



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

AZUCENA E. BAYANI,
Petitioner,

G.R. Nos. 203076-77

- versus -

EDUARDO, LEONORA,
VIRGILIO, VILMA, CYNTHIA
and **NANCY**, all surnamed **YU** and
MR. ALFREDO T. PALLANAN,
Respondents.

X-----X
HEIRS OF CONCEPCION NON
ANDRES, namely: **SERGIO, JR.,**
SOFRONIO and **GRACELDA**, all
surnamed **ANDRES**,
Petitioners,

G.R. Nos. 206765 and 207214

Present:

- versus -

HEIRS OF MELENCIO YU AND
TALINANAP MATUALAGA,
namely: **EDUARDO, LEONORA,**
VIRGILIO, VILMA, CYNTHIA,
IMELDA and **NANCY**, all
surnamed **YU**; **THE**
PROVINCIAL SHERIFF OF
GENERAL SANTOS CITY; MR.
ALFREDO T. PALLANAN, in his
capacity as Deputy Sheriff of the
Regional Trial Court (Branch 36),
General Santos City; and **HON.**
ISAAC ALVERO V. MORAN,
Presiding Judge of the Regional
Trial Court (Branch 36), General
Santos City; **YARD URBAN**

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG, JJ.

Promulgated:

JUL 10 2019

**HOMEOWNERS ASSOCIATION,
INC., herein represented by its
President, ROGELIO ENERO,**
Respondents.

x-----x

DECISION

BERSAMIN, C.J.:

The guarantee of due process requires that the judgment of the court in an action *in personam* shall be enforced only against individuals who have been properly impleaded and whose persons have regularly come under the jurisdiction of the trial court. Any person not duly served with the summons or who has not voluntarily appeared in the action cannot be prejudiced by the judgment.

The Case

Before us are consolidated appeals by petition for review on *certiorari*, specifically: (1) **G.R. No. 206765** and **G.R. No. 207214**, filed by the Heirs of Concepcion Non Andres against the Heirs of Melencio Yu and Talinanap Matualaga, *et al.*; and (2) **G.R. Nos. 203076-77**, filed by Azucena Bayani. These appeals assail the decision promulgated by the Court of Appeals (CA) on May 20, 2011 (assailed decision), as well as the resolutions promulgated on July 19, 2012 and April 17, 2013 respectively in **CA-G.R. SP No. 02118-MIN** and **CA-G.R. No. SP No. 02084-MIN**.

Petitioners Sergio Andres, Jr., Sofronio Andres, and Gracelda Andres (collectively, Heirs of Non Andres) are the children of the late Concepcion Non Andres, the daughter of the late Alfonso Non. Respondents Eduardo, Leonora, Virgilio, Vilma, Cynthia, and Nancy (collectively, Heirs of Yu) are the heirs of the late Spouses Melencio Yu and Talinanap Matualaga.

Antecedents

In 1953, a parcel of land, with an approximate aggregate area of 54.4980 hectares, located in Makar, General Santos City (Makar property), was subdivided into Lots Nos. 1, 2, 3, 4, and 5. Melencio filed applications for free patent as to Lots Nos. 2 and 4, and his applications were eventually approved.¹

¹ *Heirs of John Z. Sycip v. Court of Appeals*, G.R. No. 76487, November 9, 1990, 191 SCRA 262, 264.

Sometime after 1963, Melencio executed an *Agreement to Transfer Rights and Deed of Sale* and a *Quitclaim Deed* upon the intervention of Alfonso Non. It turned out, however, that said documents were for the sale of *all* the subdivided lots to one John Z. Sycip, instead of only the lots covered by the free patent issued to Melencio. As a result, the original certificate of title was delivered to Sycip instead of to Melencio and Talinanap.

After the subdivision, the disposition of the Makar property — particularly Lot No. 2 — became the subject of controversy in several civil cases, the rulings in which were ultimately brought to the Court, namely: (a) **G.R. No. 76487** entitled *Heirs of Sycip v. Court of Appeals*,² whose decision was promulgated on November 9, 1990 (**1990 Case**); (b) **G.R. No. 182371** entitled *Heirs of Yu v. Court of Appeals*,³ whose decision was promulgated on September 4, 2013 (**2013 Case**); and (c) the present consolidated appeals.

A.
1990 Case (G.R. No. 76487)

After discovering that the original certificate of title had been delivered to Sycip, Melencio and Talinanap commenced in the Court of First Instance (CFI) of South Cotabato an action against Sycip for the declaration of nullity of documents and recovery of possession of real property (with a prayer for a writ of preliminary mandatory injunction). The action, docketed as **Civil Case No. 1291**, was assigned to Branch I of the CFI.

The ruling in **Civil Case No. 1291** eventually reached the Court (**G.R. No. 76487**), and the pivotal question raised was whether or not the sale of Lot No. 2 was null and void *ab initio*. Through the decision promulgated on November 9, 1990,⁴ the Court nullified the *Agreement to Transfer Rights and Deed of Sale* and the *Quitclaim Deed* on the ground that with Melencio and Talinanap being native Muslims belonging to the cultural minority or non-Christian Maguindanao tribe, the real property transactions to which they were parties were governed by the pertinent provisions of the *Revised Administrative Code of Mindanao and Sulu*, the *Public Land Act*, and Republic Act No. 3872, laws that respectively required the real property transactions to be approved by the relevant Provincial Governor, the Commissioner of Mindanao and Sulu, and the Chairman of the Commission on National Integration; and that, therefore, the documents were void and in-existent for being falsified, without consideration, and lacking of the requisite approvals.⁵

² Id.

