

FELIX ARAMBULO, PETITIONER, VS. THE COURT OF FIRST INSTANCE OF LAGUNA AND THE MUNICIPALITY OF SANTA ROSA, LAGUNA, RESPONDENTS.

G.R. No. 31814. August 09, 1929

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-31814/>

VILLA-REAL, J.:

Felix Arambulo filed this petition for a writ of certiorari against the Court of First Instance of Laguna and the municipality of Santa Rosa, Laguna, praying that, after proper legal proceedings, the decree of the respondent court of May 16, 1929, ordering execution of the judgment of said court rendered on November 27, 1914, be declared null and void.

As all the pertinent facts necessary for the decision of the question of law raised herein appear in the petition for certiorari and the documents attached thereto, as well as in the answer filed by the respondents and the documents attached thereto, there is no necessity for ordering the transmission to this court of the record of civil case No. 1725 of the Court of First Instance of Laguna, for recovery of possession, wherein the order whose annulment is prayed for herein, was entered.

The pertinent facts necessary for the decision of the instant petition are as follows:

On November 27, 1914, the respondent Court of First Instance of Laguna rendered judgment in civil case No. 1725 of said court, the other respondent, the municipality of Santa Rosa, Laguna, being the plaintiff, and the petitioner herein, Felix Arambulo, being the defendant, declaring the defendant in default, and ordering him to vacate the land in question.

The judgment having become final and subject to execution, the provincial fiscal of Laguna, acting in behalf of the municipality of Santa Rosa, Laguna, filed a motion in said court on March 24, 1915, praying that a writ of execution of said judgment be issued to the provincial sheriff of Laguna.

As no writ of execution was issued by said court, the provincial fiscal of Laguna, acting in behalf of the municipality of Santa Rosa, Laguna, filed a new motion on May 7, 1929, praying for a writ of execution of the judgment, rendered on November 27, 1914.

Passing upon said motion, the Honorable Mariano A. Albert, vacation judge, entered an order on May 16, 1929, declaring that the period of prescription had been interrupted by the filing of the motion of March 24, 1915, and ordered the clerk of the Court of First Instance of Laguna to issue a writ of execution in pursuance of the decision, in favor of the plaintiff in the judgment of November 27, 1914, with the costs of the action.

It is this last order that the instant petition for certiorari seeks to annul.

Section 443 of Act No. 190, known as the Code of Civil Procedure, provides the following:

"SEC. 443. When execution may issue.—The party in whose favor judgment is given, may, at any time within five years after the entry thereof, have a writ of execution issued for its enforcement, as hereinafter provided."

According to the above-quoted legal provision, the party in whose favor judgment is given may, at any time within five years after the entry thereof, have a writ of execution issued for its enforcement. In its ordinary meaning, the word "have" signifies to obtain, to procure, to secure something, and involves the idea of asking or praying for it. The law does not say that the party in whose favor judgment is rendered may simply "pray for" but may "have" a writ of execution issued within the five years after the date of its entry.

In the case at bar, the respondent municipality of Santa Rosa, Laguna, only prayed for the execution of the judgment rendered on November 27, 1914, in its favor within the five years after the date of entry thereof, and did not take the necessary steps to obtain said execution within said period; it was only on May 7, 1929, or about fourteen years later, that it reiterated said prayer and obtained the corresponding writ of execution beyond the time fixed by law.

In the case of *Compañia General de Tabacos vs. Martinez* (17 Phil., 160), wherein the question of the interruption of the statute of limitations on the execution of a judgment was raised, this court laid down the following doctrine:

"Interruption of statute of limitations.—Inasmuch as an order to stay proceedings does not operate to suspend the running of the statute of limitations, a fortiori the mere presenting of a petition asking the court below to direct the register of deeds to furnish the court certain information, as in this case, should not operate to suspend the five-year limitation. (*Buell vs. Buell*, 92 Cal., 393.)"

In accordance with the above-quoted doctrine, the mere filing of the motion on March 24, 1915 for the issuance of a writ of execution of the judgment dated November 27, 1914, by the municipality of Santa Rosa, Laguna, without taking the necessary steps to obtain said order, did not interrupt the course of the prescription, and as such petition was not taken up again until May 7, 1929, that is, fourteen years later, the order issued granting said petition was rendered after the five-year limitation for the issuance of the writ of execution, when the court no longer had jurisdiction to do it.

For the foregoing considerations, we are of opinion and so hold, that the mere filing of a motion praying for a writ of execution of a judgment, without having taken the necessary steps to obtain said execution, does not interrupt the five-year period fixed by law for the prescription of the execution of a judgment, and that the order granting said motion entered after said period had elapsed, is null and void for lack of jurisdiction.

By virtue whereof, the order of the respondent court dated May 16, 1929, is hereby declared null and void, for lack of jurisdiction, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Johns, 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.