

**LETICIA C. MENDOZA, PETITIONER, VS. HON. COURT OF APPEALS,
HON. CONRADO VASQUEZ, JR., FROILAN E. ISORENA AND LAURO E.
ISORENA, RESPONDENTS.**

G.R. No. 81909. September 05, 1991

Ponente: MEDIALDEA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-81909/>

MEDIALDEA, J.:

This petition for review on certiorari seeks the reversal of the decision of the Court of Appeals in CA-G.R. Sp. No. 12111, entitled "Leticia C. Mendoza v. Hon. Conrado M. Vasquez, Jr., et al.," promulgated on July 9, 1987, which dismissed the petition for certiorari and mandamus filed by herein petitioner Leticia C. Mendoza.

The antecedents of the case are as follows:

Spouses Pedro S. Isorena and Matilde Echavarria were owners of a parcel of land located at 1825 Sandejas Street, Pasay City and covered by Transfer Certificate of Title No. 3229. Sometime in 1967, said spouses borrowed money from the Second Rizal Development Bank. To secure payment of the indebtedness, the property covered by Transfer Certificate of Title No. 3229 was mortgaged to the bank. The money borrowed was used for the construction of the house of their son, Froilan Isorena.

To save the mortgaged property from being foreclosed, Pedro Isorena gave his son the amount to pay off the mortgage indebtedness to the Second Rizal Development Bank. However, Froilan, his wife, Carmencita Marquez and his mother (Pedro Isorena's wife), Matilde Echavarria were made to execute a promissory note and a deed of real estate mortgage of the same property covered by TCT No. 3229, in favor of Leticia C. Mendoza. Leticia C. Mendoza was then the common-law wife of Pedro Isorena and was allegedly kept in the conjugal home by Pedro Isorena.

Froilan, Carmencita and Matilde defaulted in the payment of their mortgage obligation to Leticia Mendoza. The mortgage was extra-judicially foreclosed and the property acquired at the auction sale by the mortgagee-lender, Leticia C. Mendoza. After the lapse of the redemption period without the mortgagors exercising their right of redemption, ownership was consolidated in the name of Leticia Mendoza and Transfer Certificate Of Title No. 18617 was issued in her name.

After the foreclosure of the mortgage on June 16, 1973 up to March 31, 1974, Froilan Isorena paid two hundred pesos (P200.00) monthly rentals to Leticia Mendoza. From April 1, 1974, Froilan failed to pay the rentals prompting Leticia Mendoza to file a complaint for unlawful detainer against Froilan and his wife Carmencita with the City Court of Pasay in Civil Case No. 11374. Leticia Mendoza prevailed in this unlawful detainer case.

On September 23, 1986, Froilan Isorena, his sister Vivian Isorena and another brother, Lauro Isorena filed a complaint, subject of the instant petition, for the annulment of real estate mortgage, the auction sale, the title of Leticia Mendoza in the subject property and the decision of the trial court in the unlawful detainer case. Named defendants were Leticia Mendoza, the Regional Trial Court (Pasay City, Branch CXIII), the Metropolitan Trial

Court (Branch XLVI), the Register of Deeds and the Sheriff, both of Pasay City. The complaint (pp. 68-71, Rollo) prayed for the issuance of a temporary restraining order to enjoin the trial court in the unlawful detainer case from executing the decision ousting the plaintiffs from the premises of the questioned property. It also alleged that the money allegedly borrowed from Leticia Mendoza was owned by their father, Pedro Isorena with whom the former had illicit relations. The complaint alleged, *inter alia*, that:

"14. That for the reasons adduced in pars. 6, 7, 8, 9, 12 and 13, *supra*. (the circumstances leading to the execution of the questioned documents), the Promissory Note (Annex "A"), Deed of Real Estate Mortgage (Annex "B"), all proceedings in the auction sale of the subject property including Transfer Certificate of Title No. 18617 (Annex "E"), Order (Annex "F") and Decision (Annex "G") are all null and void and without force and effect whatsoever, x x x" (p. 71, Rollo)

Instead of filing an Answer, the defendants filed a motion to dismiss (pp. 92-103, Rollo) dated October 9, 1986, on the following grounds: 1) that the action has prescribed; 2) that the action is barred by a prior judgment; 3) that the plaintiffs have no Judicial personality to prosecute; and, 4) that the plaintiffs are guilty of estoppel. The plaintiffs opposed the motion.