³ G.R. No. 182371, September 4, 2013, 705 SCRA 84.

⁴ Supra note 1, at 266.

⁵ Id. at 267.

The ruling in the **1990 Case (G.R. No. 76487)** became final and executory on December 10, 1990, and the entry of judgment was issued on February 2, 1991. As a result, the Regional Trial Court (RTC) in General Santos City directed the issuance of the writ of execution in its order dated February 26, 1991.⁶

As it turned out, Sycip had long abandoned the Makar property since the 1980s. As of the time of the execution of the ruling in **Civil Case No. 1291**, however, other persons were already occupying Lot No. 2 and had built improvements thereon. Among them were: (1) the group of illegal settlers that had entered the disputed property in the interim, and who had organized themselves into the Yard Urban Homeowners Association, Inc. (**YUHAI**); (2) another group of illegal entrants who had organized themselves as the Sogod Homeseekers Association, against whom the Heirs of Yu brought an action for forcible entry docketed as Civil Case No. 1668-22;⁷ and (3) the Heirs of Non Andres, represented by Gracelda.

When the sheriff implemented the writ of execution issued in the **1990 Case**, the occupants refused to vacate Lot No. 2. Thus, the Heirs of Yu moved for the demolition of the occupants' improvements on Lot No. 2.⁸ In the order dated April 26, 1991, the RTC granted this motion and directed "the defendants who have remained in the premises xxx to remove their houses, otherwise, corresponding demolition will automatically follow."⁹

To prevent the Heirs of Yu from taking over the property where its members had erected their houses, YUHAI filed a complaint for injunction and damages with prayer for writ of preliminary injunction or temporary restraining order (TRO), docketed as **Civil Case No. 4647**, in the RTC, which was assigned to Branch 23 (**YUHAI Injunction Case**).¹⁰ By this time, the same RTC branch was hearing both **Civil Case No. 1291** and **Civil Case No. 4647**, which had been consolidated.

The RTC dismissed the **YUHAI Injunction Case** on March 25, 1995, and the CA affirmed the dismissal on August 28, 1998 in CA-G.R. No. 54003.¹¹

Still unsuccessful in obtaining possession of Lot No. 2, the Heirs of Yu again sought the issuance of a special order of demolition. However, on March 10, 1998, the RTC, then presided by Acting Presiding Judge Monico

⁶ *Rollo* (G.R. No. 206765 & G.R. No. 207214), p. 254.

⁷ *Id.* at 255.

⁸ *Id.* at 254.

⁹ *Id.* at 115.

¹⁰ *Id.* at 42

¹¹ See *Heirs of Melencio Yu v. Court of Appeals*, G.R. No. 182371, September 4, 2013, 705 SCRA 84, 88.

G. Cabales, denied their motion to that effect,¹² observing that the improvements being sought to be demolished had been built by persons not privy to **Civil Case No. 1291**; and holding that the judgment did not bind persons who were not parties in the action because every person was entitled to due process of law.¹³

The RTC later denied the Heirs of Yu's motion for reconsideration.

Undaunted, the Heirs of Yu again moved for the issuance of a writ of demolition. The RTC, now under Presiding Judge Jose S. Majaducon, granted the motion, and issued the special order of demolition dated August 22, 2001 (**2001 Demolition Order**),¹⁴ which reads as follows:

SPECIAL ORDER OF DEMOLITION

TO: The Provincial Sheriff of General Santos City or any of his deputies

X X X X

WHEREAS, on March 19, 2001, an ORDER was issued by the Court, the dispositive part of which reads as follow (sic):

“WHEREFORE, the motion to implement the writ of demolition against the defendants and oppositors is hereby GRANTED.”

WHEREAS, on June 20, 2001, an ORDER was issued by the Court, reading as follows:

“Acting on the Motion for Reconsideration on the Order dated [M]arch 19, 2001, granting motion for a special order of demolition and the opposition thereto, the Court having found no cogent reason to reconsider or set aside the Order, hereby DENIES the motion.

The Decision of the Court of Appeals is very clear on the issues raised in the motion. Since oppositors have not shown any right to the land, they should vacate the same. According to the Court of Appeals, it is not necessary for plaintiffs in Civil Case No. 1291 and defendants in Civil Case No. 4647 to file a separate case to eject oppositors.

WHEREFORE, the motion is denied.”

NOW THEREFORE, we command you to demolish the improvements erected by the defendants HEIRS OF JOHN Z. SYCIP xxx, in Civil Case No. 1291, and plaintiffs YARD URBAN

¹² *Rollo* (G.R. No. 206765 & G.R. No. 207214, pp. 253-257.

¹³ *Id.* at 256.

¹⁴ *Id.* at 114-115.

HOMEOWNERS ASSOCIATION INC., ET AL. in Civil Case No. 4647, on that portion of land belonging to plaintiffs in Civil Case 1291 and defendants Civil Case no. 4647, MELENCIO YU and TALINANAP MATUALAGA, covered by Original Certificate of Title [No.] (V-14496) (P-2331) P-523 in Apopong, General Santos City. (Bold underscoring supplied for emphasis)

By virtue of the **2001 Demolition Order**, the provincial sheriff issued notices to vacate addressed to the Heirs of Sycip, YUHAI, and “*all adverse claimants and actual occupants of the disputed lot*,”¹⁵ including the Heirs of Non Andres.

