

THE DIRECTOR OF LANDS, IN BEHALF OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER, VS. THE COURT OF FIRST INSTANCE OF TARLAC ET AL., RESPONDENTS.

G.R. No. 29837. August 01, 1928

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-29837/>

VILLA-REAL, J.:

The ground for this petition for a writ of certiorari is that the respondent court has exceeded its jurisdiction in ordering the issuance of a writ of possession in cadastral proceeding No. 15 of the Court of First instance of Tarlac (G. L. R. O. Record No. 22), entitled the Director of Lands, applicant, vs. Juliana Abaya et al., claimants, in favor of the herein respondents surnamed Villa-Abrille, pending the approval in said court of the bill of exceptions presented by the petitioner, to perfect the appeal taken by him from the judgment of the respondent court decreeing the adjudication and registration of the parcels of land in question, and it is prayed that an order be issued requiring the respondent court to forward and certify to this court the record of the proceedings in question, in order that they may be reviewed by this court and that in due time the proceedings had and orders issued with respect to said writ of possession be held void and of no effect.

For the solution of the question of procedure raised in the present appeal, the following are the necessary and pertinent facts gathered from the pleadings and evidence in the record.

The Villa-Abrille brothers, respondents herein, applied for the confirmation and registration of their title to certain parcels of land in accordance with the Land Registration Law, which originated proceeding No. 369 (G. L. R. O. Record No. 14366). During the pendency of said registration proceeding, cadastral proceeding No. 15 was instituted in the Court of First Instance of Tarlac (G. L. R. O. Record No. 225), in which the Director of Lands was the applicant and Juliana Abaya and others, the claimants, and which included the two parcels of land covered by said application, which were also claimed by the same parties in the aforesaid registration proceeding, each party alleging to have been in possession of the same. Both cases having been jointly heard and submitted for decision, the presiding judge of the Court of First Instance of Tarlac applied for a vacation.

While said proceedings were in this state, the justice of the peace of the capital of Tarlac, exercising the jurisdiction delegated to him by the Judge of the Court of First Instance of Tarlac, and upon petition of the Director of Lands, issued a writ of preliminary injunction ex parte against the herein respondents, the Villa-Abrille brothers, claimants in said proceedings, forbidding them to enter upon said lands. Said respondents immediately moved for the dissolution of the said injunction, but this petition was denied by the court, which, however, ordered those represented by the Director of Lands, to give a bond of P12,000 in order that said injunction might stand.

Upon the return of the Judge of the Court of First Instance from his vacation, the said respondents, the Villa-Abrille brothers, filed another motion for the dissolution of the injunction, with a complaint for indemnity of damages. After the proper evidence had been introduced, the Court of First Instance of Tarlac rendered judgment

in favor of said respondents awarding them damages, and vacating the writ of preliminary injunction issued on April 30, 1927, by the justice of the peace of the capital, the Villa-Abrilles entering upon the possession of the land in question. In order to avoid being disturbed in the possession of said land, the aforementioned respondents Villa-Abrille applied for a writ of possession, which was granted by the lower court, a decree being issued on May 11, 1928, ordering that the possession of the lands adjudicated to them in the judgment rendered in the cadastral proceeding be given them, notwithstanding the appeal taken from said judgment, unless the opponents gave a bond in the sum of P7,000. Counsel for the Director of Lands took exception to this ruling and filed a motion for reconsideration, which was denied by the court.

In view of the facts just related, the question arises as to whether or not the respondent court exceeded its powers in issuing a writ ordering that the petitioners be placed in the possession of the lands to which a decree of confirmation and registration of title had been issued in their favor, which was excepted to by the opponents, who appealed and presented a bill of exceptions, the approval of which is still pending.

The pertinent part of section 17 of Act No. 496, as amended by section 3 of Act No. 1680, reads as follows:

"SEC. 17. The Court of Land Registration, in all matters over which it has jurisdiction, may enforce its orders, judgments, or decrees in the same manner as orders, judgments, and decrees are enforced in the Courts of First Instance, including a writ of possession directing the governor or sheriff of any province, or the sheriff of the City of Manila, to place the applicant in possession of the property covered by a decree of the court in his favor; * * *"

The petitioner maintains that this legal provision does not authorize the issuance of a writ of possession except when there is a final decree of registration and not a mere confirmation of title subject to an appeal, and that the provisions of the Code of Civil Procedure relative to the execution of judgments are inapplicable to the writ of possession in registration cases, citing in support of this contention the case of *Manlapas and Tolentino vs. Llorente* (48 Phil., 298), wherein the court said:

"The law has not made applicable to the writ of possession provided for in section 17 of Act No. 496 and its amendments, the provisions of the Code of Civil Procedure regarding execution of judgments."