On October 21, 1986, the trial court granted the motion of plaintiffs, for the issuance of a writ of preliminary injunction. The order stated, *inter alia*, that:

"In the complaint for illegal detainer (Civil Case No. 11374) filed by private defendant herein Leticia C. Mendoza against the spouses Froilan Isorena and Carmencita Isorena, the decision of the Metropolitan Trial Court of Pasay City, Branch XLVI, dated June 7, 1984, as to possession or ordering the ejectment of these spouses from the premises of the said property was ordered maintained by the Court of Appeals in a civil action, AC-G.R. No. SP-06904 of that court. The complaint in the above-entitled case, however, seeks, among others, to annul that decision on the ground that the Metropolitan Trial Court of Pasay City had no jurisdiction to squarely resolve, as it did, the issue of ownership in that case. On this contention, with respect to the issue of whether or not this Court may issue a writ of preliminary injunction, plaintiffs rely on the cases of *Dulap vs. Court of Appeals*, 42 SCRA 537, and *Arabay, Inc. vs. Salvador*, 82 SCRA 138, the former case holding, in brief, that a Court of First Instance or a branch thereof has authority to annul a final and executory judgment or order rendered by another court of first instance or by another branch of the same court, i. e., that, necessarily, this Court, which has jurisdiction on cases of the nature presented by the complaint herein (where the subject is not capable of pecuniary estimation), can annul a final and executory judgment of the inferior Metropolitan Trial Court of Pasay City for having exceeded its jurisdiction (resolving squarely the issue of ownership although it was not within its powers to do so).

"The said private defendant, in her opposition to the issuance of a writ of preliminary injunction, incorporated therein her grounds in her motion to dismiss, that is, prescription; bar by former judgment; lack of judicial personality on the part of the plaintiffs to prosecute the above-entitled case (allegedly, the estate of Matilde Echavarria should be the one to do so); and estoppel on the part of plaintiff Froilan Isorena (for being a signatory to the deed of mortgage in favor of defendant Leticia C. Mendoza). To these grounds, the plaintiffs, in their opposition to motion to dismiss and reply to opposition to the motion for issuance of a writ of preliminary injunction, contended that prescription will not lie inasmuch as the action to declare the inexistence of a contract (the above-mentioned mortgage in favor of the private defendant herein) does not prescribe pursuant to Art. 1410 of the Civil Code, it being a void or inexistent contract. To the ground of *res judicata*, the plaintiffs, aside from alleging that the requisites for *res judicata* are not present with respect to the order of April 5, 1978, issued by the former Court of First Instance, Branch XXX, Pasay City (since that order is not a decision on the merits), contend that the said order of dismissal can but be considered as having expressly provided, that it was one without prejudice [that order was issued due to the mistaken impression of that court that with the death of Pedro Isorena and his conjugal partnership with Matilde Echavarria Isorena therefor dissolved, the administrator of the estate of said Pedro Isorena should be the one to file a proper case

against the private defendant herein Leticia C. Mendoza (co-defendant of Pedro Isorena in that Civil Case No. 4165-P where Matilde Echavarria was the plaintiff)].

"To the ground of improper parties, the plaintiffs rely on the fact that as the legitimate children of the late spouses Pedro Isorena and also now-deceased Matilde Echavarria Isorena, they automatically stepped into the shoes of these spouses and therefore have the necessary personality to prosecute the above-entitled case. And as for the ground of estoppel, the plaintiffs contend that this ground does not apply if the subject matter of the action (the aforesaid mortgage) is void and inexistent from the beginning.

"As for the other arguments contained in the opposition to issuance of writ of preliminary injunction, suffice it to say that these arguments are highly contentious and constitute inferences to be deduced from alleged facts. Therefore, there being yet no conclusive proof of such facts and inferences from facts being a subject of conjecture, this Court cannot give reliance thereto if only for the reason that to do so will be a premature act on its part.