Prompted by the issuance of the **2001 Demolition Order**, the Heirs of Non Andres and YUHAI separately filed in the RTC complaints for quieting of title docketed as **Civil Case No. 7066 (Heirs of Non Andres Quieting Case)** and **Special Civil Case No. 562 (YUHAI Quieting Case)**, respectively.

In the meantime, the RTC directed the sheriff to proceed with the implementation of the **2001 Demolition Order**. Thereafter, YUHAI filed a petition for *certiorari* in the CA to annul the **2001 Demolition Order** (docketed as CA-G.R. SP No. 69176). Initially, on March 5, 2002, the CA issued a TRO to enjoin the implementation, thereby effectively deferring the demolition for several years.¹⁶ Ultimately, the CA dismissed YUHAI’s petition for *certiorari* and denied YUHAI’s motion for reconsideration of the dismissal. Thus, YUHAI appealed the dismissal to this Court, which denied the petition for review on *certiorari* on September 16, 2009.¹⁷

Inasmuch as the implementation of the **2001 Demolition Order** remained pending and incomplete, the Heirs of Yu filed their *Motion to Resume and Complete Demolition*. In its October 9, 2007 order (**2007 Resumption Order**),¹⁸ the RTC (Branch 36) granted the motion and directed the provincial sheriff to proceed with and complete the demolition allowed in **Civil Case No. 1291 and Civil Case No. 4647**,¹⁹ viz:

SPECIAL ORDER TO RESUME AND COMPLETE DEMOLITION

TO: The Provincial Sheriff of General Santos City or any of his deputies

X X X X

NOW THEREFORE, we command you to resume and complete the demolition in [Civil Case Nos. 1291 and 4647] as directed in the

¹⁵ *Heirs of Melecio Yu v. Court of Appeals*, supra, note 11, at 89.

¹⁶ *Id.* at 89-90.

¹⁷ *Id.* at 90.

¹⁸ *Rollo* (G.R. No. 206765 & G.R. No. 207214), pp. 116-117.

¹⁹ *Heirs of Melencio Yu v. Court of Appeals*, supra note 11, at 90.

Special Order of Demolition, dated August 22, 2001, issued by then Judge Jose S. Majaducon. (Emphasis Supplied)

Subsequently, on November 12, 2007 and December 4, 2007, the sheriff sent notices to *all occupants* to vacate Lot No. 2.²⁰

Two parties assailed the **2007 Resumption Order**, namely: the Heirs of Non Andres and Azucena N. Bayani.

Arguing that they were not even parties in **Civil Case No. 1291** and **Civil Case No. 4647**, the Heirs of Non Andres assailed their inclusion in the implementation through their letter addressed to the provincial sheriff whereby they insisted on their exclusion from the implementation, and by filing therein a *Special Appearance with Ex-Parte Manifestation and Motion*. The provincial sheriff did not act on their letter, while the RTC expressly disallowed their motion through the order dated December 7, 2007.²¹ On December 11, 2007,²² therefore, they brought a petition for *certiorari*, prohibition, and injunction with prayer for the issuance of a TRO and/or writ of preliminary injunction (**CA-G.R. SP No. 02084-MIN**) to set aside the **2007 Resumption Order** and to permanently enjoin the demolition as far as they were concerned.

On her part, Bayani also went to the CA by commencing an action for indirect contempt against Deputy Sheriff Alfredo Pallanan of Branch 36 of the RTC on the ground that the latter had illegally demolished her house (**CA-G.R. SP NO. 02118-MIN**).

It is notable that the two petitions filed in the CA to resist the implementation of the **2007 Resumption Order** paved the way to two cases that separately reached the Court, specifically: (1) **CA-G.R. SP No. 02084-MIN** involving matters that had occurred in the early stages (*i.e.*, the ancillary prayer for the issuance of writ of preliminary injunction to enjoin the demolition), which led to the **2013 Case**; and (2) after **CA-G.R. SP NO. 02118-MIN** was consolidated with **CA-G.R. SP No. 02084-MIN**, the CA resolved the *main issue* on the propriety of the **2007 Resumption Order** through the decision promulgated on May 20, 2011.

Bayani and the Heirs of Non Andres have separately appealed the decision promulgated on May 20, 2011, and their appeals are now the subjects of the consolidated appeals herein.

²⁰ *Rollo* (G.R. No. 206765 & G.R. No. 207214), p. 45.

²¹ *Heirs of Melencio Yu v. Court of Appeals*, supra note 11, at 91.

²² *Supra* note 20.

B.
2013 Case (G.R. No. 182371)

On December 14, 2007, a few days after the Heirs of Non Andres filed their petition for *certiorari*, prohibition, and injunction (**CA-G.R. SP No. 02084-MIN**), the CA granted their prayer for the TRO “enjoining the Provincial Sheriff of General Santos City xxx from demolishing any improvements and structures over the subject property and from harassing petitioners, their agents and representatives until further notice.”²³

Considering that the RTC stated in its order dated December 20, 2007 that the writ of demolition had already been executed completely on December 13, 2007, the CA, noting said order, lifted the TRO for being moot and academic.²⁴

The Heirs of Non Andres moved for the reconsideration of the lifting of the TRO by insisting that the demolition had not yet been completely implemented as to them. Hence, on April 3, 2008, the CA issued: (1) an order granting their motion for reconsideration; and (2) a writ of preliminary mandatory injunction preventing further demolition on the subject property.

