

**HEIRS OF THE LATE JUSTICE JOSE B. L. REYES REPRESENTED BY ADORACION D. REYES AND HEIRS OF EDMUNDO A. REYES, NAMELY, MA. TERESA P. REYES AND CARLOS P. REYES, PETITIONERS, VS. COU...***G.R. Nos. 135180-81 & 135425-26. August 16, 2000*

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-135180-81/>**PARDO, J.:**

The cases before the Court are consolidated petitions for review on certiorari to nullify: (1) the decision of the Court of Appeals[1] setting aside that of the Metropolitan Trial Court, Pasay City, Branch 45[2] and the orders of the Regional Trial Court, Pasay City branch 231[3], and ordering petitioners to restore the subject property to the possession of respondent MMB, Inc. until the expiration of the lease contract, and (2) the resolution of the Court of Appeals[4] allowing execution pending appeal[5] of its aforesaid decision and issuing a writ of execution[6] depriving petitioners of possession of the leased property and giving its possession to respondent MMB, Inc.[7] which was a deforciant and worse, declaring petitioners guilty of indirect contempt of court and sentencing them to pay a fine of P30,000.00.

The factual background of the case dates back to November 30, 1976. Brothers Justice Jose Benedicto Luna Reyes (also known as Justice J. B. L. Reyes) and Dr. Edmundo A. Reyes were co-owners of a parcel of land located at Taft Avenue, Pasay City, near Buendia, with a land area of more than one hectare, covered by two Transfer Certificates of Title[8]. On November 30, 1976, the brothers entered into a 25-year lease contract[9] with Metro Manila Builders, Inc. (MMB, Inc.) at a very low rate of rental (P15,000.00 to P30,000.00 a month) in consideration of the fact that the lessee would cover all present and future improvements in the property with insurance against certain risks and maintain the premises in good, sanitary and tenantable condition at all times.

However, in the course of the lease, petitioners found out that respondent MMB, Inc. had not properly maintained the premises or covered the same with an adequate insurance policy. Worse, respondent MMB, Inc. had sub-leased the property to third parties and was earning therefrom about P500,000.00 a month. On December 2, 1996, petitioners served on respondent MMB, Inc. a notice terminating the lease contract and demanding that they vacate and surrender the premises subject of the lease to petitioners.

Failing to do so, on February 3, 1997, petitioners filed with the Metropolitan Trial Court, Pasay City, Branch 45 a complaint for unlawful detainer[10] based on breach of the contract of lease.

On March 5, 1997, respondent MMB, Inc. filed its answer to the complaint. MMB, Inc. did not deny the violations imputed to it but questioned the absence of a judicial rescission of the contract of lease.[11]

On May 9, 1997, the trial court rendered a decision in favor of petitioners, thus:

"WHEREFORE, and considering the foregoing, judgment is hereby rendered in favor of the plaintiff heirs of J.B.L. Reyes, thru Adoracion D. Reyes, and heirs of Edmundo Reyes namely Ma. Teresa P. Reyes, and Carlos

P. Reyes and against the defendant Metro Manila Builders, Inc. ordering the latter:

1. And all persons claiming right under it to vacate, surrender and cede possession of the leased premises to plaintiffs;
2. To pay plaintiffs, P300,000.00 for every month from notice to vacate until possession is finally turned over to plaintiffs, with legal interest;
3. To pay plaintiff the amount of P20,000.00 as for attorneys fees; and,
4. To pay the cost of suit"[12]

On May 16, 1997, petitioners filed with the Metropolitan Trial Court, Pasay City, Branch 45 a motion for execution of the judgment of eviction.[13] On the other hand, respondent appealed the decision to the Regional Trial Court, Pasay City, Branch 113.[14] However, respondents failed to file their appeal memorandum on time and so the court dismissed their appeal. In its appeal to the RTC, respondent MMB, Inc. never raised the issue of jurisdiction. Hence, on November 5, 1997, respondent MMB, Inc. filed an appeal to the Court of Appeals.[15]

On November 26, 1997, MTC Branch 45, Pasay City,[16] granted the motion for execution that petitioners filed. Consequently, on December 1, 1997, the trial court issued the corresponding writ of execution.[17] However, on December 8, 1997, the Court of Appeals issued a temporary restraining order[18] against the execution of the ejectment judgment.