"To the mind of this Court, there is, at least on the surface, a legitimate basis for the issuance of a writ of preliminary injunction since the allegations of the complaint in the above-entitled case prima facie constitute a good and sufficient, though debatable, cause of action. Therefore, to prevent the issues presented by that complaint from being moot and academic, especially considering the fact that, indeed, the Metropolitan Trial Court of Pasay City, Branch XLVI, should be construed as really not having any jurisdiction to resolve the question of ownership between the parties hereto and/or the predecessors in interest of the plaintiffs in the case which it decided, and due to at least an apparently questionable figure in the contents of the said affidavit of private defendant Leticia C. Mendoza as previously narrated above, i.e., the mortgage in favor of the Monte de Piedad on September 7, 1964, was for P20,000.00; that mortgage was taken over by the Second Rizal Development Bank on September 30, 1967 (after 3 years), for P27,000.00, and yet as of October 13, 1971, or four (4) years thereafter, private defendant herein Leticia C. Mendoza paid the Second Rizal Development Bank the amount of only P26,000.00, which is obviously not ordinary (why would the Second Rizal Development Bank pay off the three (3) year mortgage in favor of Monte de Piedad with the sum of P27,000.00 and then after four (4) more years Leticia C. Mendoza paid the Second Rizal Development Bank a lesser amount of P26,000.00?), it behooves this Court to arrive at an opinion that the matters in issue in the above-entitled case be more minutely scrutinized and, hence, should not be allowed to become moot and academic.

"Additionally, in view of the peculiar circumstances constituting the facts forming the background of the above-entitled case, i. e., as aforesaid, private defendant Leticia C. Mendoza was a mere concubine of Pedro Isorena, and there is at least a possibility that the mortgage in question of which the latter is the principal mortgagor, might ultimately be considered as void due to the illicit relationship between them, to the detriment of the legal spouse and to the legitimate children of the spouses Pedro Isorena and Matilde Echavarria, this Court is constrained to resolve the issue of whether or not to issue a writ of preliminary injunction in the affirmative." (pp. 159-161, Rollo)

Also on October 21, 1986, the defendants filed a verified urgent motion for inhibition of Judge Capistrano p. 105, Rollo). On December 5, 1986, Judge Capistrano issued a resolution denying the motion to dismiss and inhibiting himself from hearing the case. The portion of the resolution pertinent to the motion to dismiss reads:

"x x x x x x x x.

"Regarding the motion to dismiss filed by the private defendant and the opposition thereto filed by the plaintiff, this matter has already been extensively discussed in the order of this Court of October 21, 1986, which discussion is reproduced herein, by reference, for brevity. On this matter, suffice it to say that the grounds of the said motion to dismiss are not indubitable. Moreover, as regards the principal ground of res judicata of the said motion to dismiss, suffice it to say that the principal requisite therefor, i. e., final judgment

or order on the merits, (2 Moran, Comments on the Rules of Court, 1979 Ed., pp. 348-349) is not present. Hence, the said motion to dismiss should be considered as DENIED." (p. 109, Rollo)

On December 19, 1986, the defendants filed a motion for reconsideration of the resolution denying the motion to dismiss (pp. 112-116, Rollo). As a consequence of the inhibition of Judge Capistrano from any participation in the case, it was re-raffled to herein respondent Judge Conrado Vasquez, Jr. On May 20, 1987, respondent Judge issued an order (p. 117, Rollo) denying the motion for reconsideration and ordering the defendants to file their answer.

Only defendant Leticia C. Mendoza filed a petition for certiorari and mandamus with the Court of Appeals questioning the denial of the motion to dismiss the complaint. On July 9, 1987, the Court of Appeals denied the petition but modified the resolution dated December 5, 1986 denying the motion to dismiss and the order dated May 20, 1987 denying the motion for reconsideration. Instead of denying the motion to dismiss respondent appellate court ordered the deferment of the resolution of the motion until the trial on the merits. The pertinent portion of decision states:

"While there is no question that prescription is a proper ground for a motion to dismiss. [Rule 16, Sec.1 (f)], and that the allegations of the complaint sufficiently indicate a basis for such claim, the point raised in the opposition to the motion to dismiss, i.e., that the contract is void and inexistent, and the action for the declaration of the inexistence of a void contract does not prescribe, did raise a doubt as to the validity of claim of prescription. The same is true with the ground of res judicata, which has not been clearly established, because the alleged prior judgment did not dispose of, or settle, the question of annulment of the mortgage in question. In view of this, the lower court cannot be said to have acted with grave abuse of discretion in denying the motion to dismiss so as to warrant the issuance of the extraordinary writ of certiorari. If there was an error of judgment, this is not the whimsical or capricious exercise of judgment as to warrant intervention of this Court. Not every error in the proceeding or erroneous conclusion of fact or of law is an abuse of discretion, it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law (Talavera vs. Nable, 67 Phil. 340; Alafriz vs. Nable, 72 Phil. 278; De Gala vs. Cui, 26 Phil. 522). Where the motion to dismiss is denied, the remedy of the defendant is to interpose as defense in the answer, the objections raised by him in the motion to dismiss, then proceed to trial and in case of an adverse decision, bring the case by appeal in due time. Unless the denial of a motion to dismiss constitutes clearly a grave abuse of discretion or is issued without or in excess of jurisdiction, the error, if any should be corrected by appeal in due time after trial and judgment on the merits, and not by the extraordinary legal remedy such as a writ of certiorari or prohibition (Phil. International Fair Inc. vs. Ibañez, 94 Phil. 424; Harrison Foundry Machinery vs. Harrison Foundry Workers, Association, G.R. No. L-18432, June 29, 1963).

"In this case, the trial court apparently denied the motion to dismiss on the ground that the grounds therefor do not appear to be indubitable. The proper course of action should have been to defer the hearing and determination of the motion until the trial (Sec. 3, Rule 16, Rules of Court). However, the net result is the same, in that the defendant will have to file his answer and the grounds raised in his motion to dismiss may be interposed in his answer (Sections 4 and 5, Rule 16).

"x x x x x x x x.

"WHEREFORE, with the modification that the Resolution dated December 5, 1986 denying Petitioner's Motion to Dismiss and the Resolution dated May 20, 1987 denying the Motion for Reconsideration of said Resolution should be for deferment of action on the motions instead of denial, the present petition for certiorari and mandamus is DENIED due course and accordingly DISMISSED." (pp. 123-124, Rollo)

The motion for reconsideration filed by Mendoza was likewise denied on February 5, 1988 (p. 131, Rollo).

Mendoza is now before Us seeking the review of the decision and resolution of respondent appellate court.

Petitioner argues that the decision of respondent appellate court denying the defense of prescription on the ground that said defense is not indubitable is belied by the record and the documentary evidence. Likewise, the defense of estoppel and res judicata which were raised in the motion to dismiss were allegedly very clear from the records.

The petition has no merit.

As a general rule, an order denying a motion to quash or to dismiss is interlocutory and cannot be the subject of a petition for certiorari. The remedy of the aggrieved party in a denied motion to dismiss is to file an answer and interpose, as defense or defenses, the objection or objections raised by him in said motion to dismiss, then proceed to trial and, in case of adverse decision, to elevate the entire case by appeal in due course (NIDC v. Aquino, 163 SCRA 153). The exception to this rule is when the trial court clearly acted outside of its jurisdiction or with grave abuse of discretion in denying the motion to dismiss.

In deciding a motion to dismiss, Section 3, Rule 16 of the Rules of Court grants the court four (4) options: 1) to deny the motion; 2) grant the motion; 3) to allow amendment of pleading; and 4) to "defer" the hearing and determination of the motion until the trial, if the ground alleged therein does not appear to be indubitable. In the instant case, the trial court correctly ruled that the grounds for the motion to dismiss does not appear to be indubitable. It erred however in denying the motion to dismiss instead of just deferring the resolution of the motion as corrected by respondent appellate court because the grounds for the motion to dismiss filed by petitioner do not appear to be indubitable. Under the fourth option, the court is not obliged to immediately hold a hearing on the motion to dismiss; it is granted the discretion to defer the hearing and determination thereof until the trial, if the ground alleged therein does not appear to be indubitable (Nico v. Blanco, 81 Phil. 213; Ong Peng v. Custodio, G.R. No. L-14911, March 25, 1961, 59 O.G. 3447, June 3, 1963 cited in Vicente J. Francisco, *The Revised Rules of Court of the Philippines, Annotated and Commented*, Vol. I, Second edition, p. 966).

