production or inspection of books of accounts regarding payments in the years 1997 to 2000 and thereafter, if any. The same motion was heard on December 15, 2005 but again, despite due notice, only the counsel for [Spouses Perez] appeared and reiterated his motions.

WHEREFORE, there being no opposition to the twin motion of [Spouses Perez], the same are hereby granted. Accordingly, let this case be set for hearing on March 8, 2006 at 8:30 o'clock in the morning. [PNB] is hereby directed to prepare and complete within thirty (30) days from receipt of this order a statement of account for [Spouses Perez] covering payments made for the period beginning 1995 to 2000, allowing [Spouses Perez] or their duly authorized representatives to inspect the same at the bank premises during regular banking hours.

SO ORDERED. [5]

PNB, however, failed to receive a copy of the aforementioned order and was, thus, unable to attend the hearing on

March 8, 2006. Questionably, on said date, the trial court issued an Order allowing Spouses Perez to adduce evidence and considered the hearing as a pre-trial conference, to wit:

WHEREFORE, for failure to appear in today's pre-trial and for failure to comply with the order of this Court dated January 20, 2006, [Spouses Perez] are hereby allowed to adduce evidence before the Branch Clerk of Court and the Branch Clerk of Court is ordered to submit her report within ten (10) days.

SO ORDERED. [6]

On March 15, 2006, PNB filed a Motion for Reconsideration[7] of the said Order.

Nevertheless, on July 5, 2006, the trial court decided in favor of Spouses Perez. In its Decision, the trial court denied PNB's Motion for Reconsideration but failed to mention such denial in the dispositive portion of the Decision, viz:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring that due and full payments were made by [Spouses Perez] on their principal obligation to [PNB] including interest and directing the release and discharge of all the properties covered by the real estate mortgages executed by [Spouses Perez];

2. Declaring the Sheriff's Notice of Extrajudicial Sale as null and void, and enjoining defendant from foreclosing any and all of the properties mortgaged by [Spouses Perez] as collateral for the said loan obligations;

3. Ordering [PNB] to pay [Spouses Perez] the sum of:

- ONE HUNDRED FORTY FIVE MILLION ONE HUNDRED SEVENTEEN THOUSAND THREE HUNDRED SIX PESOS AND SIXTY SEVEN CENTAVOS (PHP145,117,306.67) representing the amount overpaid by [Spouses Perez] under the revolving credit loan facility and promissory notes executed between the parties;

- TWO MILLION PESOS (PHP2,000,000.00) as moral damages;

- ONE MILLION FIVE HUNDRED THOUSAND PESOS as Exemplary damages;

[d.] ONE MILLION PESOS (PHP1,000,000.00) as Attorney's Fees and

[e.] Costs of suit.

SO ORDERED. [8]

PNB again filed a Motion for Reconsideration dated July 24, 2006 but due to certain reasons, the counsel for PNB failed to send a copy of the said motion to the trial court. As a result, the trial court denied the Motion for Reconsideration for having been filed outside the reglementary period and concluded that the Decision already became "final and executory by operation of law." [9] Accordingly, the trial court issued an Order of Execution dated August 14, 2006. [10] The very next day, a Writ of Execution was issued to implement the aforesaid order and to demand payment from PNB.

On August 15, 2006, PNB filed a Petition for Relief from Judgment/Order of Execution [11] with a prayer for the issuance of a writ of preliminary injunction, alleging that the failure to file the Motion for Reconsideration was due to mistake and/or excusable negligence. Afterwards, on August 16, 2006, the trial court issued an Order denying the prayer for preliminary injunction. Also, on August 17, 2006, the trial court issued an Order annulling the certificates of title issued to PNB covering the properties subject of the case and directed the Register of Deeds of Isabela to issue new certificates of title in the names of Spouses Perez.