Even before the appellate court could rule on the injunctive relief, respondent MMB, Inc. withdrew its appeal.[19] In a resolution dated February 17, 1998, the Court of Appeals allowed the withdrawal.[20]

Simultaneously with the withdrawal of the first CA case,[21] on February 17, 1998, private respondent also filed a petition for annulment of the ejectment decision before the Regional Trial Court, Pasay City, Branch 231 (RTC 231)[22] on the ground that the MTC had no jurisdiction over the ejectment case. MMB, Inc. prayed for a temporary restraining order and/or preliminary injunction against the execution of the ejectment decision. The court, however, did not issue a temporary restraining order (TRO) against MTC Branch 45, Pasay City.

On March 5, 1998, petitioners filed with the Regional Trial Court their memorandum in support of their opposition against the injunctive relief sought by MMB, Inc.[23] On March 20, 1998, petitioners filed with the same court a motion to dismiss.[24]

In an attempt to dramatize its plea, on March 23, 1998, respondent MMB, Inc. filed another petition with the Court of Appeals[25] , for certiorari and mandamus complaining about what it termed as the sub-silencio denial by the lower court of their application for injunctive relief.[26]

On March 23, 1998, the Court of Appeals issued a resolution giving petitioners, as respondents therein, ten ((10) days from notice within which to file their comment on the petition, not a motion to dismiss, and in the meantime, restrained them from enforcing the writ of execution in Civil Case No. 113-97, MTC-Pasay City, Branch 45.[27]

Incidentally, the resolution was signed by only two members of the Court of Appeals, Special Fourth Division, namely, Justice Demetrio G. Demetria, ponente, and Justice Ramon A. Barcelona, member, concurring. Justice Omar U. Amin, member, did not sign. Hence, the resolution is void, which the division clerk of court should not have received for filing, much less served on the parties. By law, the attendance of three members of the Court of Appeals shall constitute a quorum for the sessions of a division. The unanimous vote of three members of a division shall be necessary for the pronouncement of a decision, or final resolution which shall be reached in consultation before the writing of the opinion by any member of the division.[28] This rule applies to interlocutory resolutions.[29] True, any member of the Court of Appeals may issue preliminary injunction or

temporary restraining order.[30] However, this power is exercised only in case of extreme urgency, and in the tradition of the Supreme Court, the Court en banc or division ratifies or confirms the act of the single justice at the very next session of the Court.

On April 14, 1998, upon motion of petitioners, RTC-Pasay 231 issued an order dismissing the petition on the ground that respondent's remedy is appeal in due time which, when withdrawn, was effectively abandoned. The Regional Trial Court, Pasay City, Branch 231, thus ruled:

"If jurisdiction was indeed a valid concern of the petitioner, it should have been raised at the first opportunity i.e. At the inception of the ejectment case before the Metropolitan Trial Court. Although, the question of jurisdiction may be raised at any stage of the proceedings, it should not be used as a scheme to delay the proceedings and petitioner cannot feign ignorance or inadvertence in a manner aptly illustrated by the respondents, to wit:

6.1 What gave petitioner away is its silence on why it failed, nay refused to raise the issue of jurisdiction in its petition before the appellate court. Jurisdiction it is elementary may be raised anytime even before the first time on appeal. (Govt. vs. American Surety Company 11 PHIL 203; Vda De Roxas vs. Rafferty, 37 PHIL 957; People vs. Que Po Lay, 94 PHIL 6400).

Furthermore, this Court reiterates that "the remedy under Rule 47 is unavailable to the petitioner." It can be availed of only "as the last remedy and cannot be resorted to if the ordinary remedies of a new trial, appeal, petition for relief or other appropriate remedies are available." In this case, appeal is the ordinary remedy which was available to and had in fact been availed of by the petitioner. Lamentably, it caused the withdrawal of its appeal expressing preference and venturing to obtain instead relief under Rule 47 which appears inappropriate under the circumstances."[31]

With the imminent expiration of the temporary restraining order,[32] respondent MMB, Inc. filed with the Court of Appeals a series of petitions and motions urging the Court of Appeals to issue injunctive relief.[33] Thus, on May 14, 1998, respondent MMB, Inc. filed with the Court of Appeals a motion for leave of court to admit a supplemental petition.[34]

On May 18, 1998, respondent MMB, Inc. filed with the Court of Appeals an urgent motion for the issuance of another temporary restraining order in the second CA case.[35] Respondent sought a TRO to enjoin the MTC-Branch 45, Pasay City from enforcing the writ of execution of the decision in Civil Case No. 113-97 and the Regional Trial Court from proceeding with Civil Case No. 98-0366 pending the resolution of the supplemental petition.