Confronted by another impending delay in the clearing of the subject lot of the occupants, the Heirs of Yu moved to reconsider and reverse the grant of the writ of preliminary mandatory injunction, and to dissolve the writ. After their move failed, they came to the Court to seek recourse by petition for *certiorari* (**G.R. No. 182371**), which is the **2013 Case**.

The main issue in the **2013 Case** was whether or not the CA had properly issued the writ of preliminary mandatory injunction.²⁵ In striking down the CA’s order, the Court opined that the issuance of the writ of preliminary mandatory injunction had been done in undue haste and without the requisite posting of the bond; that an order granting the preliminary mandatory injunction did not automatically entitle the applicant to an immediate enforcement;²⁶ that the CA had committed grave abuse of discretion in granting the Heirs of Non Andres’s prayer for preliminary mandatory injunction,²⁷ reminding that:

x x x [A] preliminary mandatory injunction should only be granted “in cases of extreme urgency; **where the right is very clear**; where considerations of relative inconvenience bear strongly in complainant's favor; **where there is a willful and unlawful invasion of plaintiff's right**

²³ *Rollo* (G.R. No. 206765 & G.R. No. 207214), pp. 45-46.

²⁴ *Heirs of Melencio Yu v. Court of Appeals*, supra note 11, at 91.

²⁵ *Id.* at 93.

²⁶ *Id.* at 94.

²⁷ *Id.* at 95.

against his protest and remonstrance, the injury being a continuing one; and where the effect of the mandatory injunction is rather to re-establish and maintain a pre-existing continuing relation between the parties, recently and arbitrarily interrupted by the defendant, than to establish a new relation.”²⁸

and that the Heirs of Non Andres’s entitlement to the preliminary mandatory injunction was more doubtful than clear and unmistakable because: (a) the evidence they had presented was weak and inconclusive; (b) the right sought to be protected remained to be disputed;²⁹ and (c) the damages allegedly sustained did not consist of grave and irreparable injury.³⁰

The Court pronounced that the Heirs of Non Andres were bound by the ruling in the **1990 Case**, whereby the *Agreement to Transfer Rights and Deed of Sale* and *Quitclaim Deed* were nullified;³¹ that said documents could not prove their ownership and possession of Lot No. 2;³² that although they had presented other public documents, such as the application for free patent of their predecessor-in-interest, Concepcion Non Andres, the existence and due execution of such documents had remained inconclusive and highly disputed; and that, consequently, such documents could not be the source of a clear and unmistakable right.³³

The Court observed that the parties had continued to disagree on the fact of prior possession of Lot No. 2; that although the Heirs of Non Andres had claimed to be “the actual possessors — open, continuous, and adverse possession in the concept of an owner—and not squatters, of the subject lot for over 50 years,” and that they had erected improvements and structures on the lot that would be in danger of being demolished, the CA had nonetheless hastily issued the writ of preliminary mandatory injunction because it had not even ascertained the veracity of the claim.³⁴

During the pendency of the **2013 Case**, the CA resolved the consolidated petitions in **CA-G.R. SP No. 02118-MIN** and **CA-GR. SP No. 02084-MIN** on the merits through the assailed decision promulgated on May 20, 2011, decreeing as follows:

WHEREFORE, premises considered, the petition in C.A. G.R. SP No. 02118-MIN is hereby DENIED.

In C.A. G.R. SP No. 02084-MIN, the petition is likewise DENIED.
The assailed Order dated October 9, 2007 of the RTC (Branch 36),

²⁸ Id. at 96.

²⁹ Id. at 97.

³⁰ Id. at 101.

³¹ Id. at 98-99.

³² Id. at 97.

³³ Id. at 100-101.

³⁴ Id. at 101.

General Santos City is hereby **AFFIRMED**. **We exhort the court of origin to execute the decision with reasonable dispatch.** No costs.

SO ORDERED. (Bold emphasis supplied)

In the end, the RTC upheld the **2007 Resumption Order**.

In **CA-GR. SP No. 02084-MIN**, the CA dismissed the petition for *certiorari*, prohibition and injunction filed by the Heirs of Non Andres, and held that the Heirs of Non Andres did not sufficiently establish any right or interest over Lot No. 2 that would justify a stoppage of the demolition; that in the **1990 Case**, the *Agreement to Transfer Rights and Deed of Sale* and the *Quitclaim Deed* had been nullified; that under the doctrine of *res judicata*, the Heirs of Non Andres could not source any right from said documents;³⁵ that, more importantly, the **1990 Case** conclusively settled the issue of ownership in favor of the Heirs of Yu; that an issue adjudicated on the merits and resolved clearly in favor of a party could no longer be re-litigated;³⁶ that the Heirs of Non Andres had not presented evidence to sufficiently prove that they had been physically occupying the property;³⁷ that the argument of the Heirs of Non Andres that they should have been excluded from the coverage of the **2007 Resumption Order** because they had not been parties in the **1990 Case** and its precursor civil cases lacked merit because as early as 1972, their mother, Concepcion, had already known of Melencio Yu's claim over Lot No. 2; that their grandfather, Alfonso Non, had even been mentioned in the **1990 Case** "as the person who acted as middleman in the fraudulent sale of five (5) parcels;"³⁸ that the RTC had issued the **2007 Resumption Order** as a consequence of the finality of the ruling in the **1990 Case**;³⁹ that "actions seeking to question the propriety of orders issued under and by virtue of a final judgment xxx are schemes calculated to make a mockery of duly promulgated decisions;"⁴⁰ and that the Heirs of Non Andres had not shown grave abuse of discretion on the part of the RTC for its issuance of the **2007 Resumption Order** considering that the order was but the necessary consequence of the final judgment rendered in the **1990 Case**.