In said case, the precise questions raised were whether the successor of an applicant in whose favor a decree of registration had been issued can ask for the issuance of a writ of possession after five years had elapsed since said decree had become final, and whether the right to ask for the execution of said decree through the issuance of a writ of possession had prescribed.

When this court said, in the above-quoted decision, that the provisions of the Code of Civil Procedure with respect to the execution of judgments are inapplicable to the writ of possession, it referred to the time within which it can be issued, and not to whether or not it can be issued before the expiration of the period assigned for the filing of the bill of exceptions.

As to whether or not the word "decree" used in the legal provision above quoted, refers to the final decree of registration, said legal provision does not exactly say so. The English text of section 38 of Act No. 496 reads as follows:

"SEC. 38. If the court after hearing finds that the applicant has title as stated in his application, and proper for registration, a decree of confirmation and registration shall be entered. * * *"

And the Spanish text of the same law is as follows:

"ART. 38. Si despues de la vista el tribunal estimare que el titulo del solicitante es tal y como lo manifiesta en la solicitud y que se puede registrar, dictara el decreto correspondiente que lo legalice y se procedera a hacer la

inscripcion. * * *"

It may be deduced from both texts that the word "decree" refers not only to the registration but also to the confirmation of the title.

Paragraph 2 of section 10 of Act No. 2347, entitled "An Act providing for the judicial reorganization of the Courts of First Instance and of the Court of Land Registration," provides as follows:

"SEC. 10 * * * * *

"In the dispatch of registration cases, the rules and provisions contained in Act Numbered Four Hundred and ninety-six, the Land Registration Act, as amended, shall be applied, unless otherwise provided by this Act. In all matters of procedure not provided in said Act, the rules and provisions contained in the Code of Procedure in civil actions and special proceedings shall be applied in so far as the same may be applicable."

If, as has been said, the word "decree," used in section 17 of Act No. 496, as amended by section 3 of Act No. 1680 quoted above, is used in section 38 of said Act No. 496, in connection with the confirmation as well as registration of title, and if said section 17 of Act No. 496, as amended, does not limit the use of the said word "decree" to the registration, it must be taken in its general sense and applied, not only to the registration, but also to the confirmation of title. If this is so, the provisions and rules contained in the Code of Civil Procedure, especially those in section 144 of said Code, are applicable to the issuance of writs of possession.

The only legal provision which seemed in conflict with this conclusion is that contained in section 14 of Act No. 496, as amended by section 4 of Act No. 1108, the pertinent part of which is as follows:

"SEC. 4. Section fourteen of said Act is hereby repealed and a new section fourteen is hereby inserted, to read as follows:

"SEC. 14. Every order, decision, and decree of the Court of Land Registration may be reviewed by the Supreme Court in the same manner as an order, decision, decree, or judgment of a Court of First Instance might be reviewed, and for that purpose sections one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, four hundred and ninety-six, four hundred and ninetyseven (except that portion thereof relating to assessors), four hundred and ninety-nine, five hundred, five hundred and one, five hundred and two, five hundred and three, five hundred and four, five hundred and five, five hundred and six, five hundred and seven, five hundred and eight, five hundred and nine, five hundred and eleven, five hundred and twelve, five hundred and thirteen, five hundred and fourteen, five hundred and fifteen, five hundred and sixteen, and five hundred and seventeen of Act Numbered One hundred and ninety, entitled 'An Act providing a Code of Procedure in civil actions and special proceedings in the Philippine Islands,' are made applicable to all the proceedings of the Court of Land Registration and to a review thereof by the Supreme Court, except as otherwise provided in this section. * * *"

It will be seen that in enumerating in said section, the sections of the Code of Civil Procedure applicable to the revision by this court of any order, judgment, or decree of the Court of Land Registration, section 144 of the Code of Civil Procedure mentioned above was omitted. Upon careful examination of the purpose of said section, it will be noted that the same refers to the revision of the orders, judgments and decrees of the Court of Land Registration. For such revision, the provisions of section 141 of the Code of Civil Procedure defining exceptions, are necessary; of section 142, which establish the manner in which they are to be presented; of section 143 which provide for the manner in which bills of exceptions are to be perfected; of section 496 which gives the procedure to be followed in the Supreme Court; of section 497 which gives the questions of law to be reviewed; of section 499, which provides how a judge who fails to certify bills of exceptions may be compelled to do so; of section 500 which enumerates the cases wherein bills of exceptions must be dismissed; of section 501, which prescribes