Also on the same date, respondent filed with the Court of Appeals a manifestation alleging that it filed with the Regional Trial Court, Quezon City, Branch 88 an action for annulment of the unilateral termination of lease contract and damages.[36] On the ground that such case was still pending, respondents prayed for a temporary restraining order and a writ of preliminary injunction to prevent the execution of the judgment in Civil Case No. 113-97.[37]

On May 20, 1998, respondent MMB, Inc. filed with the Court of Appeals[38] another case seeking to set aside the order of the RTC Pasay, Branch 231, dismissing the action and praying that a temporary restraining order be issued against the MTC-45 Pasay City enjoining the writ of execution issued in Civil Case No. 113-97, to desist from proceeding with CA-G. R. SP No. 47158, to declare the order of respondent judge in Civil Case No. 98-0366 as null and void for being issued in grave abuse of discretion, without or in excess of its jurisdiction, and to declare the TRO/injunction permanent.

On May 22, 1998, the Court of Appeals consolidated the second[39] and third[40] CA cases.

In the meantime, on June 29, 1998, the Court of Appeals issued a resolution in the third CA case,[41] as follows:

"We hereby resolve:

- a. to require the respondent in CA GR SP. No. 47720 to file the petition, not a motion to dismiss, which may be considered as their answer should we decide to give it due course;
- b. Considering that respondent's comment and petitioner's reply in C.A. G.R. SP. No. 47158, to set for hearing the application for preliminary injunction on July 15, 1998, at 2:00 A.M. at Paras Hall, Court of Appeals, Ma. Oroso St., Ermita Manila; and
- c. For a comprehensive appreciation of the consolidated cases before us, to require the RTC Branch 231 of Pasay City to Elevate the Original Records of Civil Case No. 98-0366 and other pertinent pleadings and papers related thereto within five (5) days from notice."

On July 2, 1998, respondents filed with the Regional Trial Court, Branch 110, Pasay City a petition seeking a temporary restraining order to enjoin MTC Branch 45, Pasay City,[43] and the sheriff [44] from enforcing the writ of execution issued on December 1, 1997.

In compliance with the said resolution, on July 15, 1998, petitioners filed their comment/opposition, alleging that:

- a. The petition of private respondent is moot and academic as the entire premises has already been turned over by the sheriff of MTC-45 Albert Zaragoza except 14 lessees which were allowed by the petitioners to remove their improvements within fifteen days;
- b. Assuming the dismissal of the petition for annulment was erroneous, the remedy is appeal not certiorari;
- c. Private respondent is guilty of forum shopping as the issue pending in the Second CA Case, which in RTC-Q.C. is docketed as Civil Case No. Q-98-34382 (for annulment of unilateral termination of lease contract) and the third CA Case are one and the same;
- d. Judge Ylagan committed no abuse of discretion. Petitioners are not guilty of contempt since there is no order violated;
- e. The dismissal order (April 14, 1998) did not pre-empt the Second CA case;
- f. Private respondent failed to allege, much less prove, irreparable injury to it.

On August 21, 1998, the Court of Appeals promulgated its decision, the dispositive portion of which reads as follows:

"WHEREFORE, the decision of the Metropolitan Trial Court, Branch 45, Pasay City in Civil Case No. 113-97 dated May 9, 1997 is SET ASIDE and the orders dated March 23, 1998 and April 14, 1998, issued in Civil Case No. 98-0366 are likewise SET ASIDE. Private respondent is hereby ordered to restore the subject property in the possession of petitioner and are hereby permanently enjoined from further committing acts disturbing physical possession of the subject property by petitioner until after the expiration of the Contract of Lease."