On the other hand, in **CA-G.R. SP No. 02118-MIN**, the CA dismissed Bayani's petition to cite and punish the deputy sheriff for indirect contempt of court, holding that in the absence of contrary evidence, the deputy sheriff was presumed to have regularly performed his duties; and that there was no reason to cast doubt on the sheriff's final return that clearly

³⁵ *Rollo* (G.R. No. 206765 & 207214), p. 50.

³⁶ *Id.* at 50.

³⁷ *Id.* at 51.

³⁸ *Id.* at 52.

³⁹ *Id.*

⁴⁰ *Id.* at 53.

indicated that the demolition of the improvements existing on Lot No. 2 had already been completed.⁴¹

The Heirs of Non Andres and Bayani separately moved for reconsideration but their motions were denied.

Hence, these consolidated appeals.

The Consolidated Appeals

In **G.R. No. 206765** and **G.R. No. 207214**, the Heirs of Non Andres now raise the following as issues for consideration and resolution, to wit:

6.1 THE HONORABLE COURT OF APPEALS ERRED WHEN IT SUSTAINED THE COURT A QUO'S *SPECIAL ORDER DATED 9 OCTOBER 2007*.

6.2 THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT *RES JUDICATA* HAS ALREADY SETTLED IN THIS CASE.

6.3 THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE SOLE BASIS OF PETITIONERS' CLAIM IS THE QUITCLAIM DEED EXECUTED BY MELENCIO YU, SINCE THE PETITIONERS' CLAIM IS PRIMARILY BASED ON THEIR POSSESSION IN THE CONCEPT OF AN OWNER.⁴²

In the meantime, Sheriff Nasil Palati issued a *Notice to Self-Demolish and Vacate* dated June 29, 2015⁴³ pursuant to the RTC's Alias Writ of Demolition dated May 14, 2015.⁴⁴ The notice was addressed to the several occupants of Lot No. 2, including the Heirs of Non Andres and Bayani.

The issuance of the *Notice to Self-Demolish and Vacate* dated June 29, 2015 prompted the Heirs of Non Andres to file a supplement to their petition for review on *certiorari*⁴⁵ and a *Very Urgent Motion to Issue Status Quo Order or Temporary Restraining Order and Writ of Preliminary Injunction*.⁴⁶

On September 2, 2015, the Court resolved to issue a 60-day TRO,⁴⁷ thereby enjoining the RTC and the provincial sheriff from implementing the

⁴¹ Id. at 55-57.

⁴² Id. at 17.

⁴³ Id. at 249-250.

⁴⁴ Id. at 251-252.

⁴⁵ Id. at 232-243.

⁴⁶ Id. at 213-220.

⁴⁷ *Rollo* (G.R. No. 203076-77), pp. 786-788.

2001 Demolition Order and all orders and writs issued pursuant thereto. On December 9, 2015, the Court, upon motion of the Heirs of Non Andres, extended the TRO's effectivity for another 60 days.⁴⁸

On her part, Bayani, the petitioner in **G.R. Nos. 203076-77**, insists herein that Sheriff Pallanan was guilty of indirect contempt of court for making an untruthful statement in the sheriff's return that the demolition had already been completed.

In the main, the Heirs of Non Andres, the petitioners in **G.R. No. 206765** and **G.R. No. 207214**, aver that grave abuse of discretion amounting to lack or excess of jurisdiction attended the following: (a) **2007 Resumption Order** for being issued without the corresponding writ of demolition or writ of possession;⁴⁹ and (b) the sheriffs' implementation of the order for including them despite their not being parties in **Civil Case No. 1291** and **Civil Case No. 4647**.

At the onset, we clarify that the present case assails only the RTC's execution of judgment. Thus, our review of the assailed decision and resolutions shall be limited to such issue. Although raised by the Heirs of Non Andres, we shall not dwell on the issue of ownership.

Ruling of the Court

The Court rules that the doctrine of *res judicata* cannot apply to bar the resolution of **G.R. No. 206765** and **G.R. No. 207214** because the judgment rendered in **Civil Case No. 1291** and **Civil Case No. 4647** did not bind the Heirs of Non Andres for not being parties thereto; that the sheriffs improperly implemented the **2007 Resumption Order**; and that the Sheriff's Report enjoyed the presumption of regularity.

We now explain our holding seriatim.

1.

Bar by *res judicata* does not apply

These appeals have factual antecedents common with the **1990 Case** and the **2013 Case**. Even so, we should not lightly brush aside the pleas of the petitions for review on *certiorari* by applying the bar by *res judicata*.⁵⁰

⁴⁸ Id. at 883-884.

⁴⁹ *Rollo* (G.R. No. 206765 & G.R. No. 207214), p. 18.

⁵⁰ *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corp.*, G.R. Nos. 197945 & 204119, July 9, 2018.

