

SPOUSES WARLITO BUSTOS AND HERMINIA REYES-BUSTOS, PETITIONERS, VS. COURT OF APPEALS, SPOUSES VENANCIO VIRAY AND CECILIA NUNGA-VIRAY, RESPONDENTS.

G.R. Nos. 120784-85. January 24, 2001

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-120784-85/>

PARDO, J.:

The case before the Court is an appeal via certiorari seeking to set aside the decision of the Court of Appeals[1] modifying that of the Regional Trial Court, Pampanga, Macabebe, Branch 55[2] and the resolution denying reconsideration.[3]

Paulino Fajardo died intestate on April 2, 1957.[4] He had four (4) children, namely: Manuela, Trinidad, Beatriz and Marcial, all surnamed Fajardo.

On September 30, 1964, the heirs executed an extra-judicial partition[5] of the estate of Paulino Fajardo. On the same date, Manuela sold her share to Moses[6] G. Mendoza, husband of Beatriz by deed of absolute sale.[7] The description of the property reads as follows:

"A parcel of an irrigated riceland located in the barrio of San Isidro, Masantol, Pampanga. Bounded on the North, by Paulino Fajardo; on the East, by Paulino Fajardo; on the South, by Eleuterio Bautista; and on the West, by Paulino Guintu. Containing an area of 5,253 sq. mts., more or less. Declared under Tax Declaration No. 3029 in the sum of P710.00."

At the time of the sale, there was no cadastral survey in Masantol, Pampanga. Later, the cadastre was conducted, and the property involved in the partition case were specified as Lots 280, 283, 284, 1000-A and 1000-B. The share of Manuela, which was sold to Moses, includes Lot 284 of the Masantol Cadastre and Lot 284 was subdivided into Lots 284-A and 284-B.

Trinidad was in physical possession of the land. She refused to surrender the land to her brother-in-law Moses G. Mendoza, despite several demands.

On September 3, 1971, Moses filed with the Court of First Instance, Pampanga a complaint for partition claiming the one fourth (¼) share of Manuela which was sold to him.[8]

During the pendency of the case for partition, Trinidad Fajardo died. On December 15, 1984, the heirs executed an extra-judicial partition of the estate of Trinidad Fajardo. On February 16, 1987, Lucio Fajardo Ignacio, son of Trinidad sold Lot 284-B to spouses Venancio Viray and Cecilia Nunga-Viray.

On February 8, 1989, the Regional Trial Court, Pampanga, Macabebe, Branch 55 rendered a decision in favor of Moses G. Mendoza, the dispositive portion of which provides:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, and hereby orders -

"1.

The division and partition of the parcel of land identified and described earlier with the aid and assistance of a qualified surveyor, segregating therefrom an area equivalent to ¼ portion to be taken from the vacant right eastern portion which is toward the national road the same to be determined by one (or the said surveyor) standing on the subject land facing the municipal road, at the expense of the plaintiffs;

"2.

The said ¼ portion segregated shall be a fixed portion, described by metes and bounds, and shall be adjudicated and assigned to the plaintiffs;

"3.

In case of disagreement as to where the said right eastern portion should be taken, a commission is hereby constituted, and the OIC-Clerk of Court is hereby appointed chairman, and the OIC-Branch Clerk of Court of Branches 54 and 55 of this Court are hereby appointed members, to carry out the orders contained in the foregoing first two paragraphs;

"4.

The defendants to pay the plaintiffs the sum of P500.00 as attorney's fees, and to pay the costs of the proceedings.

"SO ORDERED."[9]

On September 13, 1991, Moses sold the subject land to spouses Warlito Bustos and Herminia Reyes-Bustos.

In the meantime, on November 6, 1989, spouses Venancio Viray and Cecilia Nunga-Viray, buyers of Lucio Ignacio's share of the property, filed with the Municipal Circuit Trial Court, Macabebe-Masantol, Pampanga an action for unlawful detainer[10] against spouses Bustos, the buyers of Moses G. Mendoza, who were in actual possession as lessees of the husband of Trinidad, Francisco Ignacio, of the subject land.

The municipal circuit trial court decided the case in favor of spouses Viray. Subsequently, the trial court issued writs of execution and demolition, but were stayed when spouses Bustos filed with the Regional Trial Court, Pampanga, Macabebe, Branch 55,[11] a petition for certiorari, prohibition and injunction.

On December 18, 1992, the regional trial court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, this case, is as it is hereby, dismissed. The preliminary injunction is ordered dissolved and the petitioners and Meridian Assurance Corporation are hereby ordered jointly and severally, to pay the private respondents the sum of P20,000.00 by way of litigation expenses and attorney's fees, and to pay the cost of the proceedings."[12]

In time, the spouses Bustos appealed the decision to the Court of Appeals.[13]

On February 27, 1989, Lucio Fajardo Ignacio also appealed the decision to the Court of Appeals.[14]

Upon motion for consolidation of the petitioners, on August 9, 1993, the Court of Appeals resolved to consolidate CA-G. R. SP No. 30369 and CA-G. R. CV No. 37606.[15]

On August 26, 1994, the Court of Appeals promulgated its decision in the two cases, the dispositive portion of which provides:

"WHEREFORE, in view of all the foregoing, consolidated judgment is hereby rendered for both CA-G. R. SP No. 37607 and CA-G. R. SP NO. 30369 as follows:

"1.

The appeal docketed as CA-G. R. CV No. 37607 is dismissed; Moses Mendoza is declared as owner of the ¼ undivided share previously owned by Manuela Fajardo; and the decision of the Regional Trial Court dated February 8, 1989 in Civil Case No. 83-0005-M is affirmed but MODIFIED as follows:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, and hereby orders -

"1.