Four (4) grounds were relied upon by petitioner in the motion to dismiss, all of which do not appear to be indubitable. First, that the action had prescribed. The action is one for annulment of a real estate mortgage executed some fifteen (15) years back. But, as pointed out by respondent appellate court, the opposition of the defendants raised a claim that the deed of mortgage, etc., is void and inexistent. Hence, the action appears to be imprescriptible pursuant to Article 1410 of the Civil Code of the Philippines.

Second, that the complaint is barred by res judicata. The essential requisites for the existence of res judicata are: (1) that the former judgment must be final; (2) that it must have been rendered by a court having jurisdiction of the subject matter and the parties; (3) that it must be a judgment on the merits; and (4) that there must be, between the first and second actions; (a) identity of parties; (b) identity of subject matter; and (c) identity of cause of action (Asuncion v. Pineda, G.R. No. 47924, July 31, 1989, 175 SCRA 719; Magdangal v. City of Olongapo, G.R. No. 83828, November 16, 1989, 179 SCRA 506, Filipinas Investment and Finance Corporation v. IAC, G.R. Nos. 66059-60, December 4, 1989, 179 SCRA 728). All the requisites may be present in this case, except identity of causes of action, which is likewise indispensable. To determine identity of cause of action, it must be ascertained whether the same evidence which is necessary to sustain the second cause of action would have been sufficient to authorize a recovery in the first (Vda. de Cruz v. Carriaga, Jr., G.R. Nos. 75109-10, June 28, 1989, 174 SCRA 330). It is clear that the evidence presented to sustain the first action for unlawful detainer is not the same set which could defeat the action for annulment of the real estate mortgage, etc. in the complaint subject of this petition. There is no question that the judgment in Civil Case No. 11374, for unlawful detainer, had long become final and executory as against private respondent Froilan Isorena. However, the judgment in that case does not appear to be res judicata in the complaint subject of this petition, which is for annulment of documents. The

petitioner alleged that in the case for unlawful detainer, not only was the question of possession resolved but the question of ownership as well. (T)he judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no wise bind the title or affect the ownership of the land or building. Such judgment shall not bar an action between the same parties respecting title to the land or building, nor shall it be held conclusive of the facts therein found in a case between the same parties upon a different cause of action not involving possession (Rule 70, Sec. 7, Rules of Court). The Main issue in forcible entry and unlawful is possession de facto, independently of any claim of ownership or possession de jure that either party may claim in his pleading (Caparros v. C.A., G.R. No. 56803, February 28, 1989)

Third, the petitioner alleged that the private respondents have no personality to prosecute. The subject property was allegedly the conjugal property of private respondents' parents, Pedro Isorena and Matilde Echavarria. Since the latter are already dead, private respondents as their legitimate heirs have the personality to bring the action to recover the property should the action for annulment prosper.

Lastly, that the private respondents are estopped from filing the complaint for annulment is disputable. Petitioner alleged that as early as 1975, she filed an action for unlawful detainer against private respondent Froilan Isorena wherein she already asserted her ownership over the property by virtue of the real estate mortgage. Yet, it took the private respondents more than ten (10) years after or sometime in 1986 only, to bring the instant complaint for annulment of the real estate mortgage. For their part, private respondents alleged in the complaint that the late father of private respondents, Pedro Isorena ruled with an iron hand and imprinted psychological fear not only on his children but on his wife, as well. Those were the circumstances surrounding the execution of the real estate mortgage which private respondents seek to annul. The determination of the veracity of the allegations of both party need to be threshed out in the trial proper.

The respondent appellate court acted within its jurisdiction and did not abuse its jurisdiction when it denied the petition and ordered the deferment of the motion to dismiss for the reason that the grounds alleged in the motion to dismiss are not indubitable.

ACCORDINGLY, the petition is DENIED and the questioned decision and resolution of the Court of Appeals are AFFIRMED.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Griño-Aquino, 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.