On the same date the decision of the Court of Appeals was promulgated, respondent MMB, Inc. filed with that court a very urgent ex-parte motion for execution pending appeal.[46] On August 26, 1998, the Court of Appeals required petitioners to comment on such motion for execution pending appeal within ten (10) days from notice.[47]

On August 25, 1998, respondent filed with the Court of Appeals another motion ex-parte for execution pending appeal, motion to cite in contempt and motion to stop demolition.[48]

On August 27, 1998, the Court of Appeals issued a resolution stating thus:

"a. Considering that discretionary execution may only issue after due hearing pursuant to Section (2)a, Rule 39 of the 1997 Rules on Civil Procedure, to set for hearing the very urgent motion for execution pending appeal on September 1, 1998, at 10:00 AM at Moran Hall, Court of Appeals x x x;

"b. To require private respondents and counsel to explain within five (5) days from receipt hereof why they should not be cited for contempt; and

"c. To restrain private respondents and all persons acting in their behalf from further demolishing the buildings and improvements on the subject premises." [49]

On August 31, 1998, petitioners filed with the Court of Appeals a motion requesting for an extension of time to file explanation on the motion to declare petitioners and counsel in contempt.[50] In a resolution dated September 3, 1998, the Court of Appeals granted the motion, giving petitioners and counsel ten (10) days from September 1, 1998, or up to September 11, 1998, within which to file the explanation.[51] The case was set for oral argument, parties were directed to submit simultaneously their respective memoranda to the very urgent motion for the issuance of a writ of execution pending appeal/motion to stop demolition within ten (10) days from date, or until September 11, 1998.[52]

On September 11, 1998, petitioners filed with the Court of Appeals a motion for extension of time to file comment/memorandum for at least five (5) days from September 11, 1998, or up September 16, 1998 .[53]

On September 14, 1998, petitioners filed with the Supreme Court a petition for review of the decision of the Court of Appeals.[54] On September 17, 1998, petitioners filed with the Court of Appeals their consolidated comment to the very urgent motion for execution pending appeal, manifestation/motion to cite in contempt/motion to stop demolition, with motion to defer consideration.[55]

The Court of Appeals, however, despite the pending petition with this Court, promulgated on September 18, 1998, its resolution, the dispositive portion of which reads:

"Accordingly, this Court hereby RESOLVES to grant the instant petition.

"1. A writ of Execution Pending Appeal of the Decision of this Court dated August 21, 1998 is hereby issued.

"The Division Clerk of this Court is hereby ordered to furnish a certified true copy of this resolution and the decision of this Court dated August 21, 1998 to the Metropolitan Trial Court, Branch 45, and Regional Trial Court, Branch 231 both of Pasay City.

"2. Private respondents and their counsel are hereby adjudged guilty of indirect contempt of this Honorable Court and are hereby sentenced to pay a fine of P30,000.00. Private respondents and counsel are also directed to make a complete restoration to petitioner of the subject property.

"SO ORDERED." [56]

On September 21, 1998, the Court of Appeals designated a special sheriff[57] to enforce the writ, and on the same day, he evicted petitioners from the premises and restored possession in favor of private respondent.[58]

On September 29, 1998, petitioners filed with the Supreme Court a petition for certiorari to nullify the resolution of the Court of Appeals allowing execution pending appeal and the writ of execution issued pursuant thereto and more, finding petitioners guilty of indirect contempt of court and sentencing them to pay a fine of P30,000.00.[59]

The issues raised in the petitions may be summed up as to whether or not the Court of Appeals erred:

1. In ruling that the nature of the complaint is for rescission of contract, not ejectment, over which the

Metropolitan Trial Court, Pasay City did not have jurisdiction;

2. In directing that respondent MMB, Inc. be restored in possession of the leased premises;

3. In immediately executing its resolution dated September 18, 1998, transferring possession of the property from petitioners to respondent MMB, Inc. by a "special sheriff".

4. In declaring petitioners guilty of indirect contempt of court, and sentencing them to pay a fine of P30,000.00.

The crux of the case is whether there was a need for judicial rescission of the contract of lease before respondent MMB, Inc. may be compelled to move out of the leased premises.

We find the petitions impressed with merit.

We rule that there is no need for a judicial rescission of the lease contract between lessors heirs of Justice J. B. L. Reyes, et al. and lessee MMB, Inc. The contract provides:

"Section 18, paragraph 4 (a) In the event of default or breach of any of the condition of this contract x x x.

