

VIOLETA ALDAY AND ERNESTO YU, PETITIONERS, VS. HONORABLE SERAFIN E. CAMILON, AS JUDGE TEMPORARILY PRESIDING OVER BRANCH XXV OF THE COURT OF FIRST INSTANCE OF RIZAL (PASIG), SHER...

G.R. No. 60316. January 31, 1983

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-60316/>

MELENCIO-HERRERA, J.:

The issue for resolution is whether or not respondent Judge gravely abused his discretion in issuing a Writ of Execution to enforce the Decision in Civil Case No. 31725 of his Court for a sum of money entitled "Aboitiz & Co., Inc. vs. Violeta Alday and Ernesto Yu", notwithstanding the fact that petitioners, as defendants and the losing party below, had timely filed a Notice of Appeal and posted a cash appeal bond, but did not submit any Record on Appeal.

There is no question that the Decision of the lower Court adverse to petitioners was rendered on August 13, 1981. Copy thereof was received by them on September 1, 1981. Within time, petitioners filed on September 4, 1981 a Notice of Appeal and a cash appeal bond, but without a Record on Appeal. On March 25, 1982, respondent Judge issued the questioned Order granting execution since petitioners had not perfected an appeal within the reglementary period for failure on their part to file a Record on Appeal within the prescribed period.

Petitioners justify the non-filing of the Record on Appeal by invoking section 39 of the Judiciary Reorganization Act of 1980 (Batas Pambansa Blg. 129) providing that "no record on appeal shall be required to take an appeal." They claim that the Act was approved on August 14, 1981 and Section 48 thereof specifically provides that it was to take effect immediately.

Petitioners overlook, however, Section 44 of BP Blg. 129 specifically providing that its provisions were to be immediately carried out in accordance with an Executive Order to be issued by the President and that the Courts would continue to function until the completion of the reorganization as declared by the President. Moreover, it will be recalled that on September 3, 1981, a Petition questioning the constitutionality of that law was instituted before this Court (*De la Llana vs. Alba*, G. R. No. 57883). The constitutionality of that law was upheld in our Decision of March 12, 1982 (112 SCRA 294). Consequently, prior to that date, and before the issuance of Executive Order No. 864, dated January 17, 1983, declaring the completion of the reorganization of the Judiciary, BP Blg. 129 could not be said to have been in force and effect. It was premature for petitioners to have invoked that law to justify their stand in not filing a Record on Appeal, and respondent Judge cannot be faulted with grave abuse of discretion for having authorized the issuance of the Writ of Execution since, for lack of compliance with the procedure for taking an appeal under the former Rules of Court, the lower Court Decision would have become final.

Nonetheless, in Executive Order No. 864, dated January 17, 1983, the President of the Philippines had declared that the former Courts were deemed automatically abolished as of 12:00 o'clock midnight of January 17, 1983.

The reorganization having been declared to have been completed, BP Blg. 129 is now in full force and effect. A Record on Appeal is no longer necessary for taking an appeal. The same proviso appears in Section 18 of the Interim Rules and Guidelines issued by this Court on January 11, 1983. Being procedural in nature, those provisions may be applied retroactively for the benefit of petitioners, as appellants.

"Statutes regulating the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retrospective in that sense and to that extent" (People vs. Sumilang, 77 Phil. 764 [1946]).

ACCORDINGLY, the Order of respondent Judge (now an Associate Justice of the Intermediate Appellate Court) granting the issuance of the Writ of Execution is hereby set aside, and the branch of the Regional Trial Court to whom the case below has been assigned is hereby directed to give due course to petitioner's appeal even without a Record on Appeal. The temporary Restraining Order heretofore issued by this Tribunal enjoining the enforcement of the Writ of Execution issued by the lower Court is hereby made permanent.

No costs.

SO ORDERED.

Teahankee (Chairman), Vasquez, Relova and Gutierrez, Jr., JJ., concur.
Plana, J., on leave.

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.