The Heirs of Non Andres hereby claim that the **1990 Case** did not apply to them because they (or their predecessors-in-interest) had not been impleaded in **Civil Case No. 1291**, the precursor case. More than the lack of identity of parties, however, a careful perusal reveals that such previous rulings of the Court dealt with and resolved issues separate and distinct from the question being now raised herein.

In the **1990 Case**, the Court resolved the principal issue of the validity of the sale or transfer from the Spouses Yu to Sycip that had been effected through the *Agreement to Transfer Rights and Deed of Sale and Quitclaim Deed*. The Court thereby affirmed the CA's decision declaring Melencio and Talinanap "as the registered absolute owners of Lot No. 2," and ordered Sycip to restore the possession to them.⁵¹

The focus the **2013 Case** was the propriety of the writ of preliminary mandatory injunction issued by the CA as a relief that was preliminary and ancillary to the main case in **CA-G.R. SP No. 02084-MIN**.

In contrast, the petitioners raise in these consolidated appeals the core controversy concerning the propriety of the **2007 Resumption Order** and its implementation, which was the subject matter of the main case in **CA-G.R. SP No. 02084-MIN** (later on consolidated with **CA-G.R. SP NO. 02118-MIN**). Indeed, the ruling in the **1990 Case** affirming the RTC's pronouncement of absolute ownership in favor of Melencio and Talinanap was not conclusive upon the issue raised herein of whether or not the RTC's issuance of the **2007 Resumption Order** was proper, for the determination of such issue was separable and independent from the issue of ownership.

Even granting that the issue of ownership of Lot No. 2 was previously resolved in favor of Melencio and Talinanap, such resolution did not prejudice the rights of the Heirs of Non Andres as persons who had not been parties in the main proceeding.⁵² The present controversy stems from the implementation against them of the RTC's judgment rendered in **Civil Case No. 1291** despite their being strangers in the action. The following circumstances show that, indeed, they were strangers to the action. Firstly, the proceedings in **Civil Case No. 1291** — being *in personam* — were exclusively between the spouses Melencio and Talinanap, on one hand, and Sycip and YUHAI, on the other. The mere mention of Alfonso Non in the **1990 Case** did not mean that he had participated at the trial, or that he had knowledge of the proceedings, or that he had been duly notified of the case as to bind him to the effects of the judgment therein. Secondly, the character of **Civil Case No. 1291** as an action *in personam* — being an action for the declaration of nullity of document and recovery of possession of real

⁵¹ *Heirs of Sycip v. Court of Appeals*, supra note 1, at 264.

⁵² *Dare Adventure Farm Corp. v. Court of Appeals*, G.R. No. 161122, September 24, 2012, 681 SCRA 580.

property—was unquestionable. Such character of the action empowered the court “to render personal judgment or to subject the parties in a particular action to the judgment and other rulings rendered in the action” only when it regularly acquired jurisdiction over the parties. As such, the RTC would acquire jurisdiction over the parties only if they had been properly impleaded and personally served with the summons and copies of the complaint.⁵³

It is equally worthy to note that Rule 39 of the *Rules of Court* sets the following guidelines to govern the execution of judgments for the delivery or restitution of property, *viz.*:

SECTION 10. Execution of Judgments for Specific Act. — (a) xxx

(c) Delivery or Restitution of Real Property. — The officer shall demand of **the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him** to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money.

(d) Removal of Improvements on Property Subject of Execution. — When the property subject of the execution contains improvements constructed or planted **by the judgment obligor or his agent**, the officer shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court.

Evident from the foregoing is that such guidelines only extend to the judgment obligor or any person claiming rights under him. It is truly doctrinal that the execution of any judgment for a specific act cannot extend to persons who were never parties to the main proceeding.⁵⁴ A court process that forcefully imposes its effects on or against a stranger, even if issued by virtue of a final judgment, certainly offends the constitutional guarantee under Section 1, Article III of the 1987 Constitution that no person shall be deprived of life, liberty, or property without due process of law. As explained in *Muñoz v. Yabut, Jr.*:⁵⁵

The rule is that: (1) a judgment *in rem* is binding upon the whole world, such as a judgment in a land registration case or probate of a will;

⁵³ *Regner v. Logarta*, G.R. No. 168747, October 19, 2007, 537 SCRA 277.

⁵⁴ *Fermin v. Esteves*, G.R. No. 147977, March 26, 2008, 549 SCRA 424, 428-429.

⁵⁵ G.R. Nos. 142676 & 146718, June 6, 2011, 650 SCRA 344, 367-368.

and (2) a judgment *in personam* is binding upon the parties and their successors-in-interest but not upon strangers. A judgment directing a party to deliver possession of a property to another is *in personam*; it is binding only against the parties and their successors-in-interest by title subsequent to the commencement of the action. An action for declaration of nullity of title and recovery of ownership of real property, or re-conveyance, is a real action but it is an action *in personam*, for it binds a particular individual only although it concerns the right to a tangible thing. Any judgment therein is binding only upon the parties properly impleaded.

