

BERNARDA S. CANONIZADO, PETITIONER, VS. HON. REGINA ORDOÑEZ BENITEZ, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH XLVII, MANILA AND ATTY. CESAR R. CANONIZADO, RESPONDENTS.

G.R. No. 72746. May 07, 1987

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-72746/>

CRUZ, J.:

Somewhere along the way in the marriage of the private respondent and the petitioner, the sweetness soured. The spouses separated, and soon enough they were involved in a bitter wrangling that would reach the courts, including this one, and fester for more than three and a half decades.

It all began in an action for support filed by the petitioner against her estranged husband, the private respondent on March 13, 1956 in the Juvenile and Domestic Relations Court of Manila. The trial court granted the claim for their minor child Christina in the amount of P100.00 monthly but denied similar support for the petitioner on the ground that she was gainfully employed.[1]

The petitioner questioned this decision in a petition for certiorari with this Court, which on September 30, 1960, considered the appealed decision a mere order resolving the petitioner's motion for alimony pendente lite and modified it by granting support both for the minor child and the petitioner in the monthly amount of P100.00 each.[2]

When the corresponding writ of execution was issued, the respondent filed an action in the Court of First Instance to restrain the sale by public auction of certain properties over which he claimed to have lost ownership. However, on February 23, 1963, the trial court declared the supposed conveyance of such properties to be simulated and ordered the sheriff to proceed with the auction sale.[3] The decision became final when the appeal filed by the private respondent was later withdrawn.[4]

An alias writ of execution was issued on March 1, 1963, but was not satisfied because of an order of the court dated May 20, 1963, which, while directing payment of support from January to May 1963, exempted from levy the books and office equipment used by the respondent in the practice of his law profession.[5]

On September 9, 1964, a decision on the merits was promulgated by the Juvenile and Domestic Relations Court awarding arrearages in support pendente lite to both the petitioner and her daughter plus current monthly support for the latter at the rate of P150.00 beginning October 1964.[6] This decision was affirmed on appeal, with the modification that a P100.00 monthly support was also to be given to petitioner beginning October 1964.[7] This became final and executory on January 21, 1969.[8]

A writ of execution was accordingly issued on July 22, 1976, for the collection of the amounts of P16,150.00 and P17,200.00, respectively, representing the private respondent's liabilities for the support of daughter Christina up to the time she finished her studies in April 1969 and the total arrearages in support due the petitioner as of

December 1972.[9]

However, these amounts were not collected, and remain unliquidated to date because of a series of compromise agreements reached by the parties for deferment and moratorium.[10]

As the commitments provided in these agreements were not fulfilled, the petitioner filed on April 4, 1977, a motion for an alias writ of execution based on the original writ of July 22, 1976. The respondent judge, however, denied the motion and the subsequent motion for reconsideration, holding that the decision could no longer be enforced by mere motion in view of the lapse of more than five years.[11]

On November 21, 1978, the petitioner filed with this Court a petition for mandamus with preliminary injunction, docketed as G.R. No. L-49315, for the payment by the respondent of his support in arrears.[12] On July 5, 1982, another petition, docketed as G.R. No. 60966, asked that the respondent judge be ordered to act on the petitioner's motion for current support.[13]

We dismissed G.R. No. 60966 because of the respondent's motion to terminate support which had not yet been resolved and directed the respondent judge to receive evidence on this matter.[14] But in G.R. No. L-49315, this Court granted the petition and ordered the issuance of the alias writ of execution to enforce collection of the support in arrears from 1956 to 1972.[15]

The records show that our decision in the latter case has not been enforced, possibly because of the fact that the motion to terminate support filed by the private respondent has not yet been resolved.[16]

The writ of execution we have ordered is not affected by that motion. The motion affects only support from 1973 and does not at all involve the support adjudged against him before that date, specifically, from 1956 to 1972. Such support has already become due and has acquired the character of vested rights accruing to the petitioner and the daughter Christina.

The other possible reason for the respondent judge's delay in implementing the writ of execution is a second pending motion, this time to restrain levy on the ground that the properties sought to be taken are the same properties declared exempt in the order of May 20, 1963.[17] We note, though, that as worded the alias writ of execution issued by the respondent judge covers other properties of the private respondent that can answer for the payment of the support in arrears.