(b) x x x the LESSOR may, in his absolute discretion declare the contract cancelled and terminated and require the TENANT to vacate the leased premises x x x

MMB, Inc. violated the following conditions of the contract:

1. Par. 8 requiring MMB, Inc. to cover all buildings and improvements on the leased premises with insurance against fire, earthquake and extended coverage risks;

2. Par. 9 and 10 of the contract requiring MMB, Inc. to maintain the leased premises and all the buildings and improvements thereon in a state of security and first class repair, in a clean and sanitary condition, to repair and restore or reconstruct such damaged on destroyed improvements;

3. Par. 11 of the contract requiring defendant to secure LESSOR's prior written consent before it may assign or transfer any of its rights under the contracts.

We have ruled that "there is nothing wrong if the parties to a lease contract agreed on certain mandatory provisions concerning their respective rights and obligations, such as the procurement of the insurance and the rescission clause. For it is well to recall that contracts are respected as the law between the contracting parties, and they may establish such stipulations, clauses, terms and conditions as they may want to include. As long as such agreements are not contrary to law, morals, good customs, public policy or public order they shall have the force of law between them." [60]

The law on obligations and contracts does not prohibit parties from entering into agreement providing that a violation of the terms of the contract would cause its cancellation even without judicial intervention. [61] This is what petitioners and respondent entered into, a lease contract with stipulation that the contract is rescinded upon violation of its substantial provisions, which MMB, Inc. does not deny they violated.

The basic issue having been disposed of, we need not resolve the other issues petitioners raised.

On hindsight, the Court of Appeals declared petitioners guilty of indirect contempt of court because they implemented the writ of execution of the trial court despite the order of the court to elevate the entire original records. And petitioners proceeded to demolish the improvements on the property without authority of the Court of Appeals. However, this was because the temporary restraining order issued by the Court of Appeals had lapsed after sixty (60) days. [62] No more restraining order was in effect until the court decided the case on its merits.

Hence, petitioners acted in good faith in the exercise of their proprietary rights. There was no willful disobedience to a lawful order. Petitioners were not guilty of contempt. The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment.[63] The courts must exercise the power to punish for contempt for purposes that are impersonal because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise.[64] The court must exercise the power of contempt judiciously and sparingly, with utmost self-restraint.[65]

One final word. It was bad enough that the Court of Appeals erred in ruling that the lease contract must be judicially rescinded before respondent MMB, Inc. may be evicted from the premises. It was worse that the Court of Appeals immediately enforced its decision pending appeal restoring respondent in possession of the leased premises and worst, appointed a special sheriff to carry out the writ of execution. In the first place, we emphatically rule that the Court of Appeals has no authority to issue immediate execution pending appeal of its own decision. Discretionary execution under Rule 39, Section 2 (a), 1997 Rules of Civil Procedure, as amended, is allowed pending appeal of a judgment or final order of the trial court, upon good reasons to be stated in a special order after due hearing. A judgment of the Court of Appeals cannot be executed pending appeal. Once final and executory, the judgment must be remanded to the lower court, where a motion for its execution may be filed only after its entry.[66] In other words, before its finality, the judgment cannot be executed. There can be no discretionary execution of a decision of the Court of Appeals. In the second place, even in discretionary executions, the same must be firmly founded upon good reasons. The court must state in a special order the "good reasons" justifying the issuance of the writ.[67] The good reasons allowing execution pending appeal must constitute superior circumstances demanding urgency that will outweigh the injuries or damages to the adverse party if the decision is reversed.[68] Jurisprudence teaches us what are "good reasons" that justify a premature execution of judgment, such as "deterioration of commodities subject of litigation"[69] and "the deteriorating condition of the vessel, M/V 'Valiant' . . . left to rot at the pier and without a crew to guard it".[70] In this case, the good reasons given by the Court of Appeals to support the discretionary execution of its decision are (1) that respondent would be deprived of income from its business endeavors; (2) that "it is of public knowledge" that the Court of Appeals and the Supreme Court are clogged with cases and it may take some time before the decision in the case may attain its finality; and (3) that petitioners acted with bad faith and malice.[71] None of the cited reasons is "good" enough. According to jurisprudence, respondent's precarious financial condition is not a compelling circumstance warranting immediate execution.[72] The assertion that "it is of public knowledge" that the Supreme Court is clogged with cases that may take time to decide mocks the integrity and derides the competence of this Court. The remark erodes and undermines the people's trust and confidence in the judiciary, ironically coming from one of its subordinate courts. This is an assault on the Supreme Court that borders on contempt; we cannot permit such attack to pass without sanction. This we cannot countenance. Litigants, lawyers and judges share the responsibility of unclogging the dockets of the judiciary.[73] No lower court justice or judge may deride, chastise or chide the Supreme Court even speaking "with due respect" in his ponencia. In fact, it is the duty of lower courts to obey the decisions of the Supreme Court and render obeisance to its status as the apex of the hierarchy of courts. "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." [74] "There is only one Supreme Court from whose decision all other courts should take their bearings" so spoke Justice J. B. L. Reyes.[75] We echo this golden nugget of advice. If a judge of a lower court cannot do so in conscience, he has no alternative but to yield his judicial robe and resign.[76] More, it has been held that urgency resulting from years of delay in the disposal of a case is not a good reason for premature execution of the decision.[77] Bad faith and malice are not indicated simply because petitioners insisted on their rights and exhausted judicial remedies. On the contrary, good faith is always presumed.[78] In the third place, on September 14, 1998, petitioners