On October 18, 2006, PNB filed a Petition for Certiorari (with Prayer for the Issuance of an Ex-Parte Temporary Restraining Order/Writ of Preliminary Injunction) [12] before the CA docketed as CA-G.R. SP No. 96543 seeking the annulment of the Order of Execution dated August 14, 2006, the Writ of Execution dated August 15, 2006, Order dated August 16, 2006 and the Order dated August 17, 2006. Similarly, on October 30, 2006 and November 6, 2006, PNB filed a Supplement to the Petition for Certiorari (with Urgent Prayer for the Issuance of an Ex-Parte Temporary Restraining Order/Writ of Preliminary Injunction) [13] and an Urgent Motion for the Issuance of an Ex-Parte Temporary Restraining Order with Supplement to Petition, [14] respectively.

Consequently, the CA issued a Resolution dated November 7, 2006, which was received by PNB on November 8, 2006, granting the prayer for a temporary restraining order (TRO) and, likewise, issued a Temporary Restraining Order on the same date. The Resolution reads:

On account of the extreme urgency of the matter and in order not to frustrate the ends of justice, or to render the issues raised herein moot and academic, this Court, pending the resolution of the instant petition, hereby resolves to GRANT [PNB's] prayer for issuance of a temporary restraining order within a period of sixty (60) days from notice hereof or until earlier terminated by this Court, thereby directing public respondent, or any person acting for and on his behalf, to CEASE and DESIST from IMPLEMENTING the assailed Orders dated August 16 and 17, 2006 in Civil Case No. Br. 19-1155 or otherwise ENFORCING the Order of Execution dated August 14, 2006 or the Writ of Execution dated August 15, 2006 in said case.

[Spouses Perez] are, in the meantime, required to file their COMMENT (and not a motion to dismiss) on the petition within ten (10) days from notice hereof and SHOW cause within the same period why a writ of preliminary injunction should not issue.

SO ORDERED. [15]

Despite the issuance of the TRO, Spouses Perez were able to garnish Two Million Six Hundred Seventy-Six Thousand One Hundred Forty Pesos and Seventy Centavos (Php 2,676,140.70) from PNB's account with Equitable PCI Bank (EPCIB) on the same date the TRO was issued, November 7, 2006. In a letter dated November 8, 2006, from Atty. Gerardo I. Banzon, EPCIB's Head of Legal Advisory and Research Department, Legal Services Division, informed PNB regarding this, viz:

As much as we would like to heed to your request for the lifting and that a STOP PAYMENT ORDER of the check issued in favor of the Spouses Perez, be issued immediately, we regret to inform you that Sheriff Asirit, together with the Spouses Perez, went to our Salcedo St. - Legaspi Village at about 10:30am yesterday to pick-up the check. Proceeds of the said check were credited to the account of the Spouses Perez, who has an account with our Cauayan - Isabela branch, before noon yesterday. Regrettably, we were only informed of the existence of the TRO at about 4:49pm yesterday. Moreover, we only received the copy of the TRO itself at 2:07pm today. Sad to say but all matters are already moot and academic. [16] (Emphasis supplied.)

In view of this development, PNB filed a Supplemental Petition for Certiorari (with Urgent Prayer for the Issuance of an Ex-Parte Writ of Preliminary Injunction) [17] seeking additional reliefs for the return or reinstatement of the garnished amount and/or the appointment of a receiver over the said funds to administer and preserve the same pending the final disposition of the case.

The Decision of the Court of Appeals

On October 23, 2008, the CA issued the assailed Decision in CA-G.R. SP No. 96534, [18] granting the petition of PNB. It ruled that the sending of a notice of pre-trial is mandatory and that the Order dated March 8, 2006 issued by the trial court cannot be considered as such. Therefore, the CA held that all orders issued subsequent to the said order are, likewise, null and void. It disposed of the case as follows:

It is not only the Order of March 8, 2006 which allowed the presentation of [Spouses Perez's] evidence ex parte which is null and void. All the Orders assailed in the instant petition, as follows:

- a) Order of Execution dated August 14, 2006;
- b) Writ of Execution dated August 15, 2006;
- c) Order dated August 16, 2006 which denied PNB's application for TRO/preliminary injunction; and
- d) the Order of August 17, 2006 which annulled PNB's fourteen (14) titles and directed issuance of new titles to herein private respondents;

having been issued subsequent to the pre-trial improperly conducted on March 8, 2006 are declared voided and nullified for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

WHEREFORE, in view of the foregoing, the petition is GRANTED. The assailed Orders are declared void and nullified. The trial court is directed to conduct the pre-trial therein after proper notice had been served on both parties and thereafter to proceed to try the case on the merits.

SO ORDERED. [19]

The Decision of the CA, however, failed to address PNB's prayer for the issuance of a writ of mandatory injunction and the return/reinstatement of the Php 2,676,140.70. Thus, PNB filed a Motion for Clarificatory Order and/or Ad Cautelam Motion for Partial Reconsideration. [20] In support of its motion, PNB argued that considering the garnishment of the amount of money was based on the orders already voided by the CA, it is entitled to the return/reinstatement of the garnished amount. On the other hand, Spouses Perez also filed their Motion for Reconsideration. [21]

In a Resolution dated April 28, 2009, the CA denied both motions. Hence, PNB and Spouses Perez filed their separate petitions with this Court assailing both the decision and the resolution of the CA.

The Issues

In G.R. No. 187640, PNB raises the following arguments in support of its petition:

Whether the [CA] has decided a question of substance in a way not in accord with law or with the applicable decisions of this Honorable Court on the following issues:

- Whether a garnishment/execution erected on the same day and date that a TRO is issued to enjoin the garnishment/execution is valid.
- Whether an earlier garnishment effected pursuant to a writ of execution survives the subsequent annulment of the writ.
- Whether the dissipation/loss of, or inability to return/recover the property, constitutes an irreparable injury to warrant the issuance of a mandatory injunction.[22]

In G.R. No. 187687, Spouses Perez raise the following issues for our consideration:

I.

The Respondent Honorable [CA] committed a reversible error on [a] question of law in not dismissing the petition for certiorari outrightly on [the] ground that a petition for certiorari under Rule 65 of [the] 1997 Rules on Civil Procedure is not a substitute for [a] lost appeal[;]

II.

The Respondent Honorable [CA] committed a reversible error on [a] question of law in not dismissing the petition for certiorari on the ground that the decision of the lower court has already become final and

executory; in fact, a writ of execution was already issued and the respondent [PNB] has already partially satisfied the money judgment at its branch of P10,000.00 and then at the Equitable Bank Manila in the sum of P2,676,140.70 and the certificates of title in the name of respondent bank was ordered cancelled and the certificates of titles of the petitioners to the subject properties were reinstated in the name of petitioners who already sold the same to innocent purchasers for value and therefore, by estoppel respondent bank is precluded to assail by petition for certiorari the final and executory decision, writ of execution and partial satisfaction of the money judgment[;]

III.

The Respondent Honorable [CA] committed a reversible error on [a] question of law in not dismissing [the] petition for certiorari outrightly on [the] ground that there are pending petition for relief from judgment and motion for [reconsideration] with the lower court[;]

IV.

The Respondent Honorable [CA] committed a reversible error on [a] question of law in not dismissing the petition for certiorari on [the] ground that the order of the lower court[,] although [it] did not state [the] notice of pre-trial, the respondent bank and its counsel knew that the Honorable [CA] in its Amended Decision in remanding the case to the lower court is to conduct a pre-trial and therefore, there was nothing to suppose that the scheduled hearing was anything other than pre-trial as enunciated by this Honorable Court in the case of Bembo et. al. vs. Court of Appeals, et. al. G.R. No. 116845, November 29, 1995. [23]

The issues presented can be summarized as follows: (1) Whether a petition for certiorari is a proper remedy; and (2) Whether a pre-trial notice is mandatory and, as a consequence, whether the lack of notice of pre-trial voids a subsequently issued decision.

Petition for Certiorari is the Proper Remedy

In their petition, Spouses Perez argue that the filing of a petition for certiorari by PNB before the CA was improper for two reasons: (a) a petition for certiorari is not a substitute for a lost appeal; and (b) there were other pending petitions for relief from judgment and a motion for reconsideration with the lower court.

The argument is bereft of merit.

A special petition for certiorari under Rule 65 of the Rules of Court is availed of when a "tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law." [24]

It is intended to correct errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. Its primary purpose is to keep an inferior court within the parameters of its jurisdiction or to prevent it from committing such grave abuse of discretion amounting to lack or excess of jurisdiction. [25]

The essential requisites for a petition for certiorari under Rule 65 are: (1) the writ is directed against a tribunal, a board, or an officer exercising judicial or quasi-judicial functions; (2) such tribunal, board, or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. [26]

In *Chamber of Real Estate and Builders Associations, Inc. v. The Secretary of Agrarian Reform*, the Court discussed the differences between "excess of jurisdiction", "without jurisdiction" and "grave abuse of discretion", to wit:

Excess of jurisdiction as distinguished from absence of jurisdiction means that an act, though within the general power of a tribunal, board or officer, is not authorized and invalid with respect to the particular proceeding, because the conditions which alone authorize the exercise of the general power in respect of it are wanting. Without jurisdiction means lack or want of legal power, right or authority to hear and determine a cause or causes, considered either in general or with reference to a particular matter. It means lack of power to exercise authority. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility, and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. [27]

In *Agulto v. Tecson*, We likewise discussed that an order by the trial court allowing a party to present his evidence ex-parte without due notice of pre-trial to the other party constitutes grave abuse of discretion. [28]

Here, the trial court failed to issue a proper notice of pre-trial to PNB. Thus, it committed grave abuse of discretion when it issued the Order dated March 8, 2006 allowing Spouses Perez to present their evidence ex-parte.

Considering that the trial court's action in issuing such order constituted grave abuse of its discretion, PNB availed of the proper remedy when it filed a petition for certiorari with the CA.

Nevertheless, even with the existence of the remedy of appeal, this Court has, in certain cases, allowed a writ of certiorari where the order complained of is a patent nullity. [29] In the instant case, the lack of notice of pre-trial rendered all subsequent proceedings null and void. Hence, the CA was correct in not dismissing the petition for certiorari.

Moreover, it is a basic tenet that a petition for certiorari under Rule 65 is an original and independent action. It is not a part or a continuation of the trial which resulted in the rendition of the judgment complained of.[30] Neither does it "interrupt the course of the principal action nor the running of the reglementary periods involved in the proceedings, unless an application for a restraining order or a writ of preliminary injunction to the appellate court is granted." [31]

Evidently, the argument that the petition for certiorari is precluded by the motion for reconsideration and the petition for relief from judgment filed before the trial court is untenable.

Pre-trial Notice is Mandatory

Spouses Perez further contend that the Order dated January 8, 2006 setting the case for hearing cannot be interpreted any other way except as a notice for pre-trial. They assert that the Amended Decision of the CA dated April 14, 2005 remanded the case to the lower court to conduct a pre-trial; therefore, the hearing in question was just following the order of the CA to set the case for a pre-trial.

We do not agree.

Section 3, Rule 18 of the 1997 Rules on Civil Procedure unequivocally requires that "[t]he notice of pre-trial shall be served on counsel, or on the party who has no counsel." [32] It is elementary in statutory construction that the word "shall" denotes the mandatory character of the rule. Thus, it is without question that the language of the rule undoubtedly requires the trial court to send a notice of pre-trial to the parties.

More importantly, the notice of pre-trial seeks to notify the parties of the date, time and place of the pre-trial and to require them to file their respective pre-trial briefs within the time prescribed by the rules. Its absence, therefore, renders the pre-trial and all subsequent proceedings null and void. [33]

In *Pineda v. Court of Appeals*, [34] the Court therein discussed the importance of the notice of pre-trial. It pointed out that the absence of the notice of pre-trial constitutes a violation of a person's constitutional right to due process. Further, the Court ruled that all subsequent orders, including the default judgment, are null and void and without effect, viz:

Reason and justice ordain that the court a quo should have notified the parties in the case at bar. Otherwise, said parties without such notice would not know when to proceed or resume proceedings. With due notice of the proceedings, the fate of a party adversely affected would not be adjudged ex parte and without due process, and he would have the opportunity of confronting the opposing party, and the paramount public interest which calls for a proper examination of the issues in any justiciable case would be subserved. The absence, therefore, of the requisite notice of pre-trial to private respondents through no fault or negligence on their part, nullifies the order of default issued by the petitioner Judge for denying them their day in court -- a constitutional right. In such, the order suffers from an inherent procedural defect and is null and void. Under such circumstance, the granting of relief to private respondents becomes a matter of right; and the court proceedings starting from the order of default to the default judgment itself should be considered null and void and of no effect. (Emphasis supplied.)

More recently, in *Agulto*, [35] this Court again had the chance to rule upon the same issue and reiterated the importance of the notice of pre-trial, to wit:

The failure of a party to appear at the pre-trial has adverse consequences. If the absent party is the plaintiff, then he may be declared non-suited and his case dismissed. If it is the defendant who fails to appear, then the plaintiff may be allowed to present his evidence ex parte and the court to render judgment on the basis thereof.

Thus, sending a notice of pre-trial stating the date, time and place of pre-trial is mandatory. Its absence will render the pre-trial and subsequent proceedings void. This must be so as part of a party's right to due process. (Emphasis supplied.)

In the case at bar, the order issued by the trial court merely spoke of a "hearing on March 8, 2006" [36] and required PNB "to prepare and complete x x x a statement of account." [37] The said order does not mention anything about a pre-trial to be conducted by the trial court.

In contrast, the Notice of Pre-trial dated August 22, 2002 issued by the trial court categorically states that a pre-trial is to be conducted, requiring the parties to submit their respective pre-trial briefs. It reads:

NOTICE OF PRE-TRIAL

You are hereby notified that the Pre-trial of this case will be held on September 19, 2002 at 8:30 o'clock in the morning.

Pursuant to the Supreme Court Circular No. 1-89, you are requested to submit Pre-trial brief, at least three (3) days before said date, containing the following:

- Brief Statement of the parties respective claims and defenses;
- The number of witnesses to be presented;
- An abstract of the testimonies of witnesses to be presented by the parties and approximate number of hours that will be required for the presentation of their respective evidence;
- Copies of all document intended to be presented;
- Admission;
- Applica[ble] laws and jurisprudence;

- The parties['] respective statement of the issues; and
- The available trial dates of counsel for complete evidence presentation, which must be within a period of three (3) months from the first day of trial.

You are further warned that the failure to submit said brief could be a ground for non-suit or declaration of default.

Cauayan City, Isabela, this 19[th] day of August 2002. [38] (Emphasis supplied.)

What is more, PNB even claims that it failed to receive a copy of the said order. Clearly, no amount of reasoning will logically lead to the conclusion that the trial court issued, or that PNB received, a notice of pre-trial.

As such, We find that the CA aptly held that the Order dated March 8, 2006, which declared the hearing to be a pre-trial and allowed Spouses Perez to adduce evidence ex parte, is void. Similarly, its ruling that the Decision dated July 5, 2006 and all subsequent orders [39] issued pursuant to the said judgment are also null and void, is proper.

In *Padre v. Badillo*, it was held that "[a] void judgment is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect." [40]

Necessarily, it follows that the nullity of the Writ of Execution carries with it the nullity of all acts done which implemented the writ. This includes the garnishment of Php 2,676,140.70 from PNB's account. Its return to PNB's account is but a necessary consequence of the void writ.

Similarly, the nullity of the Order dated August 17, 2006, [41] which cancelled PNB's fourteen (14) titles and directed the issuance of new titles to Spouses Perez, has the effect of annulling all the fourteen (14) titles issued in the name of Spouses Perez. The titles should revert back to PNB.

The argument that the subject properties were sold to certain innocent purchasers for value cannot stand. First of all, such allegation is a question of fact, not a question of law. Time and again, this Court has pronounced that the issues that can be raised in a petition for review on certiorari under Rule 45 are limited only to questions of law. [42] The test of whether the question is one of law or of fact is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact. [43]

Furthermore, it is settled that matters not raised in the trial court or lower courts cannot be raised for the first time on appeal. "They must be raised seasonably in the proceedings before the lower courts. Questions raised on appeal must be within the issues framed by the parties; consequently, issues not raised before the trial court cannot be raised for the first time on appeal." [44] Spouses Perez never raised this issue before the CA. Hence, they cannot raise it before this Court now.

WHEREFORE, the petition in G.R. No. 187640 is GRANTED. The Decision of the Court of Appeals (CA) in CA-G.R. SP No. 96534 dated October 23, 2008 is AFFIRMED with the MODIFICATION that the July 5, 2006 Decision of the Regional Trial Court of Isabela in Civil Case No. 20-1155 is NULLIFIED and SET ASIDE, the titles issued to Spouses Angelito Perez and Jocelyn Perez by virtue of the aforesaid August 17, 2006 Order and all derivative titles emanating thereon are cancelled and declared null and void and directing the Register of Deeds of Isabela to issue new certificates of title in the name of the Philippine National Bank (PNB) to replace the fourteen (14) titles previously issued to Spouses Angelito and Jocelyn Perez pursuant to the August 17, 2006 Order and for Spouses Angelito and Jocelyn Perez to pay to PNB the amount of PhP 2,676,140.70 representing the amount

garnished from PNB's account with Equitable PCI Bank (EPCIB) by virtue of the August 15, 2006 Writ of Execution issued pursuant to the July 5, 2006 Decision.

As modified, the CA Decision shall read:

WHEREFORE, in view of the foregoing, the petition is GRANTED. The following orders and writ issued by the Regional Trial Court of Isabela in Civil Case No. 20-1155 are declared null and void:

- Order dated March 8, 2006 which allowed the presentation of [Spouses Perez's] evidence ex parte;
- Order of Execution dated August 14, 2006;
- Writ of Execution dated August 15, 2006;
- Order dated August 16, 2006 which denied PNB's application for TRO/preliminary injunction; and
- the Order of August 17, 2006 which annulled PNB's fourteen (14) titles and directed issuance of new titles to herein private respondents;

The July 5, 2006 Decision of the Isabela RTC is nullified and set aside.

The fourteen (14) new titles issued to Spouses Angelito Perez and Jocelyn Perez by virtue of the August 17, 2006 Order and all derivative titles issued therefrom are declared null and void and cancelled. The Register of Deeds of Isabela are directed to cancel said titles issued to Spouses Perez and issue new certificates of titles in the name of Philippine National Bank (PNB) which shall contain a memorandum of the annulment of the outstanding duplicate certificates issued to said spouses.

Spouses Angelito Perez and Jocelyn Perez are ordered to pay PNB the amount of P2,767,140.70 representing the amount illegally garnished from PNB's account with Equitable PCI Bank (EPCIB) by virtue of the August 15, 2006 writ of execution with interest thereon at six percent (6%) per annum from August 15, 2006 up to the finality of judgment and at twelve percent (12%) per annum from the date of finality of judgment until paid.

The trial court is directed to conduct further proceedings in Civil Case No. 20-1155 with dispatch.

The petition in G.R. No. 187687 is DENIED for lack of merit.

No costs.

SO ORDERED.

Leonardo-De Castro, Bersamin,** Del Castillo, and Perez, JJ., concur.
Velasco, Jr., Acting Chairperson[*]

[*] Per Special Order No. 1003 dated June 8, 2011.

[**] Additional member per Special Order No. 1000 dated June 8, 2011.

[1] Rollo (G.R. No. 187640), pp. 102-139.

[2] Id. at 74-76.

[3] Id. at 155-166.

[4] Rollo (G.R. No. 187640), pp. 165-166.

[5] Rollo (G.R. No. 187640), p. 168.

- [6] Rollo (G.R. No. 187640), p. 169.
- [7] Rollo (G.R. No. 187640), pp. 170-171.
- [8] Rollo (G.R. No. 187640), p. 200.
- [9] Rollo (G.R. No. 187640), p. 207.
- [10] Rollo (G.R. No. 187640), pp. 206-209.
- [11] Rollo (G.R. No. 187640), pp. 212-217.
- [12] Rollo (G.R. No. 187640), pp. 263-318.
- [13] Rollo (G.R. No. 187640), pp. 319-353.
- [14] Rollo (G.R. No. 187640), pp. 354-365.
- [15] Rollo (G.R. No. 187640), pp. 367-368.
- [16] Rollo (G.R. No. 187640), pp. 382-383.
- [17] Rollo (G.R. No. 187640), pp. 384-406.
- [18] Rollo (G.R. No. 187640), pp. 69-86.
- [19] Rollo (G.R. No. 187640), p. 86.
- [20] Rollo (G.R. No. 187640), pp. 424-441.
- [21] Rollo (G.R. No. 187640), pp. 442-507.
- [22] Rollo (G.R. No. 187640), pp. 39-40.
- [23] Rollo (G.R. No. 187687), pp. 22-25.
- [24] Section 1, Rule 65, 1997 Rules of Civil Procedure.
- [25] Chamber of Real Estate and Builders Associations, Inc. v. The Secretary of Agrarian Reform, G.R. No. 183409, June 18, 2010.
- [26] Chamber of Real Estate and Builders Associations, Inc. v. The Secretary of Agrarian Reform, G.R. No. 183409, June 18, 2010.
- [27] Chamber of Real Estate and Builders Associations, Inc. v. The Secretary of Agrarian Reform, G.R. No. 183409, June 18, 2010.
- [28] G.R. No. 145276, November 29, 2005, 476 SCRA 395, 403.
- [29] Pearson v. Intermediate Appellate Court, G.R. No. 74454, September 3, 1998, 295 SCRA 27.
- [30] Yasuda v. Court of Appeals, G.R. No. 112569, April 12, 2000, 300 SCRA 385, 394; citations omitted.
- [31] Id.
- [32] Emphasis supplied.
- [33] Pineda v. Court of Appeals, No. L-35583, September 30, 1975, 67 SCRA 228, 234.
- [34] Id.

[35] Supra note 28, at 402.

[36] Rollo (G.R. No. 187640), p. 168.

[37] Id.

[38] Rollo (G.R. No. 187687), pp. 687-688.

[39] Writ of Execution dated August 15, 2006; Order dated August 16, 2006; and Order dated August 17, 2006.

[40] Padre v. Badillo, G.R. No. 165423, January 19, 2011; citing Polystyrene Manufacturing Company, Inc. v. Privatization and Management Office, G.R. No. 171336, October 4, 2007, 534 SCRA 640, 651.

[41] The Order annulled PNB's fourteen (14) titles and directed the issuance of new titles to Spouses Perez.

[42] Superlines Transportation Company, Inc. v. ICC Leasing & Financing Corporation, G.R. No. 150673, February 28, 2003, 398 SCRA 508, 517.

[43] Goyena v. Ledesma-Gustilo, G.R. No. 147148, January 13, 2003, 395 SCRA 117, 123.

[44] Ayson v. Enriquez Vda. de Carpio, G.R. No. 152438, June 17, 2004, 432 SCRA 449, 456.

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.