Since they were not impleaded as parties and given the opportunity to participate in Civil Case No. Q-28580, the final judgment in said case cannot bind BPI Family and the spouses Chan. The effect of the said judgment cannot be extended to BPI Family and the spouses Chan by simply issuing an alias writ of execution against them. No man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by any judgment rendered by the court. **In the same manner, a writ of execution can be issued only against a party and not against one who did not have his day in court. Only real parties in interest in an action are bound by the judgment therein and by writs of execution issued pursuant thereto.** (Bold emphasis supplied)

Considering that the Spouses Melencio and Talinanap sought to nullify two documents (*i.e.*, the *Agreement to Transfer Rights and Deed of Sale* and the *Quitclaim Deed*) to recover Lot No. 2 from Sycip, who was then in possession of the lot's original certificate of title, the judgment rendered thereon was not enforceable against the whole world but only against the defendants thereat (*i.e.*, the Heirs of Sycip).

The Heirs of Non Andres were not impleaded in **Civil Case No. 1291**, much less personally served summons therefor, the RTC did not acquire jurisdiction over any of them. The execution of the judgment rendered therein could not validly include strangers to the case like the Heirs of Non Andres, for the court did not acquire jurisdiction over them and were consequently not given their day in court.⁵⁶

2.

Sheriff improperly implemented the 2007 Resumption Order and the 2001 Demolition Order

The **2007 Resumption Order**, as well as the **2001 Demolition Order** on which it was based, directed the demolition of improvements belonging to the Heirs of Sycip and YUHAI. As earlier shown, the **2001 Demolition Order** ostensibly disposed thusly:

⁵⁶ *Fermin v. Esteves*, supra note 54.

xxxx we command you to demolish the improvements erected by the defendants HEIRS OF JOHN Z. SYCIP xxx, in Civil Case No. 1291, and plaintiffs YARD URBAN HOMEOWNERS ASSOCIATION INC., ET AL. in Civil Case No. 4647, on that portion of land belonging to plaintiffs in Civil Case 1291 and defendants Civil Case no. 4647, MELENCIO YU and TALINANAP MATUALAGA, covered by Original Certificate of Title [No.] (V-14496) (P-2331) P-523 in Apong, General Santos City

Said orders were issued by virtue of the Heirs of Sycip and YUHAI being the judgment obligors in **Civil Case No. 1291** and **Civil Case No. 4647**, respectively. The situation became problematic only when the sheriffs tasked to implement said orders served the notices to vacate *to all the occupants of Lot No. 2 without exception*. The notices to vacate thereby *deviated* from the tenor and text of the assailed orders as to cover even the Heirs of Non Andres although they had not been parties in **Civil Case No. 1291** and **Civil Case No. 4647**. Therein lay the prejudice caused to the Heirs of Non Andres.

Such exceeding their authority on the part of the sheriffs cannot be permitted or validated. The sheriff's duty to strictly adhere to the mandate of the orders regularly issued by the court for the execution stage of a judgment cannot be arbitrarily ignored or set aside, but must be faithfully discharged and complied with. The sheriff is bereft of the power or discretion to expand the mandate in any way. As pointed out in *Stilgrove v. Sabas*,⁵⁷ to wit:

The sheriff's duty to execute a judgment is ministerial. He need not look outside the plain meaning of the writ of execution. And when a sheriff is faced with an ambiguous execution order, prudence and reasonableness dictate that he seek clarification from a judge. **However, Sabas took it upon himself to execute the order even if it entails the destruction of a property belonging to a person not a party to the case. By doing so, the sheriff went beyond the terms of the demolition order as it only ordered the demolition to apply only to "defendants x xx as well as all persons claiming rights under them x x x."** To reiterate our pronouncement in the previous administrative case, it is of no moment whether Sabas executed the writ in good faith because he is chargeable with the knowledge of what is the proper action to observe in case there are questions in the writ which need to be clarified and to which he is bound to comply. (Citations omitted and emphasis supplied)

To contest the invalid implementation of the orders by the sheriffs, the Heirs of Non Andres immediately wrote to the latter and also filed their special appearance in the RTC, but their attempt to intervene went for naught. Left with no other plain, speedy, and adequate remedy available to them in the ordinary course of law, they went to the CA for relief. After having satisfied all the requisites laid down in Section 2, Rule 65 of the

⁵⁷ A.M. NO. P-06-2257, March 28, 2008, 550 SCRA 28, 42.

Rules of Court, therefore, the Heirs of Non Andres were entitled to the issuance of the writ of *certiorari* and prohibition.

3.
**Sheriff's Report enjoyed
the presumption of regularity**

We next deal with Bayani's appeal (G.R. Nos. 203076-77) assailing the CA's denial of her charge of indirect contempt against Sheriff Pallanan.

Bayani's complaint in CA-G.R. SP No. 02118-MIN charged Sheriff Pallanan with proceeding with the demolition of the structures found on Lot No. 2 in direct contravention of the CA's TRO dated December 14, 2007;⁵⁸ and claimed that the sheriff had made untruthful statements in his report by making it appear that the turnover of the property and the demolition of the structures thereon had been completed prior to the TRO's issuance.

We agree with the ruling of the RTC that the sheriff was entitled to be presumed to have regularly performed his duties; and with the finding that Bayani had not presented sufficient evidence to overcome the presumption.

Nonetheless, the sheriff's persistence on demolishing the structures erected on Lot No. 2 by strangers to the action clearly exceeded the tenor and coverage of the orders. The sheriff thus acted not only erroneously but also outside the bounds of his authority. However, we have to clarify that the charge brought against him for contempt of court based on such circumstances must be properly brought to and heard by the RTC, conformably with the recognized rule that the court against whose authority the contempt is committed has the preferential right to inquire whether any party has disobeyed its order.⁵⁹

4.
**Judge Majaducon could not validly
sit as the presiding judge on the case
involving the Heirs of Yu, his former clients**

The Heirs of Non Andres have averred that **Judge Majaducon had been Melencio's former counsel prior to his appointment as the Presiding Judge**. In substantiation, they presented two correspondences addressed to the members of the Sogod Homeseekers Association that had

⁵⁸ *Supra* note 23.