A relocation survey to be conducted (at the expense of the plaintiffs) to retrace the land subject of the deed of sale dated September 30, 1964 between Manuela Fajardo and Moses Mendoza;

"2.

The division and partition of said relocated land by segregating therefrom an area equivalent to ¼ portion to be taken from the vacant right eastern portion which is toward the national road, the same to be determined by one standing on the subject land facing the municipal road, at the expense of the plaintiff-appellees;

"3.

The said ¼ portion segregated shall be a fixed portion, described by metes and bounds, and shall be adjudicated and assigned to the plaintiffs-appellees;

"4.

In case of disagreement as to where the said right eastern portion should be taken, a Commission is hereby constituted, with the OIC/present Clerk of Court as Chairman, and the OIC/present Branch Clerks of Court of Branches 54 and 55 of the Court (RTC) as members, to carry out and implement the Orders contained in the second and third paragraphs hereof;

"5.

The defendants are ordered to pay the plaintiffs the sum of P500.00 as attorney's fees, and to pay the costs of the proceedings

"2.

The dismissal of Civil Case No. 92-0421-M is AFFIRMED but the reasons for its dismissal shall be effective only as to the issue of possession. CA-G. R. SP No. 30369 is DISMISSED.

"3. No pronouncement as to costs.

"SO ORDERED." [16]

On September 9, 1994, petitioners filed a motion for reconsideration; [17] however, on June 21, 1995, the Court of Appeals denied the motion. [18]

Hence, this petition. [19]

The issue raised is whether petitioners could be ejected from what is now their own land.

The petition is meritorious.

In this case, the issue of possession is intertwined with the issue of ownership. In the unlawful detainer case, the Court of Appeals affirmed the decision of the trial court as to possession on the ground that the decision has become final and executory. This means that the petitioners may be evicted. In the accion reivindicatoria, the

Court of Appeals affirmed the ownership of petitioners over the subject land. Hence, the court declared petitioners as the lawful owners of the land.

Admittedly, the decision in the ejectment case is final and executory. However, the ministerial duty of the court to order execution of a final and executory judgment admits of exceptions. In *Lipana vs. Development Bank of Rizal*,^[20] the Supreme Court reiterated the rule "once a decision becomes final and executory, it is the ministerial duty of the court to order its execution, admits of certain exceptions as in cases of special and exceptional nature where it becomes imperative in the higher interest of justice to direct the suspension of its execution (*Vecine v. Geronimo*, 59 O. G. 579); whenever it is necessary to accomplish the aims of justice (*Pascual v. Tan*, 85 Phil. 164); or when certain facts and circumstances transpired after the judgment became final which could render the execution of the judgment unjust (*Cabrias v. Adil*, 135 SCRA 354)."

In the present case, the stay of execution is warranted by the fact that petitioners are now legal owners of the land in question and are occupants thereof. To execute the judgment by ejecting petitioners from the land that they owned would certainly result in grave injustice. Besides, the issue of possession was rendered moot when the court adjudicated ownership to the spouses Bustos by virtue of a valid deed of sale.

Placing petitioners in possession of the land in question is the necessary and logical consequence of the decision declaring them as the rightful owners of the property.^[21] One of the essential attributes of ownership is possession. It follows that as owners of the subject property, petitioners are entitled to possession of the same. "An owner who cannot exercise the seven (7) "juses" or attributes of ownership--the right to possess, to use and enjoy, to abuse or consume, to accessories, to dispose or alienate, to recover or vindicate and to the fruits--is a crippled owner."^[22]

WHEREFORE, we GRANT the petition. We SET ASIDE the decision of the Court of Appeals in CA G. R. SP No. 30609 for being moot and academic. We AFFIRM the decision of the Court of Appeals in CA G. R. CV No. 37606.

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. SP No. 30369 and CA-G. R. CV No. 37607, promulgated on August 26, 1994, Isnani, J., ponente, Purisima and Somera, JJ., concurring, Rollo, pp. 20-30.

[2] In Civil Case No. 83-0005-M, dated February 8, 1989, Judge Reynaldo V. Roura, presiding.

[3] Rollo, pp. 46-49.

[4] April 5, 1957 in other pleadings.

[5] The deed of extra-judicial partition was notarized by Atty. Nicanor Guevarra, as Document No. 443, Page No. 42, Notarial Book No. III, Series of 1964.

[6] Moises in the Memorandum of Petitioners.

[7] Notarized by Atty. Nicanor Guevarra, as Document No. 444, Page No. 42, Notarial Book No. III, Series of 1964.

[8] Docketed as Civil Case No. 3833. This was later docketed as Civil Case No. 83-0005-M, Regional Trial

Court, Pampanga, Branch 55, Macabebe.

[9] Judge Reynaldo V. Roura, presiding, CA Rollo, pp. 47-51.

[10] Case No. 89 (12).

[11] Civil Case No. 92-0421-M.

[12] Petition, Rollo, pp. 2-18, at p. 4.

[13] Docketed as CA-G. R. SP No. 30369.

[14] Docketed as CA-G. R. CV No. 37606.

[15] CA-G. R. SP No. 30369, CA Rollo, p. 39.

[16] Petition, Annex "A", Rollo, pp. 20-30.

[17] Ibid., pp. 31-44.

[18] Ibid., pp. 46-49.

[19] Petition filed on July 13, 1985, Rollo, pp. 2-18. On August 4, 1997, we gave due course to the petition and required the parties to file their respective memoranda. Rollo, p. 69.

[20] 154 SCRA 257 [1987]; Cruz vs. Leabros, 314 Phil. 26, 34 [1995].

[21] Eternal Gardens Memorial Park Corp. vs. Court of Appeals, 293 SCRA 622 [1998].

[22] Jimmy Co vs. Court of Appeals, 353 Phil. 305, 316 [1998].

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.