elevated the decision of the Court of Appeals to the Supreme Court by petition for review.[79] By the mere fact of the filing of the petition, the finality of the Court of Appeals' decision was stayed, and there could be no entry of judgment therein,[80] and, hence, no premature execution could be had. The Court of Appeals adopted its resolution granting execution pending appeal on September 18, 1998, after the petition for review was already filed in the Supreme Court.[81] It thereby encroached on the hallowed grounds of the Supreme Court. Worst of all, the Court of Appeals has no authority to appoint a special sheriff.[82] It appointed an employee of the mailing section, who was not even bonded as required by law.[83] Such display of keen interest in the immediate execution of its decision coupled with the exercise of excessive authority by illegally appointing a "special sheriff" makes the concerned members of the Court of Appeals liable to disciplinary action and the imposition of appropriate penalty.[84]

WHEREFORE, the Court declares VOID the resolution of the Court of Appeals, dated September 18, 1998 in CA-G. R. SP No. 47158 and SP No. 47720, and the writ of execution dated September 21, 1998, issued pursuant thereto. Petitioners are acquitted of the charge of contempt of court.

The Court REVERSES the decision of the Court of Appeals promulgated on August 21, 1998, in CA-G. R. SP No. 47158 and SP No. 47720, and REINSTATES the decision of the Regional Trial Court, Pasay City, Branch 231, dated March 23, 1998, and order dated April 14, 1998, in Civil Case 98-0366.

Costs against respondent MMB, Inc.

Let a copy of this decision be furnished to the Presiding Justice, Court of Appeals, Manila, for dissemination to the Associate Justices, Court of Appeals, for their information and guidance.

#### **SO ORDERED.**

Davide, Jr., C.J., Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

Vitug, J., no part due to close relationship with some parties.

Bellosillo, J., no part.

---

[1] In CA-G.R. SP No. 47158 and SP No. 47720, promulgated on August 21, 1998, Demetria, J., ponente, Barcelona and Barrios, JJ., concurring. G.R. Nos. 135180-81, Rollo, pp. 10-17.

[2] In Civil Case No. 113-97, Decision, dated May 9, 1997.

[3] In Civil Case No. 98-0366, Orders dated March 23 and April 14, 1998.

[4] In the same cases CA-G.R. SP No. 47158 and SP No. 47720.

[5] CA-G.R. SP No. 47158 and SP No. 47720, Resolution, September 18, 1998. G.R. Nos. 135425-26, Rollo, pp. 35-38.

[6] Writ of Execution, dated September 21, 1998, Ibid., Rollo, pp. 39-40.

[7] Enforced by Mr. Efren Revamonte, designated Special Sheriff by the Court of Appeals, Mailing Section, Rollo, p. 39.

[8] G.R. Nos. 135180-81, Petition, Annexes "A" and "B", Rollo, pp. 103-105.