⁵⁹ *Angeles v. Court of Appeals*, G.R. No. 178733, September 15, 2014, 735 SCRA 82, 92; *San Luis v. Court of Appeals*, G.R. No. 142649, September 13, 2001, 365 SCRA 279, 288.

been signed by one **Atty. Jose S. Majaducon**⁶⁰ demanding the association members to refrain from introducing additional improvements on a lot located at Barrio New Society, General Santos City and to vacate therefrom. In this connection, it is relevant to remember that in the 1980s, the Heirs of Yu brought a complaint for forcible entry specifically against the members of the Sogod Homeseekers Association docketed as Civil Case No. 1668-22.

This averment by the Heirs of Non Andres certainly demonstrates a probable conflict of interest committed by Judge Majaducon. He had no right to preside in any case that involved the same interests pertaining to Melencio, the predecessor of the Heirs of Yu, who was his former client. We cannot turn a blind eye to this averment, which must be treated herein as a very serious accusation that impairs and diminishes the good reputation of a judicial officer as well as of the entire Judiciary. It is elementary, indeed, that every judge should administer justice impartially.⁶¹ As such, the judge must inhibit himself from any proceeding that may cast doubt over his impartiality, such as having a former client as a party in a case before him.⁶² Every judge is duty-bound not only to render a just judgment but also to render it in a manner “completely free from suspicion as to its fairness and as to his integrity.”⁶³

Under the circumstances, the Court must demand from Judge Majaducon a written explanation why he should not be administratively sanctioned for violating the ethical rules demanding his impartiality and requiring him to shun conflicts of interest in every matter he handled as a judicial officer.

WHEREFORE, the Court **GRANTS** the petitions for review on *certiorari* in **G.R. No. 206765** and **G.R. No. 207214**; **MODIFIES** the decision promulgated on May 20, 2011 by the Court of Appeals, as well as the resolutions promulgated on July 19, 2012 and April 17, 2013 in **CA-G.R. SP No. 02118-MIN** and **CA-G.R. SP No. 02084-MIN** by **PERMANENTLY ENJOINING** the Regional Trial Court, Branch 36, in General Santos City and the Provincial Sheriff from executing or otherwise implementing the judgment rendered in **Civil Case No. 1291** and **Civil Case No. 4647** as against petitioners Heirs of Non Andres, namely, Sergio Andres, Jr., Sofronio Andres, and Gracelda Andres, Azucena Bayani, and all other persons who were not parties therein; **DENIES** the petition for review on *certiorari* in **G.R. Nos. 203076-77**; **AFFIRMS** the assailed decision and resolutions insofar as the charge of indirect contempt filed by Azucena Bayani against Sheriff Alfredo T. Pallanan is concerned, without prejudice to the filing of a petition based on the proper ground and/or an

⁶⁰ *Rollo* (G.R. No. 206765 & G.R. No. 207214), pp. 259-260.

⁶¹ Rule 1.02, *Code of Judicial Conduct*.

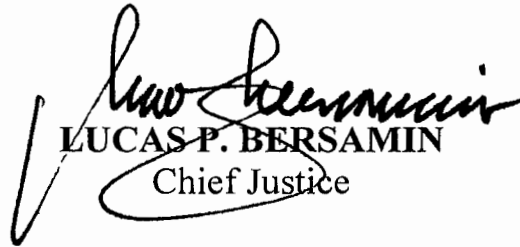
⁶² Rule 3.12(b), *Code of Judicial Conduct*.

⁶³ *Lai v. People*, G.R. No. 175999, July 1, 2015, 761 SCRA 156, 168.

administrative charge against said sheriff; and **ORDERS** the respondents to pay the costs of suit.

The Court further **DIRECTS** Presiding Judge Jose S. Majaducon of the Regional Trial Court in General Santos City to show cause in writing within 10 days from notice why he should not be disciplined or sanctioned for presiding in **Civil Case No. 1291** and **Civil Case No. 4647** despite some of the parties therein having been his former clients.

SO ORDERED.




LUCAS P. BERSAMIN
Chief Justice

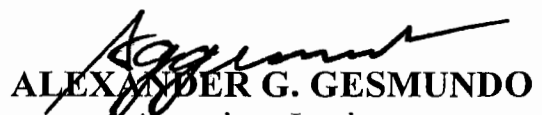
WE CONCUR:



MARIANO C. DEL CASTILLO
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



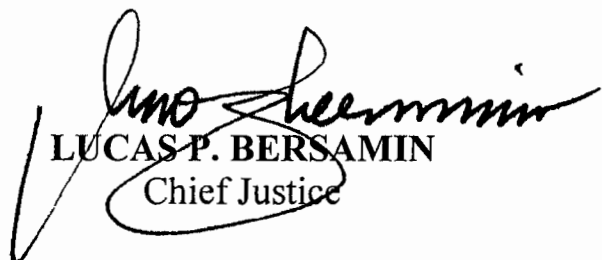
ALEXANDER G. GESMUNDO
Associate Justice



ROSMAR D. CARANDANG
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice