

FRANCISCO MALVAR AND NATIVIDAD LOPEZ, PLAINTIFFS AND APPELLANTS, VS. PABLO PALLINGAYAN AND CATALINO CHUA, DEFENDANTS AND APPELLEES.*G.R. No. L-24736. September 27, 1966*

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0142fec23656/>**MAKALINTAL, J.:**

Appeal taken by the spouses Francisco Malvar and Natividad Lopez from the order of dismissal of the Court of First Instance of Zambales dated January 26, 1965, on the ground of *res judicata*.

This is an action for annulment of a contract of lease executed on October 3, 1962 between defendants Pablo Pallingayan and Catalino Chua over the two-storey building located at No. 9 Magsaysay Drive, Olongapo, Zambales. The plaintiff-spouses alleged in their complaint that they were the absolute owners of said building by virtue of a deed of sale executed in their favor on February 26, 1961 by the spouses Pablo Pallingayan (a defendant in this case) and Felicidad Pallingayan, and that defendant Pablo Pallingayan, without the knowledge and consent of the plaintiffs, not being their agent or representative and without authority from them, and falsely representing himself as the owner of the aforementioned building, leased the same to his co-defendant Catalino Chua. Both defendants set up the defense of *res judicata*, alleging that the ownership of the building is question, which is the main issue in the instant case, had been previously litigated between the plaintiffs Malvars and the defendants Pallingayan in Civil Cases Nos. 2399 and 2359.

Civil Case No. 2399 of the Court of First Instance of Zambales (Civil Case No. 243 of the Justice of the Peace Court of Olongapo, Zambales) was an action for ejectment filed by Agustin Pascacio against Pablo Pallingayan for failure to pay the monthly rentals due under a contract of lease and mortgage executed between Agustin Pascacio as lessor and Pablo Pallingayan as lessee over the two-storey building at No. 9 Magsaysay Drive, Olongapo, Zambales. Pablo Pallingayan set up the defense that he was the owner of the building. The spouses Francisco Malvar and Natividad Lopez (plaintiffs in the instant case) intervened, alleging that they were the owners of the building by virtue of a deed of sale executed by Pablo Pallingayan.

Civil Case No. 2359 of the same court was filed by spouses Pablo Pallingayan and Felicidad Pallingayan against the spouses Agustin Pascacio and Rosario Pascacio for the annulment of that same contract of lease and mortgage between Agustin Pascacio as lessor and Pablo Pallingayan as lessee involved in Civil Case No. 2399, the plaintiffs claiming that they were the owners of the building subject thereof. Francisco Malvar and Natividad Lopez also intervened in that case, alleging that they were the owners by virtue of the deed of absolute sale relied upon by them in Civil Case No. 2399.

After the issues in Civil Cases Nos. 2399 and 2359 were joined, they were set for joint hearing. On October 4, 1962, the date thus set, the lower court issued the following order:

"Acting on the joint motion dated October 4, 1962, of the plaintiffs and the defendants in the above-entitled cases, let the plaintiffs' complaint as well as the defendants' counterclaim, in both cases, be dismissed, without

pronouncement as to costs.

It appearing that Atty. Luis Buenaventura counsel for the intervenors in both cases, has been duly notified of today's hearing in Civil Case No. 2359 and notwithstanding said notification, neither the intervenors Francisco Malvar and Natividad Lopez, nor their counsel came to court today, let the intervenors' intervention in the above entitled cases be likewise dismissed, without pronouncement as to costs."

In order that a prior judgment or order rendered in a case may be conclusive in a subsequent case, the following requisites must be present: (a) It must be a final judgment or order; (b) the court rendering the same must have jurisdiction of the subject matter and of the parties; (c) it must be a judgment or order on the merits; and (d) there must be between the two cases identity of parties, identity of subject matter, and identity of cause of action. (San Diego v. Cardona, 70 Phil. 281, 283; Aguilar v. Gamboa, 54 O.G. p. 8224; Buenafe v. Bayona, 53 O.G. p. 690).

Pablo Pallingayan claimed to be the owner of the two-storey building in question in Civil Case No. 2399. On the other hand, the spouses Francisco Malvar and Natividad Lopez, as intervenors in said case, alleged that although defendant Pablo Pallingayan was indeed the original owner of said building, it was transferred to them by virtue of a deed of sale executed in their favor by Pablo Pallingayan on February 26, 1961. Again, in Civil Case No. 2359, both appellee Pablo Pallingayan and his spouse Felicidad Pallingayan, as plaintiffs, and Francisco Malvar and Natividad Lopez, also as intervenors, claimed ownership of the same building.

Section 3, Rule 17 of the New Rules of Court provides:

Failure to prosecute. — If plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by the court.

Plaintiffs-appellants Malvars intervened in both previous cases in the role of plaintiffs since their claim of ownership was against the other parties. When their intervention was dismissed for failure to prosecute their case on the date of the hearing, the dismissal had the effect of an adjudication upon the merits.

The order of dismissal dated October 4, 1962 is now final, no appeal having been taken therefrom, and it was issued by the court having jurisdiction of the subject matter and of the parties.

All the elements of *res judicata* being present in the instant case, we find no error in the order of dismissal appealed from. The same is therefore affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.
Regala, J., no part.

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.