[9] Ibid., Annex "C", pp. 106-120.

- [10] Docketed as Civil Case No. 113-97; G.R. Nos. 135180-81, Petition, Annex “B”, Rollo, pp. 95-137.
- [11] G.R. Nos. 135180-81, Petition, par. 9.1, Annex “E”, Rollo, pp. 354-356.
- [12] G.R. Nos. 135180-81, MTC Decision, Civil Case No. 113-97, Judge Manuel G. Garcia (MTC Branch 45, Pasay City), Petition, Annex “C”, Rollo, pp. 138-145.
- [13] Petition, par. 9.3, Rollo, p. 26.
- [14] Docketed as Civil Case No. 97-0976; Petition, par. 9.4, Rollo, p. 26.
- [15] Docketed as CA-G.R. SP No. 45853 (First CA Case). Petition, CA Rollo, pp. 8-43.
- [16] Presided over by Judge Zenaida G. Laguilles.
- [17] G.R. Nos. 135180-81, Rollo, pp. 562-563.
- [18] G.R. Nos. 135180-81, CA Resolution, Rollo, pp. 181-182.
- [19] CA-G.R. SP No. 45853, filed on February 16, 1998. CA Rollo, Vol. 2, pp. 228.
- [20] CA-G. R. SP No. 45853, CA Rollo, Vol. 1, p. 251.
- [21] CA-G. R. SP No. 45853.
- [22] Docketed as Civil Case No. 98-0366, presided over by Judge Cesar Z. Ylagan; G.R. Nos. 135180-81, Petition, Annex “H”, Rollo, pp. 185-250.
- [23] Ibid., Petition, Annex “I” Rollo, pp. 251-265.
- [24] Ibid., Petition, Annex “J”, Rollo, pp. 266-282.
- [25] Docketed as CA-G.R. SP No. 47158 (second CA Case).
- [26] Petition, CA-G. R. No. SP 47158, CA Rollo, pp. 2-19, at p. 10.
- [27] G.R. Nos. 135180-81, Petition, Annex “K-1”, Rollo , pp. 357-358.
- [28] B.P. No. 129, Section 11.
- [29] Revised Internal Rules of the Court of Appeals, Rule 6, Section 2 (c ) (2).
- [30] Cf. Rule 58, Section 2, 1997 Rules of Civil Procedure, as amended; Rule 3, Section 9 (b), Revised Internal Rules of the Court of Appeals, as amended.
- [31] G.R. Nos. 135180-81, Petition, Annex “M”, Rollo, pp. 362-363.
- [32] Which we hold to be void, *supra*.
- [33] G.R. Nos. 135180-81, Petition, pars. 13 et seq. pp. 31-32.
- [34] G.R. Nos. 135180-81, Petition, par. 13.1, Rollo, p. 32.
- [35] CA-G. R. SP No. 47158.
- [36] Filed on May 19, 1998, docketed as Civil Case No. Q-98-34382; Petition, Annex “S” (Annex “C”), Rollo, pp. 571-578.
- [37] G.R. Nos. 135180-81, Petition, par. 13.6, Rollo , p. 33.