While mandamus is not available to control discretion, it may nevertheless issue to compel the performance of a ministerial act, as in this case.[18] The writ of execution having been authorized and directed by this Court, the only task of the respondent judge is to issue and enforce it. As the properties exempt from execution have already been determined, the respondent judge should now order the enforcement of the writ against the other properties of the private respondent not exempt from execution. That is a ministerial act that can be, as it is hereby, compelled.

Regarding the motion to declare the private respondent in contempt, its resolution will depend on the evidence received by the respondent judge. Such resolution can be made by her in the exercise of her discretion, which, to repeat, we cannot dictate. We can, however, order her to exercise that discretion whichever way she sees fit, not to decide the way we order but simply to decide according to her own lights. In other words, what we are directing is general action only, not any specific action sustaining a particular position.[19] Later, we may review such action if it is challenged as a grave abuse of discretion, but that question is not before us now.

With respect to the third prayer, i.e., for legal interest on the amount due from 1956, the same cannot be granted. Suffice it to say that such a claim is groundless since the decision and orders sought to be enforced do not direct

the payment of interest and have long become final. The issue of interest was never raised before and cannot now be raised here for the first time.

We note from the record that after the hearing of July 30, 1986, the parties were required to submit simultaneous memoranda within fifteen days.[20] The petitioner complied but not the private respondent. The private respondent did so only after he was asked to show cause why he should not be punished for contempt, and at that his explanation was perfunctory and unsatisfactory,[21] on top of the fact that the memorandum was eighty days late.[22] For such contumacy, the private respondent is hereby penalized with a fine of P500.00, to be paid within ten days from notice, or ten days in prison.

There has been too much temporizing in this case that should not be permitted to continue even longer in defiance of the constitutional mandate for speedy justice. The respondent judge is directed to act with all possible dispatch on the pending incidents and to finally decide this protracted controversy once and for all.

WHEREFORE, the respondent judge is hereby directed to order the immediate enforcement of the alias writ of execution of August 14, 1984, and the collection from the private respondent of arrearages in support due to the petitioner from March 1956 to December 1972 in the sum of P17,200.00 and to the daughter Christina from March 1956 to April 1969 in the sum of P16,150.00. For contempt of this Court, the private respondent is also punished as above indicated.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] Rollo, pp. 7, 74.

[2] Ibid., pp. 7-10.

[3] Id., pp. 11-17.

[4] id., p. 18.

[5] id., pp. 19-21.

[6] id., p. 76; Rec. on Appeal, Folder II, pp. 20-27.

[7] Decision, G.R. Nos. L-49315 & 60966, p. 1; 127 SCRA 610.

[8] Ibid.

[9] Orig. Rec., Vol. VI, p. 2364.

[10] Ibid., pp. 2360, 2369, 2475.

[11] Id., Vol. VII, pp. 2669-2672, 2678.

[12] Decision, G.R. Nos. L-49315 & 60966, p. 4.

[13] Ibid.

[14] Id., p. 6.

[15] id.

[16] Rollo, pp. 59, 92-93.

[17] Ibid., pp. 28-30.

[18] *Tangonan vs. Paño*, 137 SCRA 245; *Balintawak Construction Supply Corp. vs. Valenzuela*, 124 SCRA 331; *Vda. de Corpus vs. Workmen's Compensation Comm.*, 85 SCRA 473; *Prov. of Pangasinan vs. Reparations Comm.*, 80 SCRA 376; *Isada vs. Bocor*, 62 SCRA 337; *Comm. of Immigration vs. Go Tieng, et al.*, 28 SCRA 237; *Sy Ha vs. Galang*, 7 SCRA 797.

[19] *Vda. de Crisologo vs. CA*, 137 SCRA 231 citing *Philippine Air Lines Employees Association vs. PAL, Inc.*, 11 SCRA 220; *De Castro vs. CA, et. al.*, 75 Phil. 824; *Arteche vs. de la Rosa*, 58 Phil. 589.

[20] Rollo, p. 73.

[21] Ibid., pp. 89, 87.

[22] Id., p. 90.

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.