how incomplete records are to be amended; of section 502 on the effect of dismissing a bill of exceptions; of section 503 which provides that a judgment is not to be reversed on technical grounds; of section 504 on the power of the Supreme Court to designate another judge to hold a new trial of the case; of section 505 on the procedure to be followed in the new trial; of section 506 on the remission of a certified copy of the judgment to the Court of First Instance; of section 507 on the notification of the judgment by the clerk of the Court of First Instance; of section 508 on the remission to the Court of First Instance of a certified copy of the Supreme Court's decision; of section 509 relative to the excepting party who is not entitled to the reversal with respect to another party; of section 511 referring to extraordinary orders to be enforced by the lower courts; of section 512 referring to the printing of the bill of exceptions; of section 513 referring to the procedure in case of default caused by fraud, accident, or mistake; of section 514 referring to the procedure relating to writs of certiorari; of section 515 referring to the procedure relative to mandamus; of section 516 referring to procedure in prohibition proceedings; of section 517 referring to preliminary injunctions in proceedings relating to certiorari, mandamus and prohibition.

It will be seen that all these sections of the Code of Civil Procedure refer strictly to the requisites and necessary procedure for the revision through an appeal as well as through certiorari, mandamus and prohibition of the orders, judgments and decrees of the Court of Land Registration.

Moreover, in registration proceedings, whether ordinary or cadastral, the only question involved is the claimant's or applicant's title, the confirmation and registration of which are sought, and the review of a decree rendered to that effect has no other object than to see if said judicial order is in accordance with the facts proven and the law.

The power conferred upon the court by section 144 of the Code of Civil Procedure that, for special reasons appearing in the bill of exceptions, and before the expiration of the term for the filing thereof, it may order that the execution of the judgment be not suspended, is not strictly a requisite or rule of necessary procedure for the review of an order, judgment or decree of a Court of Land Registration; hence it was not included in the enumeration of the sections of the Code of Civil Procedure applicable to the review of the orders, judgments and decrees of said court, contained in section 14 of Act No. 496, as amended by Act No. 1108.

In the case of Soriano vs. Aquino (31 Phil., 176, 180), this court held section 144 of the Code of Civil Procedure applicable to land registration cases in solving the question raised by the appellant relative to the requirement of the bond for the suspension of the issuance of a writ of possession before the expiration of the period for the filing of the bill of exceptions, in the following terms:

"Notwithstanding the provision that the filing of a bill of exceptions shall stay execution of the judgment until the final determination of the action, it is also within the discretion of the court, according to section 144 of the Code of Civil Procedure to require as a condition of a stay of execution that a bond shall be given reasonably sufficient to secure the performance of the judgment appealed from in case it be affirmed in part or wholly. The trial court has not, therefore, incurred the fifth error specified in appellant's brief, with reference to requiring the filing of the bond mentioned in the order of the court of August 11, 1913."

As to the contention that the exercise of the right to obtain the confirmation and registration of a title is not an "action" as this word is defined in section 1 of the Code of Civil Procedure and as used in section 144 of the same Code, which makes this section inapplicable to ordinary registration or cadastral proceedings, it suffices to cite this court's decision in the case of Lopez Castelo vs. Director of Lands (48 Phil., 589), the first paragraph of the syllabus of which reads as follows:

"LAND REGISTRATION; ACTION 'IN REM'; CONCLUSIVENESS OF DECREE.—A land registration proceeding is in the nature of a suit in rem; the decree entered therein operates directly on the land and, in the absence of fraud, is 'conclusive upon and against all persons' (sec. 1, Act No. 496) though they may not have

received actual notice of the proceedings."

It is also contended that section 144 of the Code of Civil Procedure, above cited, refers to the execution of a judgment and not of a decree, and that a decree is not a judgment. In answer to this it is sufficient to cite what this court said in the case of *Government of the Philippine Islands vs. Abural* (39 Phil., 996, 1001), which is as follows:

"After trial in a cadastral case, three actions are taken. The first adjudicates ownership in favor of one of the claimants. This constitutes the decision—the judgment—the decree of the court, and speaks in a judicial manner.

* * *"

Moreover, public order and the interests of the parties demand that once a judgment of confirmation of title has been rendered, the successful party's interest be protected from any damage which the defeated party may cause him by remaining in the possession to which the successful party is entitled by virtue of his title and of the court's decree confirming it, unless said defeated party secures the successful party from said damage.

For the foregoing reasons, we are of the opinion, and so hold, that section 144 of the Code of Civil Procedure is applicable to the execution of decrees of confirmation of title through the issuance, for special reasons which must appear in the bill of exceptions, of a writ of possession before the expiration of the period for the filing of said bill.

By virtue whereof, the remedy sought is denied and the writ of preliminary injunction issued is hereby dissolved, without express pronouncement as to costs. So ordered.

Avanceña, C. J., Johnson, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

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.