- [38] Docketed as CA-G. R. SP No. 47720 (third CA case). G.R. Nos. 135180-81, Petition, Annex “O”, Rollo, pp. 368-379.
- [39] CA-G.R. SP No. 47158.
- [40] CA-G.R. SP No. 47720.
- [41] Ibid.
- [42] G.R. Nos. 135425-26, Petition, Annex “K”, Rollo, pp. 148-150.
- [43] Now presided over by Judge Zenaida G. Laguilles.
- [44] Docketed as Civil Case No. 98-1171.
- [45] G.R. Nos. 135425-26, Decision, CA-G.R. SP No. 47158 and SP No. 47720, promulgated on August 21, 1998, Petition, Annex “B”, Rollo, pp. 42-49.
- [46] G.R. Nos. 135425-26, Petition, Annex “C”, Rollo, pp. 50-52.
- [47] Ibid., Annex “C-1”, Rollo, p. 53.
- [48] Ibid., Annex “D”, Rollo, pp. 54-56.
- [49] Ibid., Annex “E”, Rollo, pp. 57-59.
- [50] CA-G.R. SP No. 47158 and SP No. 47720, CA Rollo, pp. 506-507.
- [51] Ibid., p. 508.
- [52] G. R. Nos. 135425-26, Petition, par. 3.5, Rollo, p. 9.
- [53] Ibid., pp. 514-515.
- [54] G.R. Nos. 135180-81, Petition for Review, Rollo, pp. 19-76.
- [55] G.R. Nos. 135425-26, Petition, Annex “G”, Rollo, pp. 62-72.
- [56] Petition, Annex “A-1” Resolution, Rollo, pp. 35-38.
- [57] Mr. Efren Revamonte, designated by the Court of Appeals, mailing section, Rollo, p. 39.
- [58] CA-G.R. SP No. 47158 and SP No. 47720, CA Rollo, pp. 569-571.
- [59] G. R. Nos. 135425-26, Petition for Certiorari, Rollo, pp. 3-33.
- [60] People’s Industrial and Commercial Corp. v. Court of Appeals, 281 SCRA 206, 216 [1997] , citing Manila Bay Club Corp. v. Court of Appeals, 315 Phil. 805, 826 [1995] ; Heirs of Juan San Andres v. Rodriguez, G.R. No. 135634, May 31, 2000.
- [61] Pangilinan v. Court of Appeals, 279 SCRA 590 [1997] ; Jison v. Court of Appeals, 164 SCRA 339, 344 [1988] .
- [62] Rule 58, Section 5, last par., 1997 Rules of Civil Procedure, as amended.
- [63] Comm. Of Immigration v. Cloribel, 127 Phil. 716 [1967]; Yasay v. Recto, G. R. No. 129521, September 7, 1999, citing Nazareno v. Barnes, 136 SCRA 57 [1985] ; Pacuribot v. Lim, Jr., 275 SCRA 543 [1997] .
- [64] Yasay v . Recto, supra, Note 63, citing Dee v. SEC, 199 SCRA 238 [1990].

[65] Yasay v. Recto, *supra*, Note 63.

[66] See Rule 51, Section 11, 1997 Rules of Civil Procedure, as amended.

[67] Del Callar v. Salvador, 268 SCRA 320 [1997] ; Mancenido v. Court of Appeals, G.R. No. 118605, April 12, 2000.

[68] Yasuda v. Court of Appeals, G.R. No. 112569, April 12, 2000; Sanz Maceda, Jr. v. Development Bank of the Philippines, G.R. No. 135128, August 26, 1999; Diesel Construction Co., Inc. v. Jollibee Foods Corp., G.R. No. 136805, January 28, 2000.

[69] Federation of United Namarco Distributors, Inc. v. National Marketing Corporation, 4 SCRA 867 [1961] ; Bell Carpets International Trading Corporation v. Court of Appeals, 185 SCRA 35.

[70] Yasuda v. Court of Appeals, *supra*, Note 68.

[71] G.R. Nos. 135425-26, Petition, Annex “A-1”, Rollo, pp. 3-38, at pp. 36-37.

[72] Diesel Construction Co., Inc. v. Jollibee Foods Corp., *supra*, Note 68.

[73] Garcia v. Burgos, 353 Phil. 740 [1998].

[74] Conducto v. Judge Monzon, 353 Phil. 796, 813 [1998] .

[75] Albert v. Court of First Instance of Manila, 28 SCRA 948, 961 [1968].

[76] People vs. Santos, 104 Phil. 551, 560 [1958]; Conducto v. Judge Monzon, *supra*, Note 74, citing Vivo v. Cloribel, 18 SCRA 713 [1966].

[77] Sanz-Maceda v. Development Bank of the Philippines, *supra*, Note 68.

[78] Venus v. Desierto, 298 SCRA 196 [1998] .

[79] In G.R. Nos. 135180-81, filed on September 14, 1998.

[80] Rule 51, Sec. 10, 1997 Rules of Civil procedure, as amended.

[81] On September 14, 1998, with notice to the Court of Appeals.

[82] Comm. Of Public Highways v. San Diego, 31 SCRA 616, 631 [1970] .

[83] Revised Administrative Code of 1917, Section 330.

[84] Office of the Court Administrator v. Judge Veneracion, A. M. No. RTJ-99-1432, June 21, 